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Chair

Mr. Anthony Housefather

Standing Committee on Justice and Human Rights

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• (1305)

[*Translation*]

The Chair (Mr. Anthony Housefather (Mount Royal, Lib.)): Good afternoon, everyone.

Pursuant to Standing Order 106(4), we're holding a meeting requested by four members of the committee to discuss their request to undertake a study of the unprecedented breaches of confidentiality that have taken place recently in respect of the Supreme Court appointment process.

[*English*]

I will turn to whoever from the opposition wants to raise the motion.

Mr. Cooper.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you, Mr. Chair.

This emergency meeting arises from shocking and unprecedented leaks respecting the Supreme Court selection process.

Before I discuss the issue, I will put forward a motion to the committee.

I presume copies have been distributed.

I will read the motion:

That the Committee sit additional hours to study the leak of information surrounding the Supreme Court of Canada selection process, particularly as it pertains to the leak of information surrounding the Chief Justice of the Manitoba Court of Queen's Bench; and that the Committee report its findings to the House no later than Friday, May 31, 2019.

The Chair: We're going to make copies of that.

I assume because it was read into the record, it's okay because the French will be on the record.

It's a receivable motion.

Please continue, Mr. Cooper.

Mr. Michael Cooper: Mr. Chair, this is an extremely serious issue, in terms of what took place several weeks ago when highly sensitive and confidential information about a respected jurist was leaked. Let me at the outset detail what those leaks were.

On March 26, there was a leak reported by CTV News and Canadian Press that the Prime Minister had disagreed with former attorney general Jody Wilson-Raybould's choice to replace Beverley

McLachlin on the court. Wilson-Raybould had preferred Manitoba Chief Justice Glenn Joyal, but the Prime Minister rejected that choice because he saw Joyal as too critical of how courts apply the Charter of Rights and Freedoms. In other words, it was an effort to smear a respected jurist. One day later, there was a further leak that the former attorney general preferred Joyal due to his stand in favour of individual rights. Again, it was an attack on the former attorney general.

It's quite clear that this is extremely serious. Why is it serious? In order for the Supreme Court selection process to function as it should, all matters relating to Supreme Court applications must be held completely confidential. It cannot be subject to leaks. It can't be subject to smears on the reputations of individual applicants who put their name forward.

What we have as a result of this leak is an undermining of the integrity of the appointment process, and a respected jurist has had a cloud cast over him. Quite frankly, this goes to the heart of the rule of law and the independence of the judiciary, which has been undermined as a result of this leak.

It should be noted that a cloud has not only been cast over Chief Justice Joyal, but a cloud has also been cast over Supreme Court Chief Justice Richard Wagner—a distinguished jurist who was appointed to fill the seat left vacant by Beverley McLachlin—as well as Sheilah Martin.

Now, don't take my word for it in terms of the seriousness of what we are dealing with here today. Take the words of Marc Giroux, the federal judicial affairs commissioner, who stated that he was “deeply concerned and troubled about the release to the media of any confidential information, be it accurate or not, that pertains to judicial appointments to the Supreme Court of Canada...”. Take the words of Ray Adlington, president of the Canadian Bar Association, who stated that the leak “demeans the selection process and ultimately all those who hold the office of judge.”

The president of the Manitoba Bar Association, Mark Toews, stated, “The MBA has always supported a fair and formal appointment process for the judges to the Supreme Court of Canada. It is vital that any deliberations leading up to any appointment remain confidential.” He continued, “The recent breaches of confidentiality where the suitability of other candidates are discussed is highly disconcerting. It demeans the entire selection process, and is harmful to the privacy of individual applicants.”

Chief Justice Joyal was so offended by what had been leaked unfairly about him that he took the rather unprecedented step as a sitting chief justice, in the face of this unprecedented leak, to state, “I fear that someone is using my previous candidacy to the Supreme Court of Canada to further an agenda unrelated to the appointment process. This is wrong...”.

I would suggest as well that colleagues opposite heed the words of Liberals, including the current Attorney General, who stated, “The integrity of our process depends on confidentiality for all parties involved. Canadians should have complete confidence in the administration of justice.”

Perhaps one would heed the words of Penny Collenette, the former director of appointments to Prime Minister Chrétien, who said with respect to the leak that it's “shockingly bad form.”

Senator Percy Downe, Liberal, former chief of staff to Prime Minister Chrétien, said, “Agree. Appalling behaviour.”

The member for Beaches—East York, Nathaniel Erskine-Smith, stated with respect to the leak, “It is outrageous.”

That lays the foundation for the seriousness of the matter and the concern that has been raised throughout the legal community about this. Notwithstanding that, I have to say I've been very disappointed with the seeming indifference on the part of the Prime Minister and the Attorney General to get to the bottom of exactly what happened.

