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# **Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Tuesday, May 31, 2016**

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**Chair**

**The Honourable Larry Bagnell**



## Standing Committee on Procedure and House Affairs

Tuesday, May 31, 2016

• (1100)

[English]

**The Chair (Hon. Larry Bagnell (Yukon, Lib.)):** Let's try to keep up our tradition of being mostly on time.

Good morning. This is meeting number 24 of the Standing Community on Procedure and House Affairs for the first session of the 42nd Parliament. This meeting is being held in public.

I want to informally welcome three people who know me from elementary and high school from 50 years ago. You can guess which ones they are.

**Voices:** Oh, oh!

**The Chair:** The other one, as you can probably guess, is a student. A lot of MPs are being shadowed today by students, and Maris is here. Welcome.

We welcome Marc Bosc, Acting Clerk and Philippe Dufresne, the Law Clerk and Parliamentary Counsel, and our visitors.

Just so the committee knows, our long-awaited family-friendly interim draft report will come out on Thursday afternoon. It's in translation.

In terms of our first item of business for this morning, for anyone who wasn't here at the time, we have already had the Clerk and the Law Clerk here to give their opening remarks on the question of privilege on Bill C-14, but they had just got through their opening remarks when we got called to a vote. They're back to do that question and answer round. In the second hour, we'll do the other question of privilege. More than likely, it's committee business. We'll do that in the second hour, as well as any other committee business people want to do.

Without further ado, I think we'll go to the first round. We'll start with Mr. Chan.

**Mr. Arnold Chan (Scarborough—Agincourt, Lib.):** Thank you, Mr. Chair.

Again, I want to thank Mr. Bosc and Mr. Dufresne for appearing. Also, I apologize. I wasn't present when you made your opening statements, but I've had a chance to review the transcript of your statements.

Obviously, those of us on the government side take very seriously any matter that's referred to this committee with respect to members' privileges. In terms of my question, I didn't get a sense of this in your opening statement, Mr. Bosc, and I think it would be very helpful to me and to my colleagues on the committee, with respect to the nature

of previous findings of premature disclosure of information before it has been tabled in the House, whether this requires there to be an actual proactive disclosure of the actual bill or simply merely the discussion of the contents of what may or may not be in a bill.

Again, I just wanted to understand, from your perspective, based upon historical precedent, any evidence that you can shed on this for us, which would help me understand whether in fact this is actually a breach of privilege or not.

**Mr. Marc Bosc (Acting Clerk, House of Commons):** If I could, I will start by referring you, Mr. Chan, and other members, to the document that was circulated some time ago by the committee staff, which highlights four different cases.

What I would say as well, before I get into it, is that each case is always a little different. There's no direct comparison possible easily, because each circumstance is different. The cases that have been found by the House to constitute privilege and were sent to committee include the ones from 2001, which I would say would be the most likely to be akin to the present case.

There are other cases you could consider. Again, they're in the documentation you have. There's one from 2010 involving a private members' business issue, and again in 2009 a government bill, although in that case there was no prima facie finding.

The key element for the committee to consider is whether the committee feels, given the evidence it gathers, whether the right of members to have first access to legislative information was respected. The idea there is for members to be able to perform their duties. The principle is that members ought to have first access to information about bills and that the membership as a whole as well ought to have that first access to that information.

Those are the broad outlines of the issues as I see them. I don't know if that goes where you wanted it to go.

• (1105)

**Mr. Arnold Chan:** I'm just struggling with this a bit, Mr. Bosc. I simply wanted to get a sense of this. If you take the March 2001 case, that was a very specific instance where the government actually engaged in the briefing of the media to the exclusion of other members from the opposition. I don't see that necessarily happening in this case.

What I'm also struggling with is this. When I look at the two specific media reports that we are dealing with, again, I don't have any clear evidence that the reporters in question or that the two media outlets in question were actually in possession of the contents of the bill before it had been disclosed to Parliament. Again, what I'm struggling with is the concept of physical possession of the actual document or a discussion about what may or may not be in a bill in advance of the tabling of the bill. I've seen plenty of instances in the past where various governments have been discussing bills that they're proposing to introduce into the House, where they talk about what may or may not be in a particular bill. I don't see that as necessarily being a breach of members' privileges in that particular instance. I could see it being very directly the case if a copy of the bill was in the possession of someone before it had been tabled in Parliament. That's what I'm struggling with. Within the examples that were provided in the paper I'm trying to get to the heart of that particular issue.

**Mr. Marc Bosc:** I understand your difficulty.

At the same time we really need to say at the outset that it is not for us to make that determination for the committee.

**Mr. Arnold Chan:** No, I agree.

**Mr. Marc Bosc:** It's really up to the committee, based on whatever evidence it gathers, to come to a conclusion one way or another. That's really what it comes down to. You could call witnesses. You could invite various people who might have information about how this information got out and so on.

**Mr. Arnold Chan:** Sure.

At the end of the day we're also very much governed by the practices of Westminster. Were there any examples in other historical instances of premature disclosure of information that would also be helpful to this committee in terms of giving us some guidance with respect to the situation that we're faced with today?

**Mr. Marc Bosc:** It may be. We could look at that, but I'm rather dubious that this would be the case.

**Mr. Arnold Chan:** Each one is quite unique.

**Mr. Marc Bosc:** Yes, but it's not only that. Every parliament has its own practices and usages, and they differ considerably on matters like this. Again, a direct comparison would be difficult, I would say. I can look at what we can find but I'm not hopeful, let's say.

**Mr. Arnold Chan:** Thank you.

I appreciate your comments so far.

**The Chair:** Thank you very much.

We'll go on to Mr. Richards.

**Mr. Blake Richards (Banff—Airdrie, CPC):** Thanks for being here today. I have a few questions.

On the first one, I'm getting the sense that there is some attempt here to claim that there were no details of the legislation actually put before the media prior to the bill being introduced. If you look at the articles, I think you can see clearly that a number of items from the bill were put forward. Of course, the articles themselves indicate such things as "according to a source familiar with legislation" or "according to a source who is not authorized to speak publicly about the bill". Look at the CBC articles: "sources say that the Liberal

cabinet" or "sources tell the CBC that...". No one knows who those sources are, but at the end of the day that's sort of what our task is. It's to try to determine whether there has been a breach and by whom.

Also, when you look at the article itself, you see that it indicates a number of items. I could go through them here. I'll quickly pull a few quotes just to indicate this:

...a bill that will exclude those who only experience mental suffering, such as people with psychiatric conditions....

The bill also won't allow for advanced consent....

I could go on with that one.

It continues:

The government's bill is set to take a much narrower approach than recommended by a joint parliamentary committee....

It also says that the government's plan will put off the issue of those who suffer from psychological but not physical illness.

A number of items that certainly are contained in the bill were disclosed.

Then we see an article this morning, an iPolitics article, where the government House leader is asked about another piece of legislation that may be coming forward, and he says:

If I talk about potential legislation before it is introduced then we'll have a very irate question of privilege from the opposition that I'm talking about a bill before it's introduced.

Now, it's great that he recognizes this, but also, I think the tone of it is almost one that the government isn't really taking this very seriously, and that is a concern. I think it's something that the committee needs to deal with. I know it's not your place to give us advice on what we should or shouldn't do, necessarily, but it certainly is something that I think the committee here should deal with.

Therefore, a point needs to be made so the government understands that these are serious matters, that this has to be taken seriously, and that we won't see this kind of thing happen in the future. If the committee is looking to try to make that point, what are some of the options available to us in order to make that point so that it's clear and an example is made, if that's what the committee chooses to do?

• (1110)

**Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel):** Maybe what I can say is that in looking at the precedents, the previous decisions of the House, and the previous reports of this committee, as Mr. Bosc said, they looked at the extent of the information that was shared and the amount of detail, whether it was the content of the bill or information that was already publicly available, so that's part of your fact-finding.

But it also looked at and was influenced by the apologies that were given and any corrective measures that were put in place. In those previous decisions, those were commented on in the report of the committee or in decisions by the Speaker on prima facie. That's what I would say in terms of previous decisions.

**Mr. Blake Richards:** The committee currently has another question of privilege that has been sent our way. For me, at least, this is a new situation. I'm not sure if it's one that the committee has experienced before. I'm wondering if you can give us some advice on how we should best handle this.

