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# Standing Committee on Finance

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Chair: The Honourable Wayne Easter





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• (1430)

[English]

**The Chair (Hon. Wayne Easter (Malpeque, Lib.)):** I will call the meeting to order. We have quorum.

Welcome to meeting number 24 of the House of Commons Standing Committee on Finance.

Pursuant to Standing Order 108(2) and the committee's motion adopted on Thursday, November 19, 2020, the committee is meeting to study government spending, WE Charity and the Canada student service grant.

Today's meeting is taking place in a hybrid format, pursuant to the House order of January 25, 2021; therefore, members are attending in person in the room and remotely using the Zoom application.

Proceedings will be made available via the House of Commons website, and the webcast will always show the person speaking rather than the entirety of the committee.

Before I welcome our witnesses, we have two quick pieces of business. One is a request for a project budget for Bill C-208, an act to amend the Income Tax Act (transfer of small business or family farm or fishing corporation). That request is in the amount of \$1,275, and I believe people received a copy of that.

It is moved by Mr. Falk.

(Motion agreed to)

**The Chair:** The second is a request for a project budget relating to the COVID-19 spending and programs, and the amount requested for that study at the moment is \$3,025. Do I have any movers on that one?

That is moved by Ms. Koutrakis.

(Motion agreed to)

**The Chair:** Mr. Clerk, there is authorization for those two budgets.

With that, I see Mr. Fraser is here.

Do you want to do the sound check? Then we'll go to Mr. Dufresne.

**Mr. Sean Fraser (Central Nova, Lib.):** Excellent. Thank you, Mr. Chair.

I'll extend my apologies. I had a forced restart and updates applied at the most inconvenient time, just as our meeting was getting started.

Hopefully, Mr. Clerk, the sound is okay.

• (1435)

**The Chair:** We're all okay, and there's Mr. Poilievre.

Pierre, do you want to do a test?

I was worried about Mr. Poilievre. I thought that since he left us he was running short on words or something, which would be unusual.

**Hon. Pierre Poilievre (Carleton, CPC):** I want to save them up for later. I don't want to run out.

**The Clerk of the Committee (Mr. Alexandre Roger):** We seem to be having issues with Mr. McLeod's audio, so I will ask the IT ambassadors to contact his office, and maybe we could just get going.

**The Chair:** All right.

With that, as I said earlier, we are meeting on the WE issue and the study related to that, and we've invited the law clerk and parliamentary counsel to come before committee.

I'd like to welcome our witnesses now. We have Philippe Dufresne, law clerk and parliamentary counsel; and Marie-Sophie Gauthier, legal counsel, Office of the Law Clerk and Parliamentary Counsel. Welcome to you both.

I believe, Mr. Dufresne, you have opening remarks. The floor is yours. Welcome.

**Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel, House of Commons):** Thank you, Mr. Chair.

I hope everyone can hear me well.

[Translation]

Thank you, Mr. Chair, members of the committee, for your invitation to appear today following the motions that were adopted by this committee on July 7 and November 19, 2020, respectively, ordering the production of documents related to the WE Charity and the social enterprise "Me to We".

As the Law Clerk and Parliamentary Counsel for the House of Commons, I am pleased to be here today to address any questions that the committee may have with respect to these motions. I hope that my answers will assist the committee in its study.

[English]

Before turning to the committee's motions, I want to take a few moments to highlight the committee's powers to send for documents. The House has certain powers that are essential to its work and part of its collective privileges. As the "grand inquest of the nation", the House has the right to institute and conduct inquiries. This right is part of the House's privileges, immunities and powers, which are rooted in the preamble and section 18 of the Constitution Act, 1867, and section 4 of the Parliament of Canada Act. Indeed, these rights and this fundamental role have been recognized by courts and include the constitutional power to send for persons, documents and records.

As Speaker Milliken stated in his landmark ruling of April 27, 2010, regarding the production of documents to the Special Committee on the Canadian Mission in Afghanistan, the rights to order the production of documents are "fundamental to [Parliament's] proper functioning" and are "as old as Parliament itself".

Speaker Milliken went on to say the following:

The Standing Orders do not delimit the power to order the production of papers and records. The result is a broad, absolute power that on the surface appears to be without restriction. There is no limit on the type of papers likely to be requested, the only prerequisite is that the papers exist—in hard copy or electronic format—and that they are located in Canada....

No statute or practice diminishes the fullness of the power rooted in the House privileges unless there is an explicit legal provision to that effect, or unless the House adopts a specific resolution limiting the power. The House has never set a limit on its power to order the production of papers and records.

[Translation]

Parliament has the right to send for any and all documents that it believes are necessary for its information. The only limitations are that the document or record must exist, and it must be located in Canada.

The House and its committees' powers to order the production of records constitute a constitutional parliamentary privilege that supersedes statutory law, which is why committees are not constrained by the statutory obligations contained in legislation like the Access to Information Act or the Privacy Act.

When committees ask for documents, they are entitled to receive them, subject only to the exceptions or limitations to disclosure explicitly provided for by the committee itself.

With that said, in exercising this power, I always recommend that committees should strive to balance their roles as the "grand inquest of the nation" against the legitimate public policy considerations that may justify limiting the disclosure of the requested information in a public setting—be it Cabinet confidence, national security or other claims of confidentiality.

• (1440)

[English]

When faced with a confidentiality claim, a committee has a number of options. It can decide not to insist on the production of the documents. It can decide to put in measures that would safeguard the confidential nature of certain information, or it can simply maintain its original request for the information.

Some of the measures that a committee could take to ensure that information is kept confidential while it is being consulted include reviewing the information in camera, having my office review and/or redact documents, as appropriate, to ensure that a claim for—

**Mr. Sean Fraser:** I have a point of order, Mr. Chair.

I apologize, Mr. Clerk, but I've just received a note saying that staff members may have been kicked off the line and may be unable to hear what is going on.

Mr. Clerk, are you aware of any kind of technical error? Can you assess whether or not there's an issue with the telephone line from where you are?

**The Clerk:** We don't seem to have any technical issues at the moment. I'll look into it.

**The Chair:** Thank you, Sean and Mr. Clerk.

Mr. Dufresne.

**Mr. Philippe Dufresne:** Thank you.

Some of these options include having my office review and/or redact documents, as appropriate, to ensure that a claim for confidentiality is justified; asking the party providing the documents to redact certain types of information; requesting limited and numbered paper copies; or arranging for the disposal or destruction of copies after the committee meeting.