The Prime Minister's Office conveniently said they didn't leak it. I say “conveniently” because it's quite surprising that it wouldn't have emanated from the Prime Minister's Office given the nature and substance of the leak, the discussions that were had between the former attorney general and the Prime Minister, the nature of the leak in terms of trying to cast doubt on the judgment of the former attorney general, and the timing, namely, in the middle of this entire SNC-Lavalin scandal, which the government has been working overtime to cover up.

I should also note it's a bit interesting that when the leak initially occurred, the Prime Minister's Office didn't immediately deny that they leaked it. The current Attorney General, whom I quoted, was quite clear in his statement about the seriousness of the matter, but it has been several weeks, and he appears to have done nothing to get to the bottom of this matter.

Now we're here, yet again, before the justice committee. Is this the perfect venue to investigate this matter? No, it isn't, but given the fact that the Prime Minister's Office and the Prime Minister are seeming to take no action, and given the fact that the Attorney General has shown no interest in pursuing the matter, we are left with where we are today, here before the justice committee, to undertake hearings so that we can call witnesses and at least begin to get some answers on this very serious matter that goes to the rule of law and the independence of our judiciary.

Thank you, Mr. Chair.

• (1310)

The Chair: Thank you very much.

To go through the speakers list, we have Mr. Rankin, Mr. Ehsassi, Ms. Khalid and Mr. Casey.

Mr. Rankin.

Mr. Murray Rankin (Victoria, NDP): Thank you very much, Chair, for having me back to the committee. I have a personal interest in this, as I'll describe, so I'm pleased that my colleague allowed me to have the floor.

I can't really do much to amplify the seriousness of this. I can tell you, though, that there are 125,000 lawyers in Canada represented by something called the Federation of Law Societies, and here's what they say. Ross Earnshaw, president, said:

When the current process was established, one goal was to eliminate any perception that partisan considerations enter into what Canadians ought to expect to be a purely merit-based appointment process. It is critical to the integrity of that process that individuals under consideration have no fear that their identity or other information will be used for any purpose other than the one intended. It is deeply concerning that such information was leaked in this instance.

This is not partisan. This is the head of every law society in Canada, the federation of all of them, saying what a travesty this is, the leak of this information.

I have been on record as praising this government for the appointment process to the Supreme Court of Canada, and I don't draw back from that. You can see that I'm not making that up; you can read the comments I've made in the media about it.

To have a former prime minister of another party chair a group of people from across the country and to give, under a non-disclosure agreement, to Mr. Nicholson, the member for Niagara Falls, the then justice critic, and me, the then NDP critic, access to all the information on the finalists, and then for us to make recommendations and have that go to the Prime Minister, and for the recommendations to be essentially followed, to me is an unbelievable process. Compare that to what happened with Mr. Justice Kavanaugh in the U.S. Supreme Court. We've a lot to be proud of. We've a lot to be proud of, and I've praised the government for that.

What has happened here is devastating to the integrity and credibility of that process. We need to investigate it. There needs to be an investigation. We stood up and asked the new Attorney General, “Sir, would you investigate this?” We did that on several occasions. My understanding of his answer, and I stand to be corrected, is, “I asked the Prime Minister's Office and they didn't do it, and I talked to my people and we didn't do it.”

Now it gets personal.

I am under a cloud of suspicion, as is my colleague from the Conservative Party. I was prepared to go to my grave with the information as to who were the finalists in this process. Indeed, there are other names that I cannot and will not mention. They are people I happen to know, who put their name forward in the confidence that it would not be leaked.

Imagine you're a sitting judge, the chief justice of the Manitoba superior court, in the case of Mr. Justice Joyal. Imagine if your colleagues know that you're really not that interested in your job because you want to go off and be in Ottawa. How does that leave you with your colleagues? There are implications of this; this isn't just politics.

I think that if the Attorney General is not going to investigate this, we have an obligation—this committee—to do that job. I resent that I'm under a cloud of suspicion. I resent that this process has left my friend Mr. Nicholson under a cloud. I would never disclose that this particular candidate was on the list. Now we know he was. There are others you don't know about and I will not disclose.

This is a serious matter, as the Federation of Law Societies has said. This committee in particular should take this seriously. How often have we said, Mr. Chair, and you've been clear on this, that we will not discuss candidates for who is going to testify on the public record about any number of issues, right? We always go in camera to talk about witnesses. This issue is ten times—a hundred times—more serious than whether we choose Mary or Bill to be a witness on a particular topic.

The integrity of how we appoint people to the highest court of our land is at issue. If the Attorney General is not going to do it—and he's made clear in the House, at least, that he is not—I say that we have an obligation to Canadians to do it. This is serious.