Obviously we have this one, and we have the physical molestation one that we are all aware of, where the Prime Minister made physical contact with another member of Parliament, and that apparently prevented her from voting. How should the committee best handle having those two questions of privilege? Should those be dealt with chronologically? Should they be dealt with concurrently? What would be your advice on what would be appropriate for the committee to do in order to handle those two appropriately?

**Mr. Marc Bosc:** The committee has before it a number of items, I presume, on its agenda. It's dealing with a number of priorities, and it's entirely up to the committee how it wants to proceed. It's not for us to say what the committee should or shouldn't do.

**Mr. Blake Richards:** Okay. Is there any advice you have or any other examples that you're aware of in terms of points of order—whether they be in provinces or other Westminster parliaments—in regard to physical molestation of a member by another member, so that we can have some sense as to what that might be and that would guide us in terms of how we would deal with that question of privilege?

•(1115)

**Mr. Marc Bosc:** Again, Mr. Chairman, are we covering both cases here today or just the one? Are we going to be invited again?

**The Chair:** You've been invited to address Bill C-14 today if you want to address the.... I'll leave it up to you. I know you weren't prepared.

**Mr. Marc Bosc:** Essentially Mr. Chairman and Mr. Richards, the process the committee will follow in both cases is the same or likely to be the same. In other words, you gather information, you assess that information, and you make a recommendation based on what you find. It's not very different in one case or another.

**Mr. Blake Richards:** I noticed in some of the other examples that we had before us of previous cases like this, the premature disclosure of the contents of the bill, there seemed to be some differing opinions on whether the contents of the bill had been released. Sometimes it can be difficult to determine whether someone just had a lucky guess or whether contents of the bill were released.

In the absence of being able to determine that, is there any advice on how the committee would proceed? Obviously it would be important for the committee to try to make sure it's taken as a cautionary tale for any future government bills.

**Mr. Marc Bosc:** Again, as part of the documentation that the committee received earlier in its study, a number of avenues are outlined that are available to the committee, ranging from deciding not to proceed, finding that there has not been a contempt or a breach of privilege, all the way to the other end of finding that there is and recommending some form of discipline. All those options are available to the committee. But as Philippe indicated, in some cases the apologies or actions already taken in the House are deemed sufficient by the committee. That can happen as well. That's part of the range of things the committee can look at.

**The Chair:** Thank you.

We'll go on to Mr. Christopherson.

**Mr. David Christopherson (Hamilton Centre, NDP):** Thank you, Chair, and thank you both for your attendance today.

Having been around the mulberry bush on this one quite a number of times, I don't have a lot of questions. Most of my questions would come up as a matter of detail when circumstances arise. I may not even need all my seven minutes in this particular round. I know. It will be the second time by the way.

Chair, as much as you'll allow it, and I look to your discretion to guide me, given the fact that on April 14, Bill C-14 was introduced, that was the day of the leak. The chief government whip acknowledged there was a leak and apologized. At least it was reported. The notes say unreservedly, and I take them at face value. When you ask the question, who benefits, it's pretty clear it's the government. Nobody else benefited from this leak. Quite frankly it would be difficult for anybody other than the government to have the information to leak in the first place.

Has the government initiated any kind of a review themselves? It's clear one of their own has leaked this. Can somebody over there give me some kind of an answer, Chair?

**The Chair:** It's up to you, if anyone wants to respond.

**Mr. David Christopherson:** It's a factual request. Did the government, given the importance of this and the fact that the chief government whip got up right away and acknowledged this is a problem...? I could read *Hansard* but knowing the individual, I'm sure it was very heartfelt and complete. But it begs the question, if the government is that serious about it, did the government begin an internal investigation to find out who did it, given that the odds are it was a government staffer or member, somebody attached to the government. I think it's a fair question.

Looks as if it's a screaming no.

The chief government whip is right here. I'm sure he'd be glad to help.

Crickets, crickets.

It begs the question. If it's all that important, it's hard to match the words with the action. If the government is that sincere that this really upsets them—I took them at face value that it does—you'd think they would have announced an internal investigation because the likely culprit is someone within their organization. If they're not doing that, I don't know where the heck that leaves us. That's all I have to say.

•(1120)

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Mr. Chair, thank you.

We've talked quite a bit about precedent and we've addressed four cases or so from the last couple of decades. I think there is quite a bit of precedent that says that it doesn't need to be a question of privilege. I'll just read from a couple of articles from 2014, for example:

Conservatives to table bill that will reorganize Elections Canada.

The Conservative government will introduce changes to the Elections Act this week that caucus members expect to restructure the office in charge of investigating [elections]....

Conservative sources expect the bill to reorganize...the branch of Elections Canada that investigates and prosecutes electoral crimes.

... "close loopholes to big money, and give law enforcement sharper teeth, a longer reach and a freer hand."

The bill would remove the Commissioner of Canada Elections, where the investigators work, from Elections Canada and set it up as separate office, sources say.

There are numerous such examples over the last few years, in which specific details of bills were released up to a month in advance, and no question of privilege was raised.

Would you consider this a precedent that we should be looking at?

**Mr. Marc Bosc:** The precedents we look at are those in which the Speaker has had to make a ruling.

**Mr. David de Burgh Graham:** If there is no reason to make a ruling, we shouldn't consider that a precedent at all?

My point is that things like this happen all the time and all of a sudden we're looking at it as a question of privilege. I don't necessarily see it as one. The bill was not released in its own right, but over the years we have had many cases in which details of what may or may not be in a bill have been released. I don't see where we can go with this.

**Mr. Marc Bosc:** Again, Mr. Graham, the House saw fit to send this matter to the committee, and the House has asked the committee to look at it, so the committee is seized with it. That's all I can say.

**The Chair:** You're splitting your time?

**Mr. David de Burgh Graham:** Yes.

**Ms. Ruby Sahota (Brampton North, Lib.):** Hello, Mr. Bosc.

I just want to continue with my colleague's thought.

As a new member, I've been hearing a lot about various government bills on the news, and we continue to hear a lot of information. Even before, as a non-member, I gathered what the government was about to do when the Conservatives had introduced Bill C-24. There was tons of news around that. For the most part, we knew a fair amount of what was going to be in that bill. We knew that they were going to cover the issue of lost Canadians. We knew they were going to cover shorter wait times, and a longer time to qualify for citizenship. There were tons of comments made about dual citizenship and taking away someone's citizenship if terrorism or other acts of criminality had occurred. This was buzzing around in the news for quite some time, and I thought it was quite normal for there to be some buzz in the media, and some talk by members and ministers about introducing certain bills. The Prime Minister had tweeted about Bill C-24, and there were video clips of the minister giving little tidbits of what to expect in that upcoming bill, whether a month or two days prior to the bill.

This all seemed to be quite normal. There were no questions of privilege.

I understand that you're saying you only address the question when it occurs in the House, but it seems that a certain standard has been set for a long time now. Whether or not that's right is something

this committee has to decide, but I think it is important for us to figure out how we continue from this point.

The way I see it, a lot of bills are discussed, perhaps not in that much detail. To me this seems very similar to what was discussed about Bill C-24, and maybe a lot less than that. That may not be the standard we should look to or adhere to in the future, but certainly I think we need to define more clearly, going forward, what is a question of privilege, when it necessarily arises, and what the responsibilities of members are regarding a bill.

Obviously within caucus and in the House there had been a lot of talk about this and a lot of other bills. What is the defining line? Where do we set the parameters as to what goes outside and is a breach, and what is inside? Is that something you can shed more light on?

● (1125)

**Mr. Marc Bosc:** Again, in the material you received I would draw your attention to the reference to the Speaker's ruling of November 5, 2009. That one is of interest given what you've just said. In that case the Speaker found there was no prima facie case of privilege since—and I'm paraphrasing here—the minister had assured the House that no details of the measures being proposed in the bill were publicly disclosed, and only the broad terms of the policy initiative contained in the bill had been.

That gives you an idea of the kinds of things the Speaker might look at. That's one example.

**Ms. Ruby Sahota:** Broad policy versus specifics of what's in the bill?

**Mr. Marc Bosc:** Yes. In that particular ruling that's what the Speaker referred to.

**Ms. Ruby Sahota:** From reading some of the snippets of the media reports regarding Bill C-14, we've been talking a lot about not what's in the bill, but what may not be in the bill. Could this be perhaps seen as journalists' speculation at times around talk that has been discussed?