It is for the House and its committees to make this determination and to set the parameters on the disclosure of documents being produced. If a committee's order is not complied with, the committee may report the refusal to the House. Ultimately, the House has the final say and may order the production of any documents or impose sanctions.

In this instance, the committee adopted a motion on July 7, 2020, ordering that the government produce documents related to WE Charity and Me to We. The motion expressly provided that matters of cabinet confidence and national security be excluded from the request. It also required that any redactions necessary—including to protect the privacy of Canadian citizens and permanent residents whose names and personal information may be included in the documents, as well as public servants who have been providing assistance on this matter—be made by my office.

[Translation]

The government provided the requested documents to the committee, and they were in turn given to my office so that we could make the necessary redactions. After reviewing and redacting the documents in accordance with this committee's order, I reported to the committee by way of letter on August 18, 2020.

In my report, I noted that the documents produced by the government had already been redacted and that certain grounds were not contemplated by the committee's order. My office had not been given the opportunity to see the unredacted documents and could therefore not confirm whether those redactions were consistent with the committee's order.

I concluded that, in the circumstances, it was for this committee to determine whether it was satisfied with the documents as redacted by the departments. As I stated previously, when faced with a claim of confidentiality, it is up to the committee to determine whether to accept the ground that is being put forward.

[*English*]

On November 19, 2020, this committee adopted another motion, which ordered that the government provide to me “all documents as originally requested” in the July 7 motion, “including all documents the government provided...in August, without any redaction, omission or exclusion except as was justified originally in sections and subsections 69(1) through 69(3)(b)(ii) of the Access to Information Act”—namely, cabinet confidences. The motion also provided that I would use the information to “determine the government's compliance or non-compliance” with the July 7 motion.

On November 24, 2020, my office received the documents from the government that were provided in response to the July 7 motion, but this time without redactions, omissions or exclusions except for matters of cabinet confidence or lack of relevance. On December 14 the government provided my office with pages that were missing from the French package.

The documents provided in response to this committee's motions of July 7 and November 19 contained redactions for matters of cabinet confidences. I do not take issue with these redactions, as cabinet confidences were expressly excluded from both motions.

Based on our review of the documents provided to my office in November and December of 2020, I can confirm that some of the government's redactions are based on grounds that were not contemplated by the committee's order of July 7 but that are, rather, rooted in the Access to Information Act. Specifically, those grounds are as follows: personal information, namely that while the July 7 motion contemplated that personal information would be redacted, the committee entrusted these redactions to my office and not the government; third party information; information on the vulnerability of the government's computer or communication systems or methods employed to protect those systems; solicitor-client privilege; and to protect accounts of consultations or deliberations in which directors, officers or employees of a government institution, a minister of the Crown, or the staff of a minister participated.

● (1445)

[*Translation*]

I can confirm that these redactions relate to information that would be exempt from disclosure under the Access to Information Act. However, as mentioned in my report to this committee of last August, the House and its committees are not subject to these statutory restrictions.

Should this committee agree to allow the redaction of documents on the grounds I've just mentioned, I can confirm that the manner in which the grounds were interpreted by the government would be appropriate.

Ultimately, it is up to this committee to determine whether it is satisfied with the documents provided in response to its order.

With that, I would be pleased to answer any questions.

[*English*]

**The Chair:** Thank you, Mr. Dufresne.

We will go to questions, starting with the six-minute round. The lineup is Mr. Poilievre, Mr. Fragiskatos, Mr. Ste-Marie and Mr. Julian.

The floor is yours, Pierre.

**Hon. Pierre Poilievre:** Thank you, Chair.

Thank you, Clerk, for your broad context. Now we'll get down to some binary yes-or-no questions.

Did the government provide this committee with all the content the committee requested in its original July 7 motion?

**Mr. Philippe Dufresne:** The information that was provided excluded cabinet confidence information and included information that was found not to be relevant, so it went beyond the scope of the initial motion.

**Hon. Pierre Poilievre:** Sorry. I think you might have misunderstood the question. I'm not asking about what you received. I'm asking about what the committee has thus far received unredacted.

Has the committee received all the information it requested in its July 7 motion?

**Mr. Philippe Dufresne:** It has received what it asked for, with the exception of the redactions that I have highlighted in those categories under the access to information legislation, which the committee did not include as valid grounds in its motion.

**Hon. Pierre Poilievre:** Do the Access to Information Act exemptions and exclusions apply to requests by Parliament for papers and records?

**Mr. Philippe Dufresne:** They do not apply to those requests unless the committee decides to include those grounds in its motion.

**Hon. Pierre Poilievre:** Did the July 7 motion allow those grounds for exclusion or redaction?

**Mr. Philippe Dufresne:** It included the ground of cabinet confidence, but the ones I listed—third party information, information on the vulnerability of government computers, solicitor-client privilege, and consultations—were not included. Personal information was included, but it was meant for my office to redact and not the government.

**Hon. Pierre Poilievre:** Again, did the government provide the committee with all the information the committee requested in its July 7 motion?

**Mr. Philippe Dufresne:** No, because it invoked those grounds that the committee did not allow.

**Hon. Pierre Poilievre:** And those grounds are not legally legitimate.

The next question is this. The government has excluded documents on the grounds of cabinet confidence. Can you confirm, yes or no, whether the government accurately applied the grounds of cabinet confidence?

**Mr. Philippe Dufresne:** I cannot confirm that, Mr. Poilievre. I have not seen behind those redactions. The motion in November provided that those redactions could be kept by the government when it sent me the new package.

• (1450)

**Hon. Pierre Poilievre:** Right. We don't know one way or the other whether or not those exclusions are properly applied.

On a related matter, Mr. Dufresne, you are the chief legal counsel to Parliament. You know its powers better than anyone. Today your office sent me a briefing note, telling me that the power of Parliament to send for persons is part of the privileges, rights and immunities of the House of Commons, which were inherited when it was created and are found in section 18 of the Constitution Act of 1867 and section 4 of the Parliament of Canada Act.

Now that in the related committee, the ethics committee, the Kielburger brothers have refused to appear—have refused an invitation from Parliament—can Parliament issue a summons and force them to appear before that committee? If they still refuse—

**Ms. Julie Dzerowicz (Davenport, Lib.):** On a point of order, Mr. Chair, that's not relevant.

**Hon. Pierre Poilievre:** I see that the government is very sensitive about this and would like to cover up this conversation.