• (1315)

The Chair: Thank you very much, Mr. Rankin.

Mr. Ehsassi.

Mr. Ali Ehsassi (Willowdale, Lib.): Mr. Chair, first of all, allow me to thank both members who spoke to this issue. I will start off by saying that I completely agree with them that this is a very serious issue and we should all be concerned about this. However, just to put it in context, it's important to recognize and appreciate that our government understands that safeguarding the confidentiality of the appointment process is very, very significant.

Now, I suspect that the members, before appearing here today, had an opportunity to jog their memories, to look back and try to put this in context. As each and every one of you is fully aware, regrettably we had a very similar process in 2014. That was the aborted appointment of Justice Marc Nadon. As regrettable as this is, it has been known to happen before. I find it quite astounding that no one has brought up the parallels with what we saw a few years ago.

The reality is, as my learned friend Mr. Cooper actually mentioned, this is truly not the appropriate venue to consider this issue.

In 2014 we were faced with a very similar dilemma. It's assumed that the name of Justice Marc Nadon was shared with other members as well, but at that particular juncture, though, nothing actually happened and nothing was done.

When the member today says that there is attempted indifference, there is no attempted indifference. This is something we should all take very, very seriously.

I can say that am very proud of the government. The member actually said that when this first came up and the Prime Minister was approached, he did not immediately deny that the leak had not occurred from the Prime Minister's Office.

There is a reason for that. When we put a question to an official, we expect the official to actually do their due diligence. We don't expect them to play partisan politics with these issues. We expect

them to look into it and when they speak, to speak with authority, which is exactly what happened in this particular instance.

We are now saying that we shouldn't be playing politics with this issue. I completely agree. However, I have done a bit of research and it's my understanding that the members here actually went to PROC with this issue as well. Again, I am certain that no one here thinks that PROC is the appropriate venue for that either.

This is really becoming an abuse of process, when we're trying to politicize everything and we're trying to make sure that we don't get around to dealing with all the issues that Canadians expect us to deal with.

The other issue that hasn't been mentioned as of yet is the fact that expecting our justice committee to look into this would be tantamount to investigating journalists. Surely every single member here today recognizes that one of the cornerstones of our democracy is freedom of the press. It would be highly irresponsible for any of us to advocate hauling in journalists and actually do an investigation.

Given the gravity of the situation, I completely agree with you that it's very, very unfortunate. We should all be concerned about this. I would ask the members here not to play politics in this particular committee but to look at the historical parallels we've seen in the past. Let's just make sure that all those safeguards are in place to ensure that something as regrettable as this never happens again.

Having spoken of what happened in 2014, I think it's also important to acknowledge a bill that was adopted in 2017. It was a Conservative bill. It was a Senate bill, Bill S-231, which talked about freedom of the press. A Conservative member, Mr. Deltell, actually brought that bill to the House. He was talking about how incredibly sacrosanct and important freedom of the press is.

• (1320)

So I would ask every single one of us to consider these types of issues. What Mr. Deltell said in Parliament, when he was introducing that bill, I think speaks for itself. If I may, I'd like to quote what he said:

What we are talking about is one of the cornerstones of our very democracy. We are talking about a free press and freedom of expression here in the House of Commons, but first and foremost, from coast to coast in this country, the protection of journalists' sources. That is why the quality of the bill tabled by the hon. Senator Claude Carignan in the upper House, two months ago months ago, cleared the way and gave a clear mandate and clear signal to all whistleblowers in this country that when they talk to a journalist, they are free to do that and no one will interrupt them in the process.

Obviously, what the members are suggesting is that we have journalists come here and share their sources with us. That is certainly not something we can do, and for that reason, I am very much against this motion.

Thank you.

The Chair: Thank you very much.

Ms. Khalid.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Chair, I will keep my comments brief.

I appreciate the comments made by Mr. Ehsassi. He spoke very well and I just want to add a few points to what he said.

We've heard in this committee from a number of very credible sources and very credible witnesses that, despite the cries by the opposition to frighten Canadians, the state of the rule of law in our country is very much intact. As Mr. Ehsassi outlined in his comments, this is not the first time this has happened and this is something that our minister and our Prime Minister are taking very seriously. I don't think we should be using our resources here in this committee as it is not the appropriate venue for such an investigation. We should be protecting and enhancing the freedom of the press, not bringing them in here and then questioning that freedom. It really is a cornerstone of our democracy and I think that we have to do our role as a justice committee to really ensure that we are protecting it.