**Mr. Marc Bosc:** It's not really for me to say.

**Ms. Ruby Sahota:** Okay. I think it's very interesting because all the precedents that we have seen so far have been talking about contents of the bill and not necessarily about what may not be in the bill. That seems to be the case we have before us today. As you were saying previously, we may not have a particular case that can be completely similar in facts, but we have a case before us that's not necessarily talking about contents and that's the standard I've been reading in the previous case law that we have before us.

Thank you for your input. My colleague would like to ask a question.

**Ms. Anita Vandenberg (Ottawa West—Nepean, Lib.):** Very quickly then, it means that the precedents you look at are only precedents where someone rose in the House and raised a question of privilege, but there could very well be many other precedents where no question of privilege was ever raised that could be similar to this?

**Mr. Marc Bosc:** It could be. Sure.

**Ms. Anita Vandenberg:** Thank you.

**The Chair:** Thank you.

We'll go on to Mr. Schmale.

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** Thank you very much, Mr. Chair.

To pick up on where Blake ended and build on what David was saying, I think you have to look at the language included in these articles. I think there are very significant differences here. As David Graham mentioned, the article that he cited had the very key words “expected” and “may have” in terms of the point that he was making, but just quoting this *Globe and Mail* article from April 12 it's basically saying the bill “will exclude those who only experience mental suffering”, “The bill also won't allow for advance consent”, and “there will be no exceptions for ‘mature minors’”.

Those are very definitive statements.

It may be a different writing style. I doubt it. David's a former journalist and I'm a former journalist and news director, though not to the esteem of my friend here. We have experience in this field. It's showing the writing style is very clear.

When you're writing like this it's basically saying we have information saying this. It is very much a matter of fact and not a guess, not it's expected, it may have, it may consider this.

I think there's something here. I think the committee needs to really study this. I don't think we should just brush this off. There are very clear points that the privilege was violated here. I hope the committee continues to look at that.

Mr. Bosc, do you see any issues of the committee asking the government to respond to what Mr. Christopherson was starting with? Do you see any problem with that? I just want to confirm before we move in this direction.

• (1130)

**Mr. Marc Bosc:** Again, it's up to the committee to decide if it wants to invite witnesses or seek information on the point Mr. Christopherson was making. That's up to the committee. Sure, it could be done.

**Mr. Jamie Schmale:** Now as we know that, and we're looking at the wording, and Ruby pointed out some other cases, but again the wording that she mentioned was having those key words.... I'm guessing in looking back, if there was an issue it should have been raised. I don't know why, I can't speak to that because I wasn't here, but clearly there must have been something that those in the opposition at the time felt was not a breach. But as I said here, the language in this article as we all read it clearly shows this is a statement of fact, rather than reporters' speculation. I think it goes beyond that.

I know you mentioned, and other people have mentioned, that where we go from here is basically up to the committee, that we can do as we so choose. We can move in the direction we want. I appreciate that.

Looking a couple of steps forward, what would be your advice on how we prevent this kind of thing happening in the future? Can you give us a couple of points where you think it might work?

**Mr. Marc Bosc:** I'd simply draw your attention to the case of March 2001, which again is in your documentation. In that particular case, further steps were taken. The committee obtained documents from the government. It states that in October 2001, the government house leader provided the committee with an updated guide to making federal acts and regulations.

Steps were taken subsequent to that event. I think steps were taken in the government as well to rectify certain things. These are examples of the kinds of things that are possible.

**Mr. Jamie Schmale:** I'd like to head in the direction of asking the government to respond to what Mr. Christopherson was raising. I think that's a fair avenue to take.

Are there any other witnesses you think we should have here that might be of use to us?

**Mr. Marc Bosc:** That's entirely up to the committee.

In the past, if you look at these cases, you'll see different avenues followed: the member who raised the point in the first place, possibly the minister, or government officials. That's what was done in those cases that I'm referring to.

**Mr. Jamie Schmale:** I think we did put the justice minister on notice that we might be calling her. I guess we have started that process as well.

**Mr. Marc Bosc:** That's up to the committee, of course.

**Mr. Jamie Schmale:** Thank you.

**The Chair:** Ms. Vandenberg.

**Ms. Anita Vandenberg:** Thank you very much.

I'd like to go back to the idea that there could very well have been many precedents that are very similar to this that wouldn't have come to your attention because they were never raised as precedents in Parliament.

One example that I would like to point out is on the so-called Fair Elections Act, Bill C-23. I'm looking here at an article by Stephen Maher on February 2, which was two days before that bill was tabled in the House. To go back to Mr. Schmale's point, in the first sentence it says the Conservative government will introduce changes. Then, three paragraphs down “Conservative sources”; another one says it promised the government will “close loopholes to big money, and give law enforcement sharper teeth, a longer reach and a freer hand”. Then it goes on to say, “The bill would remove the Commissioner of Elections Canada, where the investigators work, from Elections Canada and set it up as a separate office, sources say.”

Would this not be considered very similar to the issue we're dealing with? But there was never any point of privilege raised in the House, because perhaps this is considered normal and expected when you're dealing with legislation.

**Mr. Marc Bosc:** It's hard for me to comment. I'm not familiar with the details of the case.

• (1135)

**Ms. Anita Vandenberg:** We have to be very careful here. I assure Mr. Richards that we are taking this very seriously, because what we decide here is going to set a precedent.

I would be very concerned if we're setting a precedent in which we cannot talk in generalities about legislation that is being proposed, consult with Canadians, and that this may close dialogue in the future. I'm reminded, for instance, of the advice that we're given when doing private members' bills, where we do want to consult broadly with stakeholders and with colleagues. We can't give out the text of the bill, but we can certainly speak about what may or may not be included in the bill.

Could Mr. Dufresne or Mr. Bosc answer what you advise new MPs when it comes to private members' legislation?

**Mr. Philippe Dufresne:** When concerns have been raised—talking about the disclosure of the content of bills once the bill has been put on notice—there was some discussion about consultation in advance, the development of policy, and so on.

If you look at the precedent, as we stated at the outset, the reviews from this committee and from speakers looked at what type of information was disclosed, when it was disclosed, how detailed it was, how public it was, and once that occurred, what remedial steps were taken. Were apologies given? Were corrective measures put in place to prevent this recurring? Were directives given, and so on? The whole context is looked at.

**Ms. Anita Vandenberg:** But there could very well be many precedents in which this never came to the attention, because there was never a question of privilege raised.

**Mr. Philippe Dufresne:** There may well be.

**Ms. Anita Vandenberg:** I'm sharing my time with Mr. Graham.

**Mr. David de Burgh Graham:** I was just going to stress Mr. Schmale's point about conjecture. Another more recent example that I thought was quite interesting occurred when the federal government under Harper introduced the citizenship law, Bill C-24. This is a quote from an article on January 24, 2014:

The federal government will introduce several changes to Canada's citizenship rules after members of Parliament return to Ottawa next Monday following a six-week hiatus, says Citizenship and Immigration Minister Chris Alexander.

He goes on to give very specific examples for several pages in the article. I won't read the whole thing. I don't have that much time.

It's clearly the minister saying in advance of the bill what's going to be in it, very specifically, and nobody considered that a breach of privilege at the time. The Conservative caucus itself could have raised this if they thought it was such a big deal. They didn't.

I think there's an immense amount of precedent that says this is not a breach of privilege. That's the position I will stick with. I don't have any further comments.

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** On a point of order, it sounded as though Mr. Graham was about to stop. He was quoting from a document. I was going to invite him to give

it, as could Ms. Vandenberg, to the clerk so that we could all look at those things. There shouldn't be a problem with that.

**Mr. David de Burgh Graham:** That's no problem.

To answer David Christopherson's point very quickly, he asked if I'm challenging the Speaker. No, the Speaker said this is a prima facie case of privilege. It looks like one. It's up to us to decide if there is one. In my opinion, it looked like one at first blush, but when I look at it closely, I don't see one. To answer your point, no, I'm not challenging the Speaker.

To Scott, I don't have a problem with that.

Thank you, Mr. Chair.