**Ms. Julie Dzerowicz:** Not at all. It's just relevance.

**Hon. Pierre Poilievre:** We'll let Canadians decide what's relevant.

**The Chair:** What's your point of order, Ms. Dzerowicz?

**Ms. Julie Dzerowicz:** We are here to have the law clerk testify before us about the compliance or non-compliance with the July 7 motion. I'm not quite sure what the relevance is of bringing up the WE organization and whether or not the heads of the WE organization will be coming before the ethics committee.

**The Chair:** I will allow the discussion, because the discussion is with the law clerk here. I think pretty near any question that relates to the legality of what committees can do would be relevant in this discussion with the law clerk.

Mr. Julian has a point of order.

**Mr. Peter Julian (New Westminster—Burnaby, NDP):** Thank you, Mr. Chair.

You're absolutely right. The subject today is compliance with committees. Your ruling is absolutely appropriate.

**The Chair:** It's back to you, Mr. Poilievre. I've lost track of the time. I think you have two and a half minutes left.

**Hon. Pierre Poilievre:** If the ethics committee makes a summons for the Kielburgers to appear and they refuse, what law enforcement powers can Parliament order in order to compel testimony?

**Mr. Philippe Dufresne:** In the situation where a summons is issued by a committee and the witness continues to refuse to appear,

the committee does not have enforcement powers itself, but it would need to, if it chose, report the matter to the House. The House would then consider it under its authority.

**Hon. Pierre Poilievre:** If the House were to decide that the Kielburgers had to testify, what enforcement powers and enforcement bodies could it use?

**Mr. Philippe Dufresne:** The House could consider the matter in terms of issues of contempt of Parliament. It could consider the matter in terms of summoning an individual to the bar of the House to explain the refusal to appear.

**Hon. Pierre Poilievre:** If they refuse to come to the bar of the House, what happens then? What powers would the House then have to compel them to appear, if the House so wished?

**Mr. Philippe Dufresne:** Well, this is discussed in *Procedure and Practice* in terms of the censure, reprimand and summoning of individuals to the House. The House could consider whether it's a contempt of its privileges and make a finding to that effect.

Historically, there has been the authority to summons and issue a warrant to bring an individual into custody and bring an individual to the bar of the House. That has not been done in Canada since 1913. The circumstances are discussed in *Procedure and Practice*. It's not something that we see.

**The Chair:** This will be your last question, Pierre.

**Hon. Pierre Poilievre:** To conclude, we have confirmation that the government did not provide the committee with the documents it requested in its July 7 motion; that the law clerk has no way of knowing if the government has been honest and forthright in its use of the cabinet confidentiality exemption—and the hundreds of pages of information that are excluded on that basis may or may not be subject to cabinet confidentiality; and that the House has legal enforcement abilities to compel testimony from the Kielburgers.

If that is a summary of what we've just heard, I want to thank the law clerk for appearing here today and for his work.

• (1455)

**The Chair:** We will give the law clerk the opportunity to respond to that statement.

Mr. Dufresne.

**Mr. Philippe Dufresne:** I've given the answers to the questions in that grounds were invoked that were not included in the motion with respect to cabinet confidence. I have not seen those. The motion in November did not provide that I would see behind those cabinet confidences.

In terms of the House's powers, those are set out in *Procedure and Practice* and include those elements that I have listed.

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

Next is Mr. Fragiskatos, followed by Ms. Gill.

Peter, you have six minutes.

**Mr. Peter Fragiskatos (London North Centre, Lib.):** Thank you, Mr. Chair.

Thank you, Mr. Dufresne, for being here.

I want to ask you a question relating to the law and to the principles that underpin our legal system. Are you of the view that solicitor-client privilege is fundamental to a legal system in a democratic society?

**Mr. Philippe Dufresne:** I am.

**Mr. Peter Fragiskatos:** I point this out because you said in your remarks—I wrote it down here, so I'll just read it for the record—that “some of the government's redactions” are based on grounds not contemplated by the July 7 motion. That's the part that Mr. Poilievre heard. I acknowledge that he heard this part. However, it seems he did not hear the rest, where you said that they “are, rather, rooted in the Access to Information Act”.

You mentioned solicitor-client privilege. You affirmed the importance of solicitor-client privilege to our legal system in Canada. There are other examples that you give, including personal information.

I put it to my colleagues on the committee that it's very important that the personal information of public servants and other third parties be protected, unless Mr. Poilievre wants the cellphone numbers or email addresses of certain public servants so he can call or email them. I'm sure he's up to it. I'm sure he would do that, but I don't think that's really important. I think that information is protected—I know it is—under the Access to Information Act, which is a critical thing.

Would you, Mr. Dufresne, have made the same redactions if it had been up to you?

**Mr. Philippe Dufresne:** Yes, if the committee allowed those grounds. That's how I put it in my report.

**Mr. Peter Fragiskatos:** Let me put it another way. Were the redactions consistent with the Privacy Act and other relevant acts?

**Mr. Philippe Dufresne:** In my view, they were consistent with those acts and those definitions. Again, if the committee agrees that those grounds ought to be accepted, my testimony here today is that they were applied by the government in a manner consistent with those definitions.

**Mr. Peter Fragiskatos:** Therefore, they were consistent with the law of Canada.

Mr. Dufresne, did any politically sensitive information get redacted?

**Mr. Philippe Dufresne:** We looked at the redactions on the basis of whether they were consistent with the definitions, both with respect to the committee's motion language and then, in November, with the grounds as defined in the access to information legislation.

That's how we looked at them. We said the government was claiming this reason for an exemption, and we asked ourselves whether it would meet that definition. Again, in my view, it's necessary for the committee to accept that ground, but assuming the committee did, the question is, would it be private information? Would it be solicitor-client privilege? In my view, those were applied in a manner consistent with those definitions.

**Mr. Peter Fragiskatos:** However, where members of the opposition, whether it's Mr. Poilievre or others, point to something that

was redacted—or rather, they raise suspicions that things were redacted on political grounds and that politically sensitive information was excluded from the eyes of the committee—your view is that that did not happen.

**Mr. Philippe Dufresne:** My view is that those redactions all appear to have been made on the basis of the grounds in the Access to Information Act that I have listed.

**Mr. Peter Fragiskatos:** Therefore, they were guided by the law and not politics.

Was the government ever obligated to turn over documents that were not relevant, Mr. Dufresne?