Calling such emergency meetings, while it is absolutely the right of the committee members to do so, I think really takes away from a lot of important things that Canadians have sent us here to do. Just this morning we were gathered here to look at the strong impact that online hate has on Canadians and we've seen those strong impacts. As I'm sure Ms. Ramsey would agree as a woman here in politics, we've seen very strongly what those impacts are. I think we should continue to focus on those issues that matter to Canadians. We should continue to press on and ensure that Canadians are protected.

I understand the importance of this issue, but I don't think this is the right venue. I am in no way in favour of hauling in the press to question them about their sources. I think that is something we must protect.

I will strongly oppose the motion that's been put forward.

• (1325)

The Chair: Thank you very much.

We have Mr. Casey, Mr. Cooper, Mr. Rankin and Mr. Barrett.

Mr. Sean Casey (Charlottetown, Lib.): Mr. Chair, the point that I wish to make was touched on in some detail by Mr. Ehsassi. I'll summarize what I had to say very quickly, because he said it much better than I could.

While a leak of a confidential process is disturbing, it absolutely isn't unprecedented. I was a member of this committee in 2014, when we went through the botched appointment of Justice Nadon. The justice minister of the day, Peter MacKay, came before the committee on estimates and talked about it. He talked about it in question period.

There was no shock. There was no outrage. There was no investigation. There were no emergency meetings. There was no interest on the part of the Attorney General to take the matter further. What happened when the Conservatives were in a position where there was a leak of a confidential process was that they took parliamentarians out of the process.

Is it shocking? Yes. Is it unprecedented? No.

I will be voting against it.

The Chair: Thank you, Mr. Casey.

Mr. Cooper.

Mr. Michael Cooper: Mr. Chair, I would like to make a couple of comments in response to those made by Mr. Ehsassi.

First of all, I did not say that this committee is an inappropriate venue. I said that it is not a perfect venue, because in a perfect world, had the government been transparent, the Prime Minister would have taken this issue seriously and gotten to the bottom of it or the Attorney General would have committed to investigating the matter of this leak. That simply hasn't happened, so we are now left with the justice committee, which certainly does have purview over the substance of this matter.

I want to correct the record in that regard.

Mr. Ehsassi suggested that we had some interest in hauling in journalists. That's not true. That's not what the scope of this hearing would involve. It might involve hearing from the Prime Minister, the Prime Minister's chief of staff and other officials in the PMO who might have knowledge about a leak that very likely came from the PMO.

To say that the Prime Minister is taking this seriously, how is that so? Is he taking it seriously by issuing a blanket denial after about a 24-hour period where he was trying to figure out how to get his story straight? We know the Prime Minister changes his story on so many things by the day.

• (1330)

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Like he changes his socks.

Mr. Michael Cooper: We have an Attorney General who says they're taking this seriously, but they're not going to investigate day after day. They'll just throw it under the rug and hope that Canadians forget about what takes place.

If this committee votes down this motion, then it's another further effort to brush this under the rug.

You cannot say that you take this issue seriously; you cannot say that we must ensure this doesn't happen again and at the same time propose to do absolutely nothing about how this occurred.

Thank you.

Mr. Murray Rankin: Mr. Chair, I'd like to respond to the Liberal speaker, Mr. Ehsassi.

You started by saying the government understands this is serious. I don't see any evidence of that. What are you doing about it? I asked the justice minister. He said there's nothing here. He's not doing anything about it. If it's serious, that usually means something is done.

The suggestion that there is a parallel to the Nadon situation, yes, there was partisan politics. I regret that. The Liberals were very much an opposition part of that. Don't pretend you weren't. I was with the official opposition then. I remember it well. It doesn't make it right. It doesn't make it the correct thing to do.

When there was a leak of another sensitive matter, Mr. Goodale, dealing with the Omar Khadr leak, said it was “very, very serious”. He didn't blame journalists for reporting it, but considered it very serious and said “the individuals, whoever they are, that took it upon themselves to release confidential information in an unauthorized manner should reflect very carefully on the consequences of their behaviour for the course of justice and also for their professionalism in the roles that they are presently filling.”

This isn't about calling journalists here. I'm not interested in hearing from journalists. I don't know who suggested that. That's the first I've heard of it.

I want to hear from the official. I want to hear from people in the Department of Justice. I want to hear from people in the Prime Minister's Office. Somebody leaked it. It was either my Conservative friend, me, or an official. Whom they leaked it to is irrelevant to me. I'm not interested in hearing from journalists. That's a bit of a red herring, in my humble opinion. I don't know why we would have to turn this into politics.

To quote you, Mr. Ehsassi, you said, “Let's just make sure that all those safeguards are in place”. I agree. What are you doing about that? What comfort are you giving to the next Mr. Justice Joyal, or someone else who has their reputation smeared as collateral damage to some other agenda?