**The Chair:** Okay. We're going on to Mr. Reid.

**Mr. Scott Reid:** Sorry. I wouldn't have eaten into Mr. Graham's time if I'd known I was about to go next.

It seems we're moving into debate here. The rules seem to me to be quite clear in this matter, and this does constitute a breach of privilege. We can review the rules.

I think what is being asserted by the Liberals is that a convention has developed of saying that if the rules are violated in this way, it's just a pro forma violation. We can all live with it. We ought not to be objecting to it. Conventions do from time to time develop, both that something that is formally prohibited is in practice permitted and the reverse. Something that is formally permitted is beyond the pale of acceptable behaviour. That then becomes something that is prohibited and practised. We all get the point that if the Governor General started vetoing laws, which in theory he could do legally, we would start looking for a replacement Governor General because he would have gone beyond what is conventionally acceptable behaviour.

I think the Liberals are arguing that a convention has developed. I'm willing to accept that the Liberals have developed this kind of conventional point of view because they did not move questions of privilege when these items they've pointed to.... I think Mr. Graham's case is less convincing than Ms. Vandenberg's, but that's why I've asked to see the articles, so I can see if the facts correspond with the assertions.

If they failed to move questions of privilege at that point, that suggests that they'd accepted a certain way of behaving, which they now seek to turn into a *modus vivendi*, a way of operating, all the time in the future. If we say this was okay, then we are saying that this will happen every time. This will become the standard of behaviour. The Liberal government will always be releasing select details—not all the details came out—of its legislation ahead of time. I accept the fact that they will not be doing this on budgets, as clearly there's a very strict rule that we all accept in that regard, but it looks to me as though they are trying to move in that direction.



Therefore I implore colleagues not to go in the direction of saying that this was okay and that this is somehow what the new standard should be. That is effectively saying that Parliament, the House of Commons, will be sidelined. This will be the status quo from now on. Indeed, that is the exact assertion that the Liberals are making right now, that the Liberals were advised to make. Your research bureau did good work and got you those points, but it was an unacceptable practice. If it ever happened in the past, it's unacceptable now. Our convention should be to say Parliament, the House of Commons, is where legislation is revealed.

Let's be clear about the leak that occurred with regard to Bill C-14. It was meant to turn the debate in a certain direction. It was meant to have the effect of causing opposition on the side saying the bill doesn't go far enough to gel rather than opposition on the side saying that the bill goes too far. It's a very clever and, I might say, a very successful communications strategy based on what's happened since that time. But it gutted Parliament's role in this process. It was unacceptable. It was wrong. There is no excuse for it happening. I come down on the side of saying the convention should be that we follow the letter of the rules and not that we deviate from them.

That's all I have to say. Thank you.

• (1140)

**The Chair:** Thank you.

Mr. Chan.

**Mr. Arnold Chan:** I want to follow up on Mr. Reid's comments. I thank him for suggesting that perhaps some of the past behaviour of the previous Conservative government was inappropriate, because that seems to be what he's suggesting. At least on the government side, we recognize that.

I'm going to get back to the point that Mr. Christopherson raised, which was with respect to the apology that had been put by the chief government whip, which was...if there is in fact a finding of privilege in this particular case. I think that's our responsibility and our role here today as a committee. It's to determine clearly, so that we have a clear precedent going forward, what the appropriate conduct is. What action should we or should we not take in terms of disclosure of material before the House, so that members have the first opportunity to consider contents of legislation that is before it at first blush, as opposed to it being out there in the public more broadly?

That's why I get back to my original point, which is the possession of the bill, because it is the contents of the bill itself that require us, that give us the capacity as members, to determine whether something is in or not in the legislation. We have these media reports that clearly talk about these broad intentions or policy brushes, but it doesn't give us the substantive language of each of the particular elements that we need to consider as members of Parliament.

In fact, you could see all of us debating the issue as we were voting on the various substantive motions that were before the House yesterday, because we ultimately had the content of both the bill and the proposed amendments before us. Again, what I'm struggling with, frankly, is to understand the nature of the privilege. I get the broad brush of it, which is the intention that we get the material first, but in lieu of actually having the substantive bill before us.... Again,

when I read the disclosure of the two media articles, there is no clear evidence that the reporters in question or the media sources in question actually had the bill. They may have had discussions, and then we have to decide whether those discussions or those disclosures constitute a breach of members' privileges. That, to me, is the distinction that I'm trying to deal with.

I welcome commentary, because I'm trying to understand. What is the nature of the breach? Did a breach take place and what is the evidence before us?

• (1145)

**The Chair:** Thank you.

Mr. Christopherson.

**Mr. David Christopherson:** Thanks.

I appreciate what Mr. Chan is saying. I get a sense the government sort of got.... Talking about privilege, this thing is borderline privilege with respect to being able to do your job, and I don't know why the government would want to put us on edge in matters of privilege. I can't imagine this is helpful to your cause. I leave it with you. I know it's aggravating the hell out of me.

I hear the point Mr. Chan is making. It sounds a bit like the government has two tracks going. One is if they can effectively kill this through some of the arguments that Mr. Reid effectively dissected. In the other case, we get Mr. Chan, who says, "You know, we're in your hands and we're ready to go the other way". The story isn't about the government trying to kill it—it looks like they're trying to hit that sweet spot. I get it.

Mr. Chan made a very good point, as he usually does. If we look at our notes, though, we see the government in the past said that they reviewed all their procedures—and I think those procedures might have been reviewed by this committee—and they went back and improved those procedures and then published them in the government's response to the committee report.

Clearly, there is an ability to define and identify what information we're talking about. If the last government was prepared to acknowledge something had gone wrong, and they made changes, I don't need to take the argument too far to suggest that this government now has an obligation to also acknowledge that there is a process, that there is information.

I agree completely with Mr. Reid. Either we change the rules so that this is not considered a breach, or we really do something. When it's raised in the House as a breach we know the kind of attention it gets—a whole flurry of activity. It's a big deal inside the bubble, a very big deal.

When the Speaker says he sees a prima facie case, and that means that effectively it would take a motion to refer it to PROC, then the House is saying this is really important and they've dealt with it and it is going to PROC. If it comes to PROC and all PROC does is whimper away and wimp out on the deal and say that it's not a big deal, then what are we doing to our system of privilege? We're watering down our own rights.

Either those rights are there and they're identifiable and supportable and we're prepared to support them all the way through to taking action against those who violate them, or we're not.

If the government wants to suggest that we change the rules, if we follow Madam Vandenberg's point that these things are fairly routine—and I'm not trying to put words in her mouth—then we ought to make a change. But to me, what we ought not to do is go down the road that Mr. Reid said could happen. We make a big deal of it in the House, and we talk about privilege, and the Speaker gets in full flight and does his thing and it gets sent off, and then it comes here and it effectively withers away and dies. That's not helping any one of us.

Given that the last government recognized there were procedures and that they could improve those procedures, I would suggest that if this government hasn't bothered to do any kind of review, what they're doing is forcing us to do it. If we have to take the time to do it, we can. I suggest that one of the places to start is the previous protocol—or ask the government if they have a protocol. But I have to tell you, the government is not doing itself any favours treating this the way they did, especially given the new era that they are supposedly bringing us into.

Thanks.

**The Chair:** Okay, we'll open this up a little bit. Does anyone have any more questions for the clerks, so we can let them go?

**Mr. Arnold Chan:** I'm respectful of your time. I want to invite you, at the discretion of my fellow committee members, to stay to deal with the other matter that we are about to discuss—

• (1150)

**Mr. Scott Reid:** About the question of privilege regarding the Prime Minister.

**Mr. Arnold Chan:** Yes, we'd like to know whether you're prepared to speak to that today.

**Mr. Marc Bosc:** We have other engagements. We had counted on being here until noon.

**Mr. Arnold Chan:** Fair enough, thank you, Mr. Bosc.

**Mr. Scott Reid:** Actually there is one thing. It's conceivable you would know the answer to this.

This is for you, Mr. Bosc, particularly. I've been on this committee for over a decade. It's the first time we're faced with having two matters of privilege before us at the same time, but I'm sure it's not the first time it's ever happened. Is there a normal practice for how procedure and House affairs, or the relevant committee in whatever Westminster system, ought to deal with them when it has two matters of privilege? Do we just do them chronologically, in the order they come to us, or what is the practice?