**Mr. Philippe Dufresne:** In my view, it was not.

**Mr. Peter Fragiskatos:** Thank you very much.

I want to read something, Mr. Chair, if I could. Let me just bring it up here. I have in front of me an October 19 press release issued by members of the Conservative party, which reads, “There is clearly information related to this”—they term it a scandal—“that the government blacked out and don't want Canadians to see.”

Again, and forgive me if it's a repetitive point, but I think Canadians deserve the assurance. Is there any evidence that important documents relating to this contract were redacted?

**Mr. Philippe Dufresne:** What I have seen is that the information that was redacted was redacted on the basis of the grounds in the Access to Information Act that I have set out.

• (1500)

**Mr. Peter Fragiskatos:** Thank you very much.

Mr. Chair, what we have heard here is clear, in my view. You will recall that in the many meetings we had over the course of a number of months on this issue, I did not and my Liberal colleagues did not stand in the way of our discussing the WE Charity issue.

We've had it confirmed now that redactions made on political grounds did not take place. Where those redactions took place, it was entirely consistent with Canadian law—again, things like solicitor-client privilege and things like the protection of personal information.

I would ask my colleagues on the committee whether, if they had family members or friends who were public servants, for example, they would want the personal cellphone numbers or email addresses of those individuals shared. We know the answer, and we have law in place to protect that personal information.

Mr. Poilievre will wave papers, as he did in that infamous press conference, and I underline the word infamous in particular, Mr. Chair. He will wave papers around that look to be redacted to create another story, but there's no story here. I don't see anything nefarious that took place. I'm satisfied that the government acted in an appropriate way.

Thank you very much.

**The Chair:** Ms. Gill is next, for six minutes, followed by Mr. Julian.

Ms. Gill.

[*Translation*]

**Mrs. Marilène Gill (Manicouagan, BQ):** Thank you, Mr. Chair.

Mr. Dufresne, thank you for your testimony. I have a number of questions for you. I am hoping that you can shed some light on certain aspects of this affair that I still find unclear.

In your experience and to your knowledge, is it a common practice for officials to set about redacting documents before they are sent to a committee?

**Mr. Philippe Dufresne:** Yes, in my experience, it's a practice we see often.

**Mrs. Marilène Gill:** Perhaps I should rephrase my question more specifically: Do you often see officials redacting documents even though the committee has ordered the Law Clerk and Parliamentary Counsel to take care of doing so?

**Mr. Philippe Dufresne:** Yes, we certainly see that. That's actually what my letter last summer was intended to point out. It doesn't necessarily mean that the grounds were in no way founded in public policy. As I said in my remarks, committees should try to achieve a degree of balance. They must ask themselves why that kind of confidentiality is permitted. That said, the committee has constitutional powers, so the decision is the committee's.

**Mrs. Marilène Gill:** So, it happens, but the decision is the committee's. As you said, this is a committee right that has its origins in the Constitution Act, 1867. So we should be able to have access to the documents in the way the committee ordered. Of course, we have talked a lot about the content, but now the form is the issue, meaning the way in which the committee's order has been responded to. This is what Mr. Poilievre clearly set out in his motion.

How would we go about describing that practice? My assumption is that officials are, to an extent, overstepping their rights by deciding to change the provisions of the committee's order.

**Mr. Philippe Dufresne:** Well, I don't want to comment on the government's practices. I prefer to talk about the House, the committees and their powers. In my opinion, the important thing to bear in mind is that committees and the House play the role of the "grand inquest of the nation". This is a constitutional power recognized by the Supreme Court. It is fundamental. It was also recognized by Speaker Milliken in the ruling I quoted.

That is why statutory exceptions do not limit the committee. It is up to the committee to make that decision. However, as Speaker Milliken himself said in his ruling, some public interest imperatives really should not be minimized, but it is up to the committee to make that decision

• (1505)

**Mrs. Marilène Gill:** Right; it is up to the committee to make that decision.

As you mentioned, the officials went beyond the restrictions that the committee established in terms of redacting the documents. I can only assume that, in its study, the committee would have found some of the redactions to have relevance. So all the documents should have been provided to the committee, which, in all confidence, should have been left to decide the relevance of the informa-

tion and to choose those aspects it wanted you, Mr. Dufresne, to redact.

**Mr. Philippe Dufresne:** What I mentioned, essentially, is that it is up to the committee to decide which documents it wants to receive and which grounds for redaction it wants to allow. If the committee allows certain grounds, in this case the protection of Cabinet secrecy, the information in question does not have to be provided. At that point, there is no problem.

The committee could adopt other approaches. It could ask to see the documents in camera, for example. All kinds of options exist.

**Mrs. Marilène Gill:** Let me ask my question more simply.

Of course, the committee can decide to impose limits on itself, as you very rightly said. However, if the committee asks for information without setting limits, but someone decides to go beyond the committee's order and redact the documents, it is possible that the person will be redacting information that might be relevant to the study in question, in this case, the study on WE Charity. It is up to the committee to decide what is and is not relevant for its study, correct?

**Mr. Philippe Dufresne:** Actually, relevance is, in a way, the basic quality that justifies whether information is included. If it is not relevant, it is not included at all.

The question to be asked is whether the information should be protected on grounds of confidentiality or on any other appropriate ground. That question is always asked because, in any disclosure, there may be—

**Mrs. Marilène Gill:** I would just like to make it clear that, if it is up to the committee to choose the information it wants to have, it means that it should also be deciding on the relevance of the information, not government officials, who have received no mandate to redact the documents.

**Mr. Philippe Dufresne:** I believe that the committee decides on the relevance of the information when it prepares the motion. It determines the information it needs on a certain subject and it determines which types of documents it needs. That's what establishes whether the information is relevant.

The second question is to decide which grounds it is going to accept in determining that a piece of information must be kept confidential.

**Mrs. Marilène Gill:** Do I still have a little time left, Mr. Chair?

[*English*]

**The Chair:** This will be your last question, Ms. Gill.

[*Translation*]

**Mrs. Marilène Gill:** Let me move to a question about French. I wonder why some documents were not received in French until December 14. Could you clarify that?

**Mr. Philippe Dufresne:** They were just documents that had been accidentally forgotten. They should have been included. It was more of an administrative problem.

**Mrs. Marilène Gill:** Okay.

Thank you.



[English]

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

Mr. Julian is next, followed by Mr. Poilievre.