As Mr. Cooper said, this process is not perfect, but a flawed process at this committee is certainly better than no process at all, which is what I hear you're leaving Canadians with. If you can tell me what the process is, I'd be happy, but I certainly don't know of any.

Ms. Khalid said we're here to frighten Canadians. The conclusion is the state of our rule of law is very much intact. Thank you for that conclusion, but I have no confidence in your conclusion. I have evidence that there are very serious consequences here. When the spokesperson for 125,000 lawyers agrees, I think I have reason to have those concerns.

If the leak is not unprecedented, Mr. Casey, I don't really know what that adds to the debate. Just because we made errors in the past, does that mean we shouldn't try to correct them in the future?

This is very serious. If the government wants to pretend there's nothing here and tells me that safeguards are in place, that the rule of law is just fine in Canada, that there's nothing to see here, I've been to this movie before because I used to be on this committee, and I saw how you dealt with another issue. I suppose we're going to go to a vote very much like that now. I don't look forward to it. I hope Canadians realize the gravity of what the Liberals are about to do.

Thank you, Chair.

The Chair: Go ahead, Mr. Barrett.

Mr. Michael Barrett: Mr. Chair, I have just a couple of things.

On the rule of law being intact as a determination that was made at this committee, we had witnesses appear. We had judges appear. We had attorneys general who have contributed to the conversation across party lines, who were very alarmed about the subject that was the study of this committee.

One of the witnesses who was called to this committee was former Judge Turpel-Lafond.

You can scoff, Ms. Khalid, but she sat on the bench and like all of the witnesses, she deserves respect. Your scoffs, Ms. Khalid, are disrespectful to the work that this committee did, which you cited to your benefit.

We had attorneys general, Liberal and Conservative, who said that the issue merited RCMP investigation. That doesn't sound like a determination that the rule of law had been intact. It speaks to how the Liberals said they were going to do politics differently. Bad things were happening in 2014, so they said, “Let's keep doing them.” Let's keep doing them—that's how we're going to do politics differently.

That only people other than Liberals can be partisan is wild. The idea that it's all altruism over there and just nasty partisanship from anyone who is not a Liberal is just not the case.

I don't sit on PROC, so I don't know what PROC members do.

Mr. Ehsassi, I have no idea, so it has nothing to do with me. I signed and submitted this letter because I'm very concerned about what happened. You can say, “We're not going to let it happen again”, but how do we know it's not going to happen again unless we find out what happened?

I have never heard anyone other than Liberal members suggest that journalists would be called before this committee—never, whether in private conversations with my colleagues or in conversations that we're having here today. There has been no intention to call a journalist before this committee. What we want are officials from the government to appear here and officials from the Prime Minister's Office to appear here.

We have heard from Mr. Rankin and from Mr. Nicholson who are prepared to testify that they're not the source of the leak. They want to clear their reputations and clear their names. I would expect that, should there be nothing to hide, members of the Prime Minister's Office and PCO would want to do the same.

What are we prepared to do to identify what happened so that we can prevent it from happening in the future, other than just saying, “Well, Conservatives did this before, and they're the worst, and we're Liberals, so we're the best, and so we're just going to keep letting it happen”? This is just hyper-partisanship, and just saying you are not partisan does not make it so.

Thank you.

● (1335)

The Chair: Thank you.

Next we go to Mr. Ehsassi, Mr. Cooper, Ms. Khalid and Ms. Ramsey.

Mr. Ali Ehsassi: Mr. Chair, I'll keep my remarks very brief.

From listening to the members, I think it's quite obvious there's an attempt to politicize this issue. When one of the members responded to my question, his opinion was that the only person we have to bring in here is the Prime Minister. We know full well that if we want to do a thorough job, it's not going to stop at one or two officials. It's important to recognize that when the Prime Minister says the leak was not from the Prime Minister's Office, we have to take him at his word.

Mr. Michael Cooper: Why?

Mr. Ali Ehsassi: The only witness the member has brought up is the Prime Minister. That in and of itself, I think, makes it abundantly clear there is a serious effort under way to try to politicize this issue, which is an important one and one that we all have a stake in. That speaks for itself.

It was also admitted that if people did come before this committee, it would be a flawed process. Why would we want to engage in a flawed process? I don't think our responsibility here as members of this committee is to say, "Oh, well. We know it's not going to be thorough." If it is going to be thorough, then surely you'd have to acknowledge that we would have to bring journalists in here.

For those reasons, everything that I've heard from the members here makes me think that the right decision is obviously to vote against this motion.

I defer to members who speak from experience on this issue. Of course, I'm referring to Mr. Casey. This has happened in the past. It's very unfortunate, and there is no doubt in my mind that new safeguards will be placed by our government to make sure it doesn't happen going into the future.

Thank you.