**Mr. Marc Bosc:** This question came up earlier. In fact, it's up to the committee entirely to decide on its priorities. Since there is no obligation to report at all, the committee can do what it wishes on either case. Therefore it follows that if the committee has other priorities, it can decide itself in which order to pursue them.

**Mr. Scott Reid:** I was absent earlier. It sounds like you've dealt with this, but let me ask the question. The committee is not actually required to report back at all to the House of Commons. It could simply say it is not going to do anything.

**Mr. Marc Bosc:** There are examples of that.

**Mr. Scott Reid:** I see. Thank you.

**The Chair:** Mr. Christopherson.

**Mr. David Christopherson:** Thank you, Chair.

If I'm moving ahead of the debate I'm sure you'll tell me quickly. I'm jumping ahead to the business part of it, but they are all linked.

We have two matters of privilege, and one directly involves named members. Therefore the issue hangs over, in this case, the Prime Minister, whereas for the other one we have unknown people. When it comes to these kinds of things, I always think what if it were me at the end of the table facing the rest of my colleagues, what would I want? How would I want to be treated? What would the environment be like? I have to tell you if something like this were hanging over me, I would very much appreciate a quick hearing to deal with it effectively. Whatever it's going to be, don't leave that hanging over me especially as we head into the summer.

Just based on that thinking alone, Chair, I'm hoping that when we move to the business portion in about 10 minutes we would acknowledge that that matter of privilege should take precedence over this one, given the fact that there are named individuals involved. This hangs out there over them that whole time, and that's not to anyone's advantage.

**The Chair:** Okay, I'd like to thank the Clerk and the Law Clerk for coming. We've had you a lot this year and we really appreciate that. We know you are really busy, and we appreciate your time.

We'll suspend for a minute and then we'll get back to business in just a minute or two, not very long.

• (1150)

(Pause)

• (1200)

**The Chair:** We are in order.

Before we start, there are two things.

Welcome, Karen Vecchio.

Second, at a previous meeting, Mr. Reid asked our researcher to research something, and I just want him to respond to that.

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

It's the same question that Mr. Chan had for Mr. Bosc. It was whether or not there were similar instances of premature disclosure of a bill on notice found in other jurisdictions. Going back to 2001, I looked into the U.K. House of Lords, the U.K. House of Commons, the Australian Senate, the Australian House of Representatives, and New Zealand and I did not find anything.

I would note that I found cases of premature disclosure of committee documents that were in camera, but that happens quite frequently. In fact, it has happened fairly recently here. It's more analogous to a case that happened not that long ago when a pre-budget consultation document was leaked, so it's not necessarily analogous to the case before the committee.

**Mr. Scott Reid:** What about the instances cited by Ms. Vandenberg and Mr. Graham? They're from our jurisdiction, not from Australia, but are those sufficiently parallel to look at? They never came before the House, though. Is that the problem? Is that why you didn't look at them?

**Mr. Andre Barnes:** Those were included in the briefing. As I understood it, the request was to check other jurisdictions.

**Mr. Scott Reid:** In addition to our own.

**Mr. Andre Barnes:** Yes.

**Mr. Scott Reid:** Is that because such leaks haven't occurred, or because a convention has developed that it's okay to have leaks of that sort, or because the rules of order are just different?

**Mr. Andre Barnes:** It would only be speculation on my part to comment on that although it might just be a specific Canadian convention that, when a bill is on notice, that bill is off limits. I could look into other jurisdictions to see if they have something like that.

**Mr. Scott Reid:** Maybe that's the thing to do, to actually look at whether the rules are different. It's harder to find practices because they're often not codified the same way. Would you be able to try that?

**Mr. Andre Barnes:** I can either check in their manual, which is the equivalent to the O'Brien and Bosc, or I can just contact their clerk's office in those jurisdictions to get back to me.

**Mr. Scott Reid:** Thank you.

**The Chair:** Mr. Chan.

**Mr. Arnold Chan:** Before we go to the second matter, I want to just finish dealing with the first matter.

I want to dismiss Mr. Bosc and Mr. Dufresne, given that we're starting to have an internal discussion here about where we want to go with the issue of privilege.

My sense of it coming from the table or from the clerk is that it's ultimately up to us to decide what the nature of privilege is. What's really important is that, if we're to do anything, it's to give clear guidance going forward. I think that might be the point that you're making, David; let's set the ground rules so we have a clear understanding of what's acceptable practice and not acceptable practice. I have no problem with that because we can then avoid getting into this kind of conundrum, whereas I'm scratching my head asking myself if this is a breach of privilege or not.

It's incumbent upon us to set the ground rules. Maybe there is that lack of clarity that you noted, Scott, with this sort of creeping, evolving conventional practice of talking about things. The question is whether we cross the line or we don't cross the line, particularly once matters have been put on notice before the House. That's what I'm struggling with.

I'm also in your hands as to where you all want to take this. Are there specific witnesses?

I get the point. David has asked the question: has an investigation commenced with respect to this? Right now I have no sense of where the breach comes from. I'm just going to be upfront about it; I have no idea. It could have come from anywhere. I'm in your hands with respect to where you want to take this.

We do not want to have the situation where parliamentarians are not the first ones looking at these substantive pieces of legislation that we ultimately have to vote on. I get that point and I'm not dismissing that in any way. It is a very serious issue for me, and I think for all members on the government side, which is why the chief government whip said that, if there is in fact a determination of breach, we apologize for the fact. Let's put some processes in place. I'm all for it. I just want to get it clear.

I want to be able to say where the bright line is so that we know what to do. What's the guidance? What is the standard of practice?

I'm in your hands.

• (1205)

**The Chair:** Thank you.

Mr. Reid.

**Mr. Scott Reid:** Thank you, Arnold, for that.

What we are trying to do is get information, through the analyst, that helps us determine where the rules lie and where the conventions lie. That is information as to background.

As for this incident, the obvious thing is to try to find out additional facts as to the source of this particular leak. I think the best way of doing that would be to invite as witnesses the minister's chief of staff, Lea MacKenzie, and the minister's senior communications adviser, Joanne Ghiz. I could be wrong. Those may not be the individuals who were there at the time. If I am mistaken, then I would want to adjust the names, but they could provide us with information. They could confirm to us that they themselves were not the source of it, that it was done deliberately—assuming that to be the case. In addition, they could indicate how large the circle is as to individuals who had access to the documentation at that point.

At some point, either someone was careless and it slipped out, which is highly unlikely—I say that because we would have more than this select slice of information, were that the case—or someone deliberately leaked some of the information, which I think is the only plausible hypothesis. At any rate, those two could provide information.

I would be happy to have the minister herself here. I understand that we can't force the minister to come and also, in all fairness, I suppose the minister is presumably designing the policy, as opposed to designing the communications strategy. The minister is not a communications expert, but I would move that we have those two come as witnesses.

**The Chair:** Mr. Christopherson, go ahead.

**Mr. David Christopherson:** I might add to that. Again, I don't want to make a mountain out of a molehill. I was surprised there was no answer at all, and I am still not getting an answer. Mr. Chan says he doesn't know, and I accept that, of course.

The chief government whip was here, and we can't even get an answer to the question of whether the government, after apologizing for something they said was horribly wrong and shouldn't have happened, conducted an internal investigation. Did they have an investigation?

The other thing is that our notes tell us that, back in 2001—I realize it is going back away—in the resolution to that issue, which is similar to this but of course not quite exactly the same.... They then updated and revised their “Guide to Making Federal Acts and Regulations”. That was 15 years ago. I don't even know if such a thing is around, but there has to be some kind of a guidebook and policies that exist today. I can't imagine we would go from 2001 with detailed processes, only to find out in 2016 that everything is gone. It is possible, but it would be surprising.

To me, Mr. Chair, it would be worth our time to talk to the chief government whip, again, to reiterate why he apologized. Mr. Chan, supported by other colleagues of his making that argument, says he is not sure what exactly the breach is, and yet their own chief government whip at the time felt that he owed the House an apology and gave one. Clearly, to some degree, even the whip acknowledged that a breach had taken place, at least a prima facie case of a breach.