**Mr. Peter Julian:** Thanks very much, Mr. Chair.

Thank you, Mr. Dufresne and Madame Gauthier, for your presence here today and your work on behalf of elected officials. We hope that you and your families continue to stay safe during this pandemic.

Mr. Dufresne, I want to come back to your initial points around the editing or censoring of the documents going beyond the committee order. You referenced the Access to Information Act. Of course, the Access to Information Act is highly criticized. In many respects, it's a "hiding" access to information act, because of the grounds for exclusion.

I'm very interested in knowing to what degree the government went beyond the committee's order of July 7. It's now obvious that it did, and fortunately your examination has indicated that. I would like to know how many pages were redacted or blacked out under the grounds—which are wide, in access to information—of personal information or third party information. How many of the pages were blacked out because of that?

• (1510)

**Mr. Philippe Dufresne:** I'll see if I can provide that information, Mr. Julian. In terms of percentages of redactions that we had, the ground of privacy amounted to 4%. The ground of third party information amounted to 1%.

**Mr. Peter Julian:** This is on the basis of 3,000 pages?

**Mr. Philippe Dufresne:** It was 5,000 pages.

**Mr. Peter Julian:** At 5,000, we're talking about 50 pages on third party and about 200 pages on personal information.

**Mr. Philippe Dufresne:** Ms. Gauthier can correct me, but this is where the redactions appear on a given document.

**Mr. Peter Julian:** Okay. Thank you.

What percentage of the 5,000 pages contained information on the vulnerability of the government's computer or communications systems or solicitor-client privilege?

**Mr. Philippe Dufresne:** Solicitor-client privilege was minimal, so 0.0%. There was one instance. Vulnerabilities would be 2%.

**Mr. Peter Julian:** That's about 100 pages.

What was the percentage for protecting the accounts of consultations or deliberations in which directors, officers or employees of a government institution, a minister of the Crown, or the staff of a minister participated?

**Mr. Philippe Dufresne:** It was minimal, so 0.0%.

**Mr. Peter Julian:** But it was cited.

**Mr. Philippe Dufresne:** Right. It was cited on about three documents.

**Mr. Peter Julian:** We're talking about a few hundred pages, just the same.

I know you can't comment—you have to comment on the law as it is—but our Access to Information Act is highly criticized because of the vast exemptions you can drive a truck through. It's a matter of frustration for many parliamentarians. Thank you for that.

I'll move now to the issue of respecting a committee summons and the Kielburger brothers. Recent very serious allegations have come out—despite the abrupt prorogation in August and the months of chaos we had in this committee due to Liberal filibusters—of abuse of charitable contributions and abuse of charitable funds. Of course, it's important that committees get to the bottom of that.

You indicated that a committee that issues a summons that is ignored can report the matter to the House. The House can then deliberate and make a finding of contempt of Parliament. You cited the case of 1913. For those who are tuning in, particularly from the parliamentary press gallery, perhaps it would be germane if you could reference that last case where there was a finding of contempt of Parliament and what the results were.

**Mr. Philippe Dufresne:** The description of the 1913 case is set out on page 132 of *Procedure and Practice*, as follows:

In 1913, R.C. Miller, a witness before the Public Accounts Committee, refused to answer questions. This was reported to the House, whereupon it adopted a motion summoning Mr. Miller to appear before the Bar and answer questions. Mr. Miller made two appearances before the Bar and on both occasions was permitted to have counsel. He was directed to withdraw after he refused to provide the information requested by the Committee. The House then adopted a motion stating that Mr. Miller was in contempt of the House and that he should be imprisoned. Mr. Miller was again brought before the Bar and the resolution was read to him.

No private citizen has been called to the Bar since 1913.

It's certainly not something we see.

**The Chair:** This will be your last question, Peter.

**Mr. Peter Julian:** Thank you.

I certainly hope, as I believe we all do, that the Kielburger brothers will respond to a committee summons. Ultimately, it is quite unprecedented for witnesses to say that they refuse to respond to a committee summons. If that is the case, as you cited in terms of 1913, there can be somewhat serious consequences.

**Mr. Philippe Dufresne:** It is something that can be reported to the House. The House has its powers to address those matters.

• (1515)

**The Chair:** We'll pick up those other 20 seconds in your next round, Peter.

We'll turn now to Mr. Poilievre for a five-minute round. He will be followed by Ms. Dzerowicz.

**Hon. Pierre Poilievre:** Thank you.

If the House of Commons passes a motion insisting that the Kielburger brothers honour the committee's request to testify, and the Kielburger brothers refuse, there is precedent for the House to order law enforcement to imprison and compel testimony before the House or one of its committees. Do I understand that correctly?

**Mr. Philippe Dufresne:** There is the precedent that I highlighted. It is an old precedent. It is more than 100 years old, so that is factored into the strength of that.

**Hon. Pierre Poilievre:** If it's old, it means it survived the test of time. Certainly, we have the unmitigated right to call for persons to answer questions. If that right is not upheld, then we as parliamentarians have a duty to use law enforcement to uphold it. That is what we will do if the Kielburgers refuse to answer the questions we're asking.

You have said that the government excluded from the documents it gave you information that it considered lacking in relevance. Where in our November motion did we allow the government to exclude documents it considered irrelevant?

**Mr. Philippe Dufresne:** The November motion was predicated on the documents that had initially been requested in July, so the argument would be that if it's not requested in July, it's not requested in November.

**Hon. Pierre Poilievre:** It was requested, though. The motion said that all documents that had been requested in July should be provided to you unredacted, the only exception being cabinet confidences, not "cabinet confidences and documents that the government considered to lack relevance".

That means you have still not received all the documents that the November motion indicated you should receive.

**Mr. Philippe Dufresne:** It's up to the committee to interpret its motions. What I could point to is that if something is not part of the request from the committee initially in July—if it's not relevant to the July motion—it's arguable that it would not [*Inaudible—Editor*].

**Hon. Pierre Poilievre:** Right, so here's where—

**The Chair:** Mr. Poilievre, Mr. Dufresne has the floor. Allow him to complete his answer.

Mr. Dufresne.

**Mr. Philippe Dufresne:** I think it was complete.

**Hon. Pierre Poilievre:** Allow me to clarify here. Are there a number of documents that the government blacked out and handed to you covered up, on the grounds that they were irrelevant? Is that what happened?