The Chair: Thank you very much, Mr. Ehsassi.

I'll go to Mr. Cooper, Ms. Khalid and then Ms. Ramsey.

Guys, stop the crosstalk. You can put yourself back on the speakers list if you want to speak again.

Mr. Cooper.

• (1340)

Mr. Michael Cooper: Mr. Chair, again, Mr. Ehsassi misrepresents what was said. I never said that this is a flawed process for the justice committee to hold hearings. I said, in the absence of another process, this is the only mechanism that is available to bring in witnesses and get answers about this very serious breach that took place, in terms of the leak. I reiterate that point.

With respect to Mr. Ehsassi's comment about new safeguards, what safeguards is he proposing? What safeguards is the government proposing? Yet, there he is, asserting that there are going to be new safeguards.

On what basis, Mr. Ehsassi? I suspect it's on no basis at all. It's just more words coming from the government to try to change the channel, to confuse, to suggest there's nothing to see here and it's all under control, even though we know that, from the very beginning, the Prime Minister has said there's nothing to see here. The Attorney General said there's nothing to investigate there. Why is there nothing to investigate? He takes the word of the Prime Minister, a

proven liar who has repeatedly changed his story on the SNC-Lavalin scandal each and every day.

I will go back to Mr. Ehsassi's comments about whistle-blowers and somehow characterizing officials, whether they be in the Department of Justice or in the Prime Minister's Office, who leaked information for clearly political reasons to undermine the former attorney general—

Mr. Sean Casey: Point of order, Mr. Chair.

Mr. Michael Cooper: —and cast a cloud over a respected jurist. To characterize them as whistle-blowers is quite ironic.

The Chair: There's a point of order.

Yes, Mr. Casey.

Mr. Sean Casey: Mr. Cooper may be protected by parliamentary privilege, but with that parliamentary privilege also comes some responsibility with respect to parliamentary language. He knows full well that the word he just used would not be allowed in the chamber. I would suggest to you that, just as parliamentary privilege extends to committees, so too should the rules around unparliamentary language.

I would invite him to apologize and to withdraw that remark, and I would ask you to so direct him, Mr. Chair.

The Chair: I was going to wait until Mr. Cooper finished speaking to ask him to do that, but indeed, I am going to do that, since you intervened at this point.

Mr. Cooper, I ask you to withdraw. You know some of the words you used were unparliamentary.

Mr. Michael Cooper: I will not withdraw. The Prime Minister is a proven liar, and let me—

The Chair: No, your microphone is closed now.

I'm suspending the meeting for a few seconds.

I will once again invite you to simply withdraw the word, as you would have to do in the chamber when you use that word.

Mr. Michael Cooper: Strictly on that basis, I'll withdraw.

The Chair: Thank you.

Please continue.

Mr. Michael Cooper: To wrap up the point that I was going to make, Mr. Ehsassi talks about whistle-blowers, characterizing these people, these leakers, as whistle-blowers who leak to cast a cloud over a respected jurist and who undermined the credibility of the former attorney general and undermined the integrity of the Supreme Court selection process. It is quite a way to characterize an individual as a whistle-blower in that context. It's also quite ironic coming from government members, this sudden interest in protecting whistle-blowers, because we see what happens to whistle-blowers in the Liberal caucus, including Jody Wilson-Raybould and Jane Philpott.

What happens when you blow the whistle on the Prime Minister's corruption? The answer is that you get kicked out of the Liberal caucus. So much for defending whistle-blowers.

The Chair: Ms. Khalid.

Ms. Iqra Khalid: Thank you, Chair.

I just wanted to correct Mr. Barrett. My—quote, unquote—“scoff” that he mentioned was definitely not about respect for Justice Turpel-Lafond. I appreciate all of the great work that she's done. In fact, my reaction to his wording was really about his feigned indignation and the reason that we're here today.

Most definitely this government has committed to do politics differently, and I've witnessed it happen in this justice committee as we've put forward this very open, merit-based process of Supreme Court appointments. I don't think that, as Liberal members, we have any lessons to learn from the Conservatives, who have had very secretive ways in which they appoint their senators, for example, and who've been on the record spewing hate speech and have just had their behaviour condemned.

As I completely understand that this is an important conversation that we need to have, I don't think, again, that this is the right place for that conversation to occur, and I look forward to voting against this.

• (1345)

The Chair: Ms. Ramsey.

Ms. Tracey Ramsey (Essex, NDP): Thank you, Chair.

For folks watching this at home, it's really difficult to follow some of the threads and where people are going here. First of all, the idea that we would call journalists here and somehow threaten their independence is completely false. No one has ever said that we would put journalists here. Certainly throughout the previous study with the former attorney general, there were no journalists called before this committee or ever put on a witness list to be called before this committee. I don't know where that idea was pulled from. This threat to the independence of our journalists and their integrity is completely and utterly false. It has not happened at other committees and it is not happening at this committee. I don't know where the idea even comes from that it's what we're here talking about.