In bringing in the chief government whip, I would have at least two questions. One, what is the current version of “Guide to Making Federal Acts and Regulations” and any successor documents that are now in place? I don't know what the new government has done vis-à-vis that policy with regard to where it was in the last government. Maybe that is something we need, too. Two, did you change it? Did the government change the process? Did the Conservatives actually have something right in that case, and the government now has monkeyed with it and made it worse? I don't know, so I think we deserve to know that.

Those two questions alone are worth calling in the chief government whip. Why did the chief whip believe there was a breach? What was it that he was apologizing for? Is there or was there any kind of an internal government investigation to find out who the culprits were?

Third, what policies or guides are in place vis-à-vis “Guide to Making Federal Acts and Regulations”? I think those would be at least three pertinent questions, off the top of my head, that would be properly placed before the chief government whip, so I would suggest his name, Mr. Chair.

• (1210)

**The Chair:** Mr. Chan.

**Mr. Arnold Chan:** Let me respond to Mr. Christopherson's assertion that the chief government whip apologized for a breach. I think he apologized. He said, “We apologize if there is a finding of a breach.” I would invite you to read the record more carefully with respect to his comments in the House of Commons.

I don't have an opinion with respect to the chief government whip. I do want to respond to Mr. Reid's suggestion about calling two staffers from the Minister of Justice's office. I would be of the view that it would be more appropriate on the doctrine of ministerial responsibility to simply call the minister.

**Mr. Scott Reid:** I'm not against that at all, believe me, but I think that we can't require the minister to come here. When I say that, on the other hand, the Liberals can vote anything, and you can also arrange to have the minister not appear. Ultimately whether we have witnesses, be it the minister or the minister's staff coming here, is up to you all and not up to us.

**Mr. Arnold Chan:** No, I follow.

**Mr. Scott Reid:** I'm still going to move that we invite these individuals. The possibility also exists, and this worries me, that the minister would say truthfully, “I don't know, someone else handled that stuff”, but that reason would be insufficient. The minister did have a lot on her plate and may genuinely not know. I'm going to keep these names before us, but I do take the point to very much welcome the minister's presence here. In fairness to the minister, we might want to wait until Bill C-14 has been dealt with, because she does have something else on her plate at the moment.

**Mr. Arnold Chan:** I wanted to clarify with the clerk, have we made a request from this committee for an invitation, for the availability of the minister on this issue yet? I can't remember, because I've been in and out, and I apologize.

**The Chair:** The committee hasn't made a decision on inviting her, but the committee did want to give her a heads-up because of her limited time that we may be calling her in June. The clerk did give her that heads-up.

**Mr. Arnold Chan:** Mr. Reid, I would invite you to amend your motion. You could speak to the two individuals in question, but I still think the doctrine applies that the minister is responsible, so she can give the testimony on behalf of these two staffers.

**Mr. Scott Reid:** I'll take you up on the invitation. Understanding that the minister is responsible under the doctrine of ministerial responsibility, but also accepting the reality of life that she is not omniscient...I stand to be corrected, but I guess she's not omniscient. If she is, I'm going to want to ask her about the stock market.

Let me amend the motion to invite the minister, accompanied by her chief of staff and communications adviser. At that point, I think it would be clear to all of us this is the normal practice. The minister might be the one answering questions, but she would have the capacity to turn to these people for assistance if she gets stuck on any point.

• (1215)

**Mr. Arnold Chan:** I leave it to the minister to respond in terms of who would support her in giving her evidence that would ultimately be helpful to this committee, but I am typically reluctant to call specific officials, unless we had evidence in advance that they were somehow involved in the situation. I see none right now to suggest that, and I think it breaches the convention with respect to the doctrine of ministerial responsibility. We call the minister, and the minister calls whatever support that she requires.

**Mr. Scott Reid:** I'll say in response to that, I do not mean to suggest these individuals are culpable. That's something we simply can't know. They're merely people who are in positions that deal with this kind of material. They would have information at a more detailed level than the minister would, I suspect, as to how many hands this information was in, what the processes are for security of the material, and that kind of thing. I'll leave it there.

**The Chair:** Mr. Christopherson.

**Mr. David Christopherson:** Thank you, Chair.

I don't know if Mr. Reid would take it as a friendly amendment to include the chief government whip, and whether you want me to formally move an amendment, or whether you want a separate motion. I'm in your hands on that. I'm in concurrence with the starting point of those two.

I did want to state to Mr. Chan and others that this business of staff is always a tricky one. Bear in mind that this committee always retains the right to demand any—and I think I've got the three right—papers, people, and documents, or at least close to that. That right is absolute.

As a matter of convention, starting with the minister, since they're accountable in keeping staff out of the direct line of fire if there's no need for them to be there, is a good one. I'm prepared to support that notion as we approach it, but I just hope that no one thinks that this necessarily ends it, or that we can't go to staff. Having been a staff—and I'm one of those, and there are quite a few around here—it's easy for us to put ourselves in those shoes and the last thing you want to do as a staffer is to be at the end of the table facing the opposition members and whatever might come. I get that. However, at the end of the day, if we have to do that to get at what we determine to be the truth, we still have that right. One is the niceties of how we'll approach it, and the other is, if we have to, the reserve of actual authority and power that this committee does have to produce whatever it wants to appear at the end of the table.

**Mr. Arnold Chan:** I would agree with that if it were evidence that comes out perhaps through disclosure from the minister.

**Mr. David Christopherson:** I'm willing to take that approach. I think Mr. Reid is too. I'm hearing him. I don't want to put words in his mouth, but my sense is that he was prepared to go that way as long as we understand that if we start chasing our tail or we're going in circles or bringing in a staff person to give direct evidence that is clearly needed to assist the committee in their work, then that's where I'm going to go. Then we'll talk about how we do that because once they're there, it's a unique situation whereby all this power is in our hands and you have very few rights. You have no lawyer. You're protected from any kind of court action, based on anything you say, but nonetheless there's no bigger court than Parliament at the end of the day.

Hopefully, we have a meeting of the minds in how we're going to approach this as the details come up.

I would just come back to the point, Chair, if you're considering my request to have the chief government whip here, is it part of Mr. Reid's motion, or do I need to do a separate motion? I'm in your hands, sir.

**Mr. Arnold Chan:** I would suggest a separate motion, Mr. Christopherson.

I want to respond to the suggestion of the chief government whip. I just don't think the chief government whip would add anything. Your concern ultimately is if there's an investigation, it would be a departmental one. Obviously, the department that is responsible for the process would be the one that would have conducted reviews, so I think the starting point for me is the minister.

**Mr. David Christopherson:** Chair, if you're allowing the dialogue back and forth, I hear your point, but I still think it's

relevant that this “Guide to Making Federal Acts and Regulations”, and whatever its current 2016 version is...it would seem to me that this is under the responsibility of the whip. If you want to say to me that's under the responsibility of the House leader, or whoever you want, I don't care, I just want somebody in here with some responsibility for that policy to talk about what it is and to tell us whether or not it's been changed from what the previous government had. I think that's very relevant.

• (1220)

**Mr. Arnold Chan:** I have no idea.

**Mr. David Christopherson:** As I said, I don't care. Just give us a government representative, preferably an elected one, who can answer what is the current policy that we're referring to in 2001, and has this government made any changes to that protocol policy from what the last government had? These are very valid questions, I think.

**The Chair:** It might be the Privy Council Office.

**Mr. Arnold Chan:** It might be the Privy Council Office. I just don't think it falls.... The whip is not technically—

**Mr. David Christopherson:** Who do you want to give me?

**Mr. Arnold Chan:** I'm just trying to understand. The chief government whip is not a member of the executive council...well actually he is, so I take it back. I'm just trying to find who would be the responsible ministerial—

**The Chair:** I think we should research—

**Mr. Arnold Chan:** Can we get back to you on that?

**Mr. David Christopherson:** Agreed. I was watching the clock.

Where are we?

**The Chair:** They'll get back to you on that when they find out who's responsible.

**Mr. Arnold Chan:** It appears that it's on the Privy Council Office website.

**Mr. David Christopherson:** All right, and then the motion that some yet-unnamed person from the government appear before us to speak to what the policy is, then you can fill in the blank.

**Mr. Arnold Chan:** Okay. We know it is from the Privy Council Office; we will advise you once we get the right elected official.

**Mr. David Christopherson:** I appreciate that. I'm staying with the elected person, going with the idea that we're the ones who are front-line accountable. If you want to bring somebody else, let's talk about it, but I'd rather deal with other elected people right now.