**Mr. Philippe Dufresne:** There were some pages where an indication was out of scope—some pages that were not relevant.

**Hon. Pierre Poilievre:** Okay. How many pages was that?

**Mr. Philippe Dufresne:** I'm not sure if I have that information. Let me see if I have that in my statistics. Perhaps this is something that Ms. Gauthier can provide, or we can provide it to the committee—

**Hon. Pierre Poilievre:** Come back to me on that.

The point is that in November, we as a committee decided to include specifically documents that had originally been blacked out on the grounds of relevance. In fact, the government had tried to broker a compromise to exclude those documents it considered to be irrelevant. We refused that, and we insisted that the documents and content that the government had previously said was irrelevant be included for your eyes to see. That is why the motion is very

clear that the only exceptions are supposed to be those found in subsection 69(1) through subparagraph 69(3)(b)(ii) of the Access to Information Act. Those sections deal exclusively with cabinet confidentiality. The government was not authorized to exclude whatever it considered irrelevant.

You're now telling us that it applied an exemption that wasn't in that motion. Is that true?

• (1520)

**Mr. Philippe Dufresne:** The ground of "not relevant" was not set out in the November motion; that is correct.

**Hon. Pierre Poilievre:** That's right, because the only justifiable exclusion was for a cabinet confidence. Now you're telling me that we're just supposed to believe the government when it says that these additional redactions dealt only with things that were, in its eyes, not relevant.

I suspect the government believes nothing is relevant. If there were a smoking gun in the WE scandal, it would say, "Oh my goodness. That's not relevant. You don't need to see that. We'll just put a bit of black ink over it." That's specifically why we insisted that you and not the government be responsible for determining relevance, but you're now revealing today that it has blacked out all kinds of content—potentially whole pages or more—on the grounds that it didn't consider them relevant.

Is there anything inaccurate about what I've just said?

**Mr. Philippe Dufresne:** I've stated that there are some pages that are redacted based on relevance.

**Hon. Pierre Poilievre:** Jeez, they really have something to hide here, folks. They're going some distance.

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

We'll now go to Ms. Dzerowicz, followed by Ms. Gill.

**Ms. Julie Dzerowicz:** Thank you so much, Mr. Chair.

Thank you, Mr. Dufresne, for being here with us today.

I'll start off with a question beginning where Mr. Poilievre ended. If portions of documents that were not relevant had been left in, and if, in fact, the government had provided you with all of the pages of the irrelevant documents in its possession, do you believe it would have helped or hindered your work?

**Mr. Philippe Dufresne:** I think the issue is whether the committee wants me to look behind the redactions on the basis of relevance. That's really the determination for this committee. One interpretation would be if it's not relevant, it's not requested at all in the initial motion, so it was never requested. However, it's up to the committee to decide how much it wants to review.

**Ms. Julie Dzerowicz:** Also, if we had not given it, then no one would ever have noticed whether it existed or not.

I want to go back a little. We started with the July 7 motion, which requested a certain number of documents. Then you indicated to us that our civil servants decided that they were going to additionally exclude certain bits of information as per the Access to Information Act, and you listed those very well in your comments, noting that they are the personal information, the third party, the solicitor-client privilege grounds, etc.

I want to be clear. Have you seen any evidence that there was any political interference in applying the Access to Information Act, or was this done just by the civil servants?

**Mr. Philippe Dufresne:** From what I saw, it appears to have been done by civil servants. With regard to grounds, I can't tell and I can't really know that, but I can say that they have been applied in a way that, in my view, is consistent with those definitions in the Access to Information Act.

**Ms. Julie Dzerowicz:** I believe you've also indicated that it is fairly typical for our civil servants to apply this type of Access to Information Act lens.

**Mr. Philippe Dufresne:** I have seen it from time to time.

As I say, it's something I raise with committees, in the sense that in my view it's up to committees to decide whether they will accept those grounds, but it is a practice that we see the government taking.

**Ms. Julie Dzerowicz:** Mr. Dufresne, could you explain what would be the public interest behind actually excluding things like solicitor-client privilege and things like consultations or deliberations in advice to ministers? What would be the public interest in our civil servants doing so?

**Mr. Philippe Dufresne:** The public interest ground behind Parliament having those included in the Access to Information Act as exceptions for solicitor-client privilege is the need to ensure confidentiality, so that clients can obtain solicitor-client advice. The deliberations of government have to do with receiving frank advice when making decisions and considering options. Third party information is to protect competitive positions, trade secrets and other matters for third parties. Personal information is to protect individuals' personal information and dignity in these types of information. There are some public policy considerations behind those grounds. In large measure, they have to do with that information being made public.

As I stated in my remarks, committees ought to give weight to those public policy factors, in my view, but it is up to committees to decide how to balance them. There may be different circumstances and there may be different options in certain instances. Speaker Milliken's decision on the Afghan detainee issue had to do with national security—certainly a major public policy consideration—and the House and the Speaker found that the committee nonetheless had the power to request that information. However, they put in place a mechanism so that it could be done confidentially.

• (1525)

**The Chair:** It's your last question, Ms. Dzerowicz.

**Ms. Julie Dzerowicz:** I wanted to just indicate that the Clerk of the Privy Council came before us and let us know that his intent was “to be as expansive as possible” in relation to the information

that he released. I just want to make sure that statement is on record, even though they went beyond what was asked for on July 7. That was the intent, and I think he followed that intent.

Last, is it fair to say the committee has a number of options to deal with the outstanding concerns if there is some information that we feel we might need to see? Whether it's in camera or not, is it fair to say we have a number of options for looking at that right now?

**Mr. Philippe Dufresne:** I would agree with that. Yes.

**Ms. Julie Dzerowicz:** Okay. Thank you so much.

**The Chair:** Thank you.

Ms. Gill, you have two and a half minutes. Then we'll go over to Mr. Julian for about three minutes.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

I just heard my colleague from Davenport say that, if a document had not been provided to the committee, the committee would never have noticed that it did not have that document or that information. She was talking about the relevance of the documents. I hope that the government did not act on that basis. Of course, I want to repeat that I believe it is up to the committee to decide whether documents are relevant.

Mr. Dufresne, a little earlier, I asked you whether, to your knowledge and in your experience, this type of redaction by officials is a usual practice. I would like to go into that issue a little more.