Also, I would like to talk about going to PROC. It is on Mr. Nicholson and Mr. Rankin personally that the Speaker will rule. This is not anything to do with this particular situation that we're talking about today. That's completely separate, so that's been brought up.

There is no evidence of new safeguards. The current Attorney General has said that there's nothing to see here, that we're not investigating and that he believes the Prime Minister. Well, Canadians don't believe the Prime Minister because he's changing his story every single, solitary day. When you're changing your story, that creates doubt. That's not the opposition creating that doubt. That is the PMO themselves through their daily injury to themselves, to be quite honest.

If you can imagine, Canadians would like better than just to take the Prime Minister at his word when we're talking about the independence of Supreme Court justice appointments. I'd also like to talk a bit about the process. This is the only process we have because there is no other process being offered. If you say that's flawed, then why is this the process you pursued under the previous attorney general's study? I don't understand that logic because there certainly was an alternative there. That alternative was to have an independent

public inquiry, which we've been consistently calling for, and you said that the Prime Minister's Office has obviously decided it is not going to happen.

You've done this before; there's a pattern here. On the idea that the process here is not the correct one, I don't follow that thread at all because it's not what the justice committee has previously done. There is certainly an opportunity for it to be studied here.

On the PMO leaks—you know the behaviour of staff and the PMO around the scandal and now around this issue—that we need the PMO staff, everyone who is involved in this, to come before the committee. Quite frankly, why wouldn't they want to clear their own names? I don't understand. They've been named now in two major justice scandals, so why would they not want to come before this committee to clear their own names? Mr. Butts had that desire in the previous study, and that same opportunity should be afforded to them.

The last thing I want to say is that this is the only process we have because there's no other process being put on the table. If there's another serious process that's being put on the table, please share it with us because that's certainly what we would like to see as well.

In this particular case, there are 125,000 lawyers across the country who are saying that this needs to be investigated. I can't imagine that Liberals are going to say to those 125,000 lawyers, “We don't believe there's anything here to see.” I don't know if you've read their statement or if you've read their letter, but it's quite clear that they have deep concerns about what has happened.

To Ms. Khalid, I would just like to say that it's a false argument to say that we either study the online hate or we do this. That's completely false, and there is no comparison of those two things. When you speak about women, I'm incredibly concerned about women. I'm concerned about women in our court system. They need to know that they're sitting in front of independently selected judges and that there are quality people who are applying because they're not afraid of having their names smeared. That's the way we can help women, and that's the way we can stand up for human rights in our country: by protecting the independence of our judicial system.

• (1350)

The Chair: Thank you very much.

I have Mr. DeCoursey and then Mr. McKinnon.

Mr. DeCoursey.

Mr. Matt DeCoursey (Fredericton, Lib.): Mr. Chair, thanks for the opportunity to join the committee today.

Let me congratulate you and the committee on a number of years of excellent work on behalf of Canadians.

I want to start by saying that I think it's regrettable that Mr. Barrett doesn't see fit for a person to change their socks on a regular basis. I would encourage him to maybe rethink that statement. I think it's important that we change our socks on an ongoing basis.

Mr. Michael Barrett: Matt, that's a great contribution.

Mr. Matt DeCoursey: Also, I find it regrettable that Mr. Cooper would use that type of language here at this committee. He should see fit to unequivocally retract those words. All he has to do is look to the leadership of his own leader, who saw fit to delete numerous tweets recently once he had been put on notice.

Mr. Michael Barrett: This is great.

An hon. member: Bring it on.

Mr. Matt DeCoursey: I would start by saying that. Then I would get to the matter at hand, which is that certainly the breach of a confidential process in the matter of a Supreme Court nominee is regrettable, but it's definitely not unprecedented, as Mr. Cooper led off with today.

That breach has been denied as having come from the PMO. The PM has been firm on that numerous times. The same way as Mr. Rankin stands firm that it didn't come from him and Mr. Nicholson stands firm that it didn't come from him, the PM has also said it has not come from him. Therefore, I see this as now a purely partisan attack on what is a regrettable situation, emanating from the opposition in this case.

Some hon. members: Oh, oh!

The Chair: Order.

Mr. Matt DeCoursey: Let's get to the only way the opposition would seek to find where the source was, which would be to bring—

Some hon. members: Oh, oh!

The Chair: Order.

Mr. DeCoursey has the floor. Other people were not interrupted when they spoke. This is not how we behave at this committee.

Mr. DeCoursey has the floor. People can then ask for the floor and can respond to him in full.