**Mr. Blake Richards:** I guess I'd also point out that the whip was here during the discussion today for quite some time. He must have felt he had something to offer or to add in some way. There were some questions Mr. Christopherson had that I think would have been appropriately answered by him. He was the one who got up in the House and made the apology, which apparently wasn't an apology because now we're not sure if there was something to apologize for, but anyway, we'll determine that, I guess. He obviously felt he had something to add or something to contribute since he was here. I still think it would be advisable for him to be called.

**Mr. Arnold Chan:** [*Inaudible—Editor*] and we'll just deal with calling the minister? You can decide whether you agree or disagree.

**Mr. David Christopherson:** Yes. Bring some information. We'll deal with it at the next meeting.

**Mr. Arnold Chan:** Okay. We'll have something by Thursday.

**Mr. David Christopherson:** Okay, I can live with that.

**The Chair:** We'll go back to Mr. Reid's motion.

**Mr. Arnold Chan:** Can we amend it to "the Minister of Justice", to request the Minister of Justice?

**The Chair:** "...that the Minister of Justice be invited to appear as a witness as soon as possible before the committee"?

**Mr. Scott Reid:** Do we even do friendly amendments in Parliament or is that a *Robert's Rules of Order* thing?

**Mr. Arnold Chan:** You move it and I'll second it, okay?

**Mr. Scott Reid:** Fair enough. I think this makes it procedurally correct. I'll be happy to remove my last one and put this one forward. I don't know if seconding is necessary, but thank you, Mr. Chan.

**Mr. Arnold Chan:** It's not necessary, but okay, I'll support it.

**The Chair:** As soon as possible, right?

**Mr. Scott Reid:** Yes, as soon as conveniently possible. We all understand she has some other stuff on her plate.

**The Chair:** Okay. Is there any discussion on the motion?

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** Mr. Christopherson.

**Mr. David Christopherson:** Chair, I haven't yet heard you say that you've received the referral from the House, but I'm assuming that has happened and that we have the referral. My suggestion would be that we move to that right away and begin to deal with it.

**The Chair:** Sure.

**Mr. Arnold Chan:** Agreed.

**The Chair:** Go ahead, David. Do you want to open the discussion?

**Mr. David Christopherson:** I can if you wish.

The most important thing I have to say is really not even my words. I think we all understand the seriousness, and I think that was reflected in the Prime Minister's third apology.

To get things started, I'd like to read a statement from Madame Brosseau and then I will have it circulated. I'd like to read it first so that it's very clear this is her statement, which I'm reading on her behalf. It's pretty self-explanatory. I'll have a few comments after that, and then let's see where we go from there.

I am quoting a statement from Ruth-Ellen Brosseau, the MP for Berthier—Maskinongé, and it reads as follows:

The matter that is before PROC today is focused on a breach of the rights that are afforded to Members of Parliament. If anything impedes a Parliamentarian from carrying out the role their constituents elected them to undertake, it constitutes a serious matter.

In this case it was the Prime Minister himself that caused this breach when his inappropriate physical intervention with Conservative Whip Gordon Brown on the floor of the House of Commons resulted in physical contact that caused me to miss a vote.

The details of the unprecedented physical interaction between the Prime Minister and members of the opposition are well documented, and such an incident would not be acceptable in any workplace. It left many Members stunned and raised

important questions about the conduct of the Prime Minister in a House that was already confronted with unprecedented government measures to limit debate.

I am pleased that PROC is moving forward to deal with the referral of the incident today. I believe that this, coupled with the Prime Ministers' admission that his conduct was unacceptable, provide closure to this issue. I accept his apology and look forward to returning my focus to representing the people of Berthier—Maskinongé.

It is my sincere hope that all Members will work to ensure that we never see this conduct repeated, and also that we take this opportunity to recommit to improving the tone of debate in Parliament.

I have one other thing to say, and then I'll just open the floor.

Madame Brosseau is not able to be with us today. She is actually in China on parliamentary trade matters on behalf of Parliament.

Obviously, Chair, I'll just say that the motion itself makes direct reference to Madame Brosseau, and certainly our caucus is taking its lead from the member for Berthier—Maskinongé. It is her wish and her belief that all of the attention and the fact that we're focused on this here now...as well as the fact that, although it required three attempts, nonetheless, a comprehensive apology was given.

On a personal note, I just want to note the question from Madame Petitpas Taylor. Following the Prime Minister's comment, she got up and asked him whether, given what was going on in the House, there was anything mitigating that had happened, that would affect and mitigate his culpability, his responsibility. I think that was the essence of the question.

To his credit, the answer came back unequivocally that, no, the Prime Minister acknowledged that his actions stood alone, were unacceptable, and required a full apology.

• (1225)

He made that apology, and I'm here to advise colleagues that my colleague, Ruth Ellen Brosseau, considers that apology and this hearing today to be sufficient to close the matter and move forward, with the caveat that, hopefully, we won't see a repeat by anyone.

I think maybe that's a good place for me to end, Chair, and obviously I reserve my right to speak again toward the end if necessary.

Thank you.

**The Chair:** Thank you very much. That was very moving.

Mr. Chan.

**Mr. Arnold Chan:** First of all I want to thank you, Mr. Christopherson, on behalf of not only myself but of all the members of the government for reading Madam Brosseau's statement into the record today. We know that what transpired on May 18 was not a good day for Parliament, for all of us. For example, I look at our conduct yesterday. We know that we behaved much better yesterday, let's put it that way, and I hope that this becomes the standard of practice for all of us in the House of Commons.

I understand we all have very strong personalities and we get into heated debates. Things that led up to the circumstances on May 18 caused tempers for many of the members to rise for various reasons. It is what it is. We all know what transpired that day. I take the fact that starting from the Prime Minister all the way down to all of the members involved, we want to move on and that we need to conduct ourselves in a much more respectful manner. I hope it's a learning moment for all of us.

We're sure to get into instances again in the future, to be blunt, where we will feel strongly about particular issues, but at the end of the day I hope that we're all respectful enough to one another that we can have differences of opinion, that this is the forum in which we express those differences of opinion. When we cast our ballot, which is the ultimate expression of our democratic values in Parliament, we should try to avoid the circumstances that arose that particular day. I'm grateful for the statement from Madam Brosseau. I hope I speak for my colleagues that if this is the way in which those who were most affected by the actions of the Prime Minister, to whom you know he unreservedly apologized...then we accept that and thank you for it.

•(1230)

**The Chair:** Mr. Reid.

**Mr. Scott Reid:** I have a question to Mr. Christopherson and then, depending on his response, I have a second question to him.

Madam Brosseau's statement is not as clear as I think she may have intended it to be on the question that I'm going to ask you right now. Is it her preference that this committee desist as of today from pursuing this matter and that this be our final meeting on the issue? I'm not clear whether that is the case, so we should ask that.

**Mr. David Christopherson:** Are you asking me if that is her position?

**Mr. Scott Reid:** Yes, that's right, her position.

**Mr. David Christopherson:** I can answer on her behalf, and the answer is yes.

**Mr. Scott Reid:** In that case, might I suggest that today we learned from Mr. Bosc—others may have known this but I did not—that as a committee we make a decision as to whether or not we continue to pursue matters of privilege. I think the appropriate way of making a decision to not pursue a matter of privilege should always be to not simply let it drop but to actually formally bring it to conclusion by means of a motion. The motion could simply be that the issue of privilege presently before us, beyond which issue it is—

**Mr. David Christopherson:** Be considered resolved.

**Mr. Scott Reid:** Or something to that effect. I'll leave it to you to do it. The point is to say that it ends here. We do it by means of a motion and the majority agrees and it makes it very clear.

Would you be willing to move a motion to that effect?

**Mr. David Christopherson:** I would. I think what you're suggesting, and I'm probably on the same wavelength, is that the idea of letting it just drop and that's how it ends is not healthy, that it would be better if we issue a report and in that report we can say whatever we decide. If it's consistent with what Ruth Ellen is asking for, then it would recognize her statement. We could probably

include it in the report. Then following that, if there is a motion, if there is the opportunity, send a report to the House. It has some merit.

What's the alternative? Could we still move a motion and not go to the House?