Mr. Shugart, whom you know, told this committee that he had “started the ball rolling in the system, and if people had questions, doubts, trouble interpreting the instructions—”

[*English*]

**The Chair:** Hold on, Madame Gill. Mr. Fragiskatos has a point of order.

[*Translation*]

**Mrs. Marilène Gill:** Yes, of course.

[*English*]

**Mr. Peter Fragiskatos:** Mr. Chair, I'm not sure if it's only on my end, but I'm having an issue with interpretation. I can only vaguely hear the translation. I mostly hear Madame Gill. My French is improving, but I'm not bilingual at this point.

I just wanted to flag that.

**The Chair:** Madame Gill, are you on French on your system there?

[*Translation*]

**Mrs. Marilène Gill:** Yes, of course.

[*English*]

**The Chair:** All right. Let's give it a try again.

You will not lose your time, Madame Gill. Go ahead.

[*Translation*]

**Mrs. Marilène Gill:** Do you want me to start right from the beginning, Mr. Chair? I don't know at which point Mr. Fragiskatos lost the interpretation.

[*English*]

**The Chair:** Start over. That's fine.

[*Translation*]

**Mrs. Marilène Gill:** Okay.

My colleague from Davenport just said that, if documents hadn't been provided, no one would have noticed. She just told us this. I hope that this wasn't the government's intention when it decided that officials would redact the documents. Personally, I'm concerned about this. I believe that the responsibility for determining the relevance of the documents lies with the committee or with the law clerk and parliamentary counsel, and not with outsiders.

That's why, Mr. Dufresne, I'd like to expand on my last question about whether, based on your knowledge and experience, this type of redaction is common practice.

I'll quote Mr. Shugart, whom you know. He said the following in the committee: "... I started the ball rolling in the system, and if people had questions, doubts, trouble interpreting the instructions, the departments could ask the Privy Council Office for a judgment call. In that sense, yes, and ultimately, I am responsible."

I'm wondering whether you find it odd that the most senior official in the Prime Minister's department asked the different departments to redact the documents. Is that a common practice?

• (1530)

**Mr. Philippe Dufresne:** I don't find it improper that the Clerk of the Privy Council is the person ultimately responsible for decisions in the public service. In my opinion, that isn't an issue.

I read the evidence that he gave to the committee. My understanding is that the Clerk of the Privy Council is bound by the Access to Information Act and must apply the grounds set out in the act. He also referred to cabinet confidences as a ground for determining the position to take on redactions. That's how I see his role. Personally, I don't see—

**Mrs. Marilène Gill:** Sorry to interrupt you, but time is running out.

Do you consider this an established practice? Officials shouldn't be making these redactions. What does this say about your role or the trust placed in you? In the union world, where I come from, we would be talking instead about subcontractors or non-compliance with the agreement. How do you feel about the fact that you aren't the one doing the work that you're responsible for?

**Mr. Philippe Dufresne:** I'm the lead counsel for the House. My role is to advocate for the interests of the institution as a legislator, meaning the legislative power. From my perspective, the constitutional power of the House is greater than the powers conferred by legislation such as the Access to Information Act. This doesn't mean that public policy imperatives should be ignored. However, it does mean that the House must make the decision. The decision-maker is the House, not the government. The government has

its position and interpretation, which the Clerk of the Privy Council shared with you.

**Mrs. Marilène Gill:** Thank you.

[*English*]

**The Chair:** Thank you both.

We move to Mr. Julian. We'll pick up the time he lost before.

You have three minutes, Peter.

**Mr. Peter Julian:** Thanks very much, Mr. Chair.

Thank you, Mr. Dufresne. This is very illuminating.

So far we found that the documents were wholly or partially redacted—at least 300 pages—using the broad loopholes of the Access to Information Act. I find that quite disturbing.

I'd like to come back to the other element of your testimony that I find quite disturbing. That is that other redactions, omissions, and exclusions took place on the grounds of cabinet confidence and on the grounds of relevance.

The original motion, as you indicated, also talked about national security. I'm presuming that national security was not cited as a reason for any of the substantial redactions that took place. My question is, how many pages were wholly or partially redacted on the grounds of matters of cabinet confidence, and how many pages were excluded, wholly or partially, on the grounds of relevance?

**Mr. Philippe Dufresne:** There were no exclusions on the basis of national security. On the basis of cabinet confidence, those represented 6% of the redactions.

In terms of things that were not relevant, I'm looking for that information. We'll see if I can have that by the end of my appearance today. If not, then I will forward that subsequently to the committee.

**The Chair:** Ms. Gauthier, if you want in here at any time, don't be afraid to yell.

Go ahead, Peter.

**Mr. Peter Julian:** Thank you.

Madame Gauthier, if you have something to add, please don't hesitate.

We're now up to at least 600 pages. What I found disturbing, when the original documents were dumped as Parliament was stripped of its powers by prorogation, was the sheer size and scope of the blacking out of documents. It was stunning to me, as a member of the committee, to see to what extent the government was ripping apart what had been a very clear indication of the importance of obtaining those documents.

If we're now looking at 600 pages plus whatever was redacted out on the basis of relevance, I would be interested, Mr. Dufresne, in having you talk about what the committee's options are going forward. We have what is still a substantial redaction of the original request. What options do we have, as committee members, to get to the bottom of this scandal?

• (1535)

**Mr. Philippe Dufresne:** Mr. Julian, some of the options I've set out are—and I'll repeat them—that the committee could ask to review some of that information in camera so it can satisfy itself as to what's behind it. It could ask that more information be provided as to the reasoning behind it, or it could accept the grounds and determine that they are grounds that can be incorporated into the committee's order. The approaches are really either to accept it, or to not accept it and find some way to have access to it, perhaps confidentially or with other rules.

**The Chair:** Thank you both.

I'm not sure, but I think we have Mr. Poilievre next.

Mr. Poilievre, you're on next, followed by Mr. Fraser, for five minutes.

**Hon. Pierre Poilievre:** Mr. Clerk, do you have any way to confirm the government's claim that blacked-out content in the documents you received is really not relevant?

**Mr. Philippe Dufresne:** I do not. If I have not seen a document or pages of a document, I cannot comment on it.

**Hon. Pierre Poilievre:** In other words, it could be very relevant, but you wouldn't know because you haven't seen it.

**Mr. Philippe Dufresne:** It's true that whenever a disclosure is made, you never know what has not been provided. If you're provided with 1,000 pages, everything else has not been provided, so you never know.