Mr. DeCoursey.

Mr. Matt DeCoursey: Thank you, Mr. Chair.

Let's get to how the information would come out at this committee. It would necessarily be by dragging journalists in here and weaponizing the personal information that was delivered to them by sources, something that every member in the House has stood and on record voted against doing.

Some hon. members: Oh, oh!

The Chair: Again, if you are not able to restrain yourself when Mr. DeCoursey speaks, why should he restrain himself while you speak?

This is a place where—

Mr. Michael Barrett: Mr. Chair, he was making comments when we were speaking as well. The knife cuts both ways.

The Chair: And it would.

If I heard comments while you were speaking, I would say the same thing.

Mr. Michael Barrett: He was talking about Twitter over there. I could hear him over here and you are closer to him than I am.

The Chair: Again, I've heard a lot louder interruptions while Mr. DeCoursey has been speaking than I've heard for other speakers. I'm asking you to respect the fact that he has the floor. You're welcome to put your name back on the speakers list.

Mr. DeCoursey.

Mr. Matt DeCoursey: Thank you, Mr. Chair.

In fact, those allegations are false.

Anyway, let me just quote something that was said in the House of Commons by the Conservative member, Mr. Deltell, on the matter of the importance of sources remaining protected as a matter of journalistic integrity, which we have all agreed is a cornerstone of our democracy in the debate on this bill.

Mr. Deltell said:

I will begin by talking about protecting sources. I mentioned it briefly earlier, but it is fundamental. In plying their trade, journalists are not immune to making mistakes, but when journalists want to do a thorough investigation, they must have the freedom to do so and, more importantly, the ability to speak openly to someone who wants to share information.

We all agree it's regrettable that this breach took place. We have seen that the Prime Minister has stood firm and consistently denied that this came from his office. The Attorney General has said the same. Members of the opposition who would have privileged information say the same. They're asking us to take them at their word. They should practise what they preach.

Thank you.

The Chair: Thank you very much.

We now have Mr. McKinnon and then Mr. MacKenzie, and then, If we want to vote before question period, I suggest we then move to a vote if we can.

Mr. Ron McKinnon (Coquitlam—Port Coquitlam, Lib.): Mr. DeCoursey touched on what I want to say.

Mr. Rankin says he's not the source of the leak. I take Mr. Rankin at his word. I've worked with Mr. Rankin for a number of years. He's a very honourable man.

I also spoke with the honourable Rob Nicholson. He said he didn't do it. I worked with him for a number of years, and I fully understand and believe that he is not the source as well.

The right honourable Prime Minister and the honourable David Lametti have both also stated that they have looked into this matter and have determined that it was not them or their departments. I have to take them at their word also.

In fact, if we can't take them at their word, then we cannot take Mr. Rankin at his word, nor Mr. Nicholson at his word. The scurrilous remarks about the Prime Minister by Mr. Cooper and the begrudging apology for that, as well as the other partisan remarks that are coming from the opposition, are in themselves more than sufficient to underscore that this is not an appropriate venue in which to deal with this matter.

I will certainly not be supporting this motion.

• (1355)

The Chair: Mr. MacKenzie.

Mr. Dave MacKenzie (Oxford, CPC): Mr. Chair, with all due respect, I understood the couple of comments about this government doing things differently. Mr. Casey's been here a while and I've been here a while. This is the third prime minister I have served with. Paul Martin was here, and then Stephen Harper, but we never saw then what's gone on with this Prime Minister in the last three and a half years. I wouldn't use the same word that Mr. Cooper used, but he certainly has a problem telling the reality of things, going back to the Globe and Mail article that initially started all this, saying that there's nothing there, that it is false.

When we look at it, I don't think anybody here has said that it's the Attorney General, or it's the former attorney general, or it's the Prime

Minister who leaked it. But somebody did, and that's the whole issue. It's not to drag those people through a knothole, but it's to find out where the leaks came from.

When the government says it's going to do things differently, I think the best way to do that would be to prove it and get some of these people in and try to determine where it came from. It's not that somebody's going to go to jail or that somebody's going to be paying a huge price for it. But take that cloud off the Prime Minister. Take that cloud off the Attorney General. Mr. Rankin and Mr. Nicholson....

I'm sure that individually none of them did that, but let's find out who it is so that as we go forward, in fact, the Government of Canada will do things differently, not just the parties.

The Chair: Thank you very much, Mr. MacKenzie.

We'll now move to the question. There was a request for a recorded vote, so I'll go to the clerk to ask for a recorded vote on Mr. Cooper's motion that is in front of everybody.

(Motion negated: nays 5; yeas 4)

The Chair: The motion is defeated.

If there's no other business, the meeting is adjourned.

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