**Mr. Arnold Chan:** We could report back. We don't have to, but we could choose to report back.

**The Chair:** I think Mr. Reid's suggestion is more in line with the spirit of what you would like because if you do a report any member of the House can call a three-hour debate on it and someone drags it all out.

**Mr. David Christopherson:** I'm just seeing it. I wish I had that before. We'll talk about advice and timing after this meeting, but I'm just going to bite the bullet and acknowledge that we prefer not to do a report too.

**The Chair:** Could you make a motion and finish this?

**Mr. David Christopherson:** I may need some guidance in terms of an appropriate type of motion, but let me try. It is: that the committee considers the matter of the privilege referral from the House on—and fill in the date—to have been resolved and that it is the opinion of the committee that no further action is required.

•(1235)

**The Chair:** Is that agreeable to Mr. Reid?

**Mr. Scott Reid:** Sure.

**Mr. David Christopherson:** That's something I'm hoping to change, but that's off the top of my head, Chair.

Then we could just end it with a motion and call it a day.

**Mr. Arnold Chan:** I'm substantively in agreement. I just want to suggest maybe a slight modification to allow the opportunity for Ruth Ellen's statement to get on the record, as well as just to simply acknowledge the apology of the Prime Minister and that it has been accepted by Ruth Ellen and now we consider the matter to be closed. Something like that.

**Mr. David Christopherson:** I think the language gets us there, Chair. I don't think there's much disagreement on principle.

**Mr. Arnold Chan:** And somehow if we can include some language to talk about...

**Mr. David Christopherson:** About it not happening again in the future, that sort of thing.

**Mr. Arnold Chan:** No. It's actually in Ruth Ellen's statement.

**Mr. David Christopherson:** In the motion.

**Mr. Arnold Chan:** In the motion, yes.

**Mr. Scott Reid:** Would you read that back?

**The Chair:** The motion reads, "In light of the statement by the member from...who therein accepted the Prime Minister's apology, we consider that no further action need to be taken on this motion of privilege."

Does that sound good? Is there anyone opposed? Carried.

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** Thank you, David.

**Mr. Scott Reid:** Mr. Chair, could I raise another matter?

**The Chair:** Yes. We do have some time and I do have some other business. Only three of you responded to the letter on the Austrian delegation. We also have the motion on the emergency hours, which I think we could do in 30 seconds.

Mr. Reid.

**Mr. Scott Reid:** Has anybody ever read the Edgar Allan Poe story, *The Tell-Tale Heart*, in which a man murders somebody, buries him under the floorboards, and then the sound of his beating heart gets louder and louder and louder and eventually drives the perpetrator insane?

**Some hon. members:** Oh, oh!

**The Chair:** You should have asked the Clerk that. He's responsible. The Clerk was here and you should have asked him.

**Mr. Scott Reid:** Here's my question and this is more to our clerk actually. I recognize there are all kinds of limitations on what you can do, but whenever possible until this construction is done would you be able to move us to some other room—for example, there are two upstairs—instead of this one? If it's not possible I understand, but the thought may have crossed your mind independently. It's worse here.

**Mr. David de Burgh Graham:** The Wellington Building is due to be open any day now. Can we move there at the earliest opportunity?

**The Chair:** And then return to 112-North? I'd like to be in this building, if we can.

**Mr. David de Burgh Graham:** When there's no jackhammering.

**The Chair:** Now that we're in goodwill and good spirits maybe we could deal with this minor motion of the Speaker setting the hours of emergency debate.

The only holdup we have on the debate is Mr. Christopherson would like the word “agreement” instead of “consultation”. The clerks who drafted this have suggested that that's not necessarily a good idea for several reasons. One is this is the format that's used throughout the Standing Orders and the Speaker making decisions.

Second of all, in other parliaments he doesn't even have to consult because of the emergencies. He just sets the hours to come back in an emergency.

I'm hoping we could pass this the way it was handed out, that the Speaker will consult with members, but call Parliament after an emergency when he can, if it's okay with Mr. Christopherson.

**Mr. David Christopherson:** I'm afraid it's not. I'll take that back and consult and see if we can come back with another compromise to get there, but that language I can't agree to.

**Mr. Arnold Chan:** I previously asked for a deferral. Just to remind everyone, my point previously was that if we're going to look at the issue of members' privileges broadly, as we're going through the family-friendly issue, let's deal with it as a package. Let's get your concerns from your caucus. Let's put it all together.

**Mr. David Christopherson:** Sorry. What are you talking about now?

**Mr. Arnold Chan:** We're talking about the emergency powers and the change to Standing Order 28, right?

**Mr. David Christopherson:** Yes.

• (1240)

**The Chair:** My point is that we could have an emergency any day. We just want to have the Speaker be able to call the House back when it's appropriate.

**Mr. David Christopherson:** I understand, but the words do matter, and “agreement” versus “consultation” has a world of implications, Mr. Chair. I think you know that. We're not trying to delay this. We're not trying deliberately to delay it; there's no purpose in that.

**The Chair:** Yes, okay, but we can come back on—

**Mr. David Christopherson:** Yes, and maybe we can even have some bilateral discussions to see if we can come up with a word or a phrase.

**Mr. Scott Reid:** If I might just raise a point related to this, I can tell you in a nutshell why I would object to using the word “agreement”.

Remembering the last such emergency, on October 21, 2014, it would have been extremely difficult as a practical matter, given the fact that communications had broken down and people were locked up for a fair time and then were taken under guard by police. In my case, I didn't get out of here until 11 p.m.

**The Chair:** The cellphones were shut down too.

**Mr. Scott Reid:** It might actually be impossible to get agreement, so “consultation”.... This is the sort of power that it's very hard to imagine being abused. I can't think of how one would abuse this particular power, and hence “consultation” seems to be reasonable.

Otherwise, effectively, not only do individual House leaders have a veto over the new time, but it might be that they are simply unavailable, and hence you literally can't bring Parliament back without violating the Standing Orders, and that would be a meaningful issue.

**Mr. David Christopherson:** I appreciate that. Thank you.

Chair, let me commit to this, because I get the importance. We want to get it in place. You're right: just like that, we could have a problem.

Perhaps we could defer it one more time to even the next meeting to allow us to explore and see if we can find language. If we can't, then I accept that we've done everything we can, and we'd be ready to hold a vote.

**The Chair:** If it's good with Mr. Chan. Okay.

For the next item, we have the Austrian people. They want to talk about procedure. Three of you responded, which didn't help much, because one said that we should have it during committee, another said that we should not have it during committee, and the third person was Ms. Petitpas Taylor, who's very easy to get along with and said that she'd go with what everyone else wants.

Are there any other comments on that, even just to break the tie?



**Mr. David Christopherson:** What's the issue, Chair?

**The Chair:** There's a parliamentary delegation from Austria, and they're interested in procedure. They want to meet with PROC or with those in PROC who are available.

**Mr. David Christopherson:** Right. Normally, in my experience as a chair and in the rest of the years I've been here, the chair implores as many people as possible to show up in support, but at the end of the day, the chair has to carry the can. That's why you get the big bucks.

**The Chair:** Yes, but the question is, at a committee meeting or not in a regular scheduled time? That's in the memo I sent out to you.

**Mr. David Christopherson:** I would say I'd leave it to the chair, because sometimes I've done those things in the summer.

**Hon. Ginette Petitpas Taylor (Moncton—Riverview—Dieppe, Lib.):** Mr. Chair, we have a lot of committee business that we need to deal with. Perhaps a suggestion would be to have it outside of our committee hours, but I'm flexible.

**The Chair:** You've changed? Okay. We'll do it outside committee hours.

Mr. Reid.

**Mr. Scott Reid:** Yes, I'm not speaking for my colleagues, just for myself, but the observation I would make is that in the past we've normally done these things outside of committee hours.

**The Chair:** Okay. I sense agreement on that.

**Mr. Scott Reid:** If we do it for the Austrians, then how are we going to stop the Slovenians from wanting the same treatment?

**The Chair:** Okay. We'll set up a time outside committee hours, so anyone who can make it, that would be great.

What else did we have in committee business? I think that was it.

This committee never ceases to impress me with your comportment, rationale, and collegiality under the circumstances of a system that's meant to create confrontation. I think you all deserve a lot of credit.

The meeting is adjourned.

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