**Hon. Pierre Poilievre:** Exactly. We specifically asked for that documentation to be given to you unredacted, so that you, a trusted lawyer of the House of Commons and Parliament, could determine what was and was not relevant and tell us whether the government was redacting the information because it was truly irrelevant or whether it was just covering up what it didn't want Canadians to see. Now we've learned that it covered it up, even from you, and asked you to trust that everything contained under this black ink was irrelevant and that you didn't need to see it.

That is exactly the opposite of what we asked the government to do and what the members on this committee agreed to do. Shame on all the Liberal members of this committee who specifically committed to this. Mr. Fraser specifically committed to me that the disclosure from the government would include, unredacted, the information it had previously claimed was irrelevant. That is not what happened, so the government members did not keep their word. Shame on them for deceiving Canadians and fellow parliamentarians.

Let me move on now to the subject of bringing in witnesses who refuse to co-operate.

To me your report says that the House of Commons possesses the right to confine individuals as a punishment for contempt. You go on to say that the House ordered the Sergeant-at-Arms to take individuals into custody on four occasions and ordered the imprisonment of others, so could the House of Commons have law enforcement authorities take the Kielburgers into custody and compel them to testify, if it so wished and if they refused? Is that an accurate reading of the report you gave me?

**Mr. Philippe Dufresne:** I think the report lists some of the precedents from *Procedure and Practice*. The latest one is from 1913, as I indicated. The other ones are even older than that, so although there are precedents, they are old precedents. It is something that has not been done in more than 100 years.

**Hon. Pierre Poilievre:** Let me say I hope it never has to be done again. I hope the Kielburgers look at the powers Parliament has, these ancient authorities that we inherited from our British ancestors, and agree to appear and answer the questions of parliamentarians honestly. I just wanted to confirm that, indeed, this power does exist, and if the Kielburgers refuse, then we can exercise these powers, and I have no doubt that Parliament would do exactly that.

We have learned today, as per your confirmation, that the committee's unmitigated powers to request and receive information have not been fully honoured; that the government is now blacking out information that it promised to release, on the grounds that it interprets that information as irrelevant; that you have no way of confirming whether the information is irrelevant, because they won't let even you see it; and that effectively there are hundreds of pages that continue to be covered up. We don't know what's behind them. We don't know if the cover-up is justified under the law. Now we, as parliamentarians, have to decide what to do.

To conclude, Mr. Dufresne, can you confirm that as parliamentarians we have the right to call any and all documents without restriction and without limitation?

• (1540)

**Mr. Philippe Dufresne:** You do.

**Hon. Pierre Poilievre:** Thank you.

**The Chair:** Mr. Dufresne, there were a number of statements made there by Mr. Poilievre. Do you want to respond to them, or are you leaving it at what you said? Mr. Poilievre basically said the government had not released certain things, etc.

**Mr. Philippe Dufresne:** I stated my observations at the outset, that there were grounds invoked that were not in the July motion.

**The Chair:** Okay.

Mr. Fraser is next, followed by either Mr. Poilievre or Mr. Kelly.

Mr. Fraser, in any event, please start.

**Mr. Sean Fraser:** Thank you very much, Mr. Chair.

Before I get into my questions, Mr. Dufresne, we had the Clerk of the Privy Council testify, and a batch of documents was produced that included remittal letters from the deputy ministers of various departments.

Did you have a chance to look at that information before your appearance today?

**Mr. Philippe Dufresne:** Yes.

**Mr. Sean Fraser:** One of the reasons I ask is that the clerk made very clear that the process employed in redacting the information was free of political interference, and that it had been carried out by the non-partisan public service.

I'm curious. According to the motion that called for you to be invited, the purpose of your appearance here today was for you to testify as to the compliance with the July 7 motion. You say it's your view that the government was not required to produce materials that were subject to cabinet confidence. Can you confirm that you are of the view that the government was entitled to make those redactions, and do you have any reason to believe those redactions were done in an inappropriate way?

**Mr. Philippe Dufresne:** I am of the view that the government was entitled to make those redactions as were allowed by the committee's order. I have not seen behind them, so I have no reason to have an opinion one way or another on them.

I have no cause to be concerned about what's behind this. All I have seen are redactions made on that basis.

**Mr. Sean Fraser:** I have a similar question. On the documents that were marked not relevant, just very quickly, is it your view that the government was not required under the July 7 motion to produce material that was not requested in the July 7 motion and that was, therefore, not relevant?

**Mr. Philippe Dufresne:** My view is that if something is beyond the scope of a motion, it's not relevant to a motion and it's not required by the motion, but that's a determination for the committee to make.

**Mr. Sean Fraser:** So as long as the Clerk of the Privy Council was being honest about the process that was employed, would that ensure there were no redactions made for political reasons? Assuming the Clerk of the Privy Council was honest about the process that was employed, do you have any reason to believe that those redactions were inappropriate?

**Mr. Philippe Dufresne:** I do not.

**Mr. Sean Fraser:** On the other areas you've mentioned, where there were some redactions that were made in areas such as solicitor and client privilege, Mr. Fragiskatos asked if you believed that ground was essential and you agreed. One of the things I'll point to in the July 7 motion is that the motion suggests....

I will acknowledge that the motion says it should have been your office that made the redactions, as opposed to the government, but it does say "any redactions necessary".

One of the things I am curious about is this. Given the fact that you believe solicitor and client privilege—as you agreed with Mr. Fragiskatos—is essential, would redacting that information, in fact, be necessary?

• (1545)

**Mr. Philippe Dufresne:** At the end of the day, it's not up to me. It's up to the committee to decide what grounds to accept. If it asks me whether there are good public policy considerations behind that, I think there are.

Does that mean the committee cannot have access to this at all, or does it mean it would be in camera, with safeguards and so on and so forth? That's up to the committee to decide.

**Mr. Sean Fraser:** Sure, I understand.

The reason I ask is that it says "any redactions necessary", but then it says including "personal information" and "privacy", which suggests to me that there could, in theory, be redactions made that were necessary for other reasons. If the government interpreted that to mean the legislative standard that, as in your argument previously, has some public interest in being served... Can you confirm your earlier testimony that, in fact, the redactions that were made were entirely consistent with that legislative standard?

**Mr. Philippe Dufresne:** I can confirm that the redactions that were made were consistent with the definitions under the Access to Information Act.

**Mr. Sean Fraser:** I want to follow up on a line of questioning by Mr. Julian about the percentage of documents that were redacted. His questions asked if they were wholly or partially redacted. When you gave those percentages, that was the number of pages that included a redaction and not pages redacted in full. Is that correct?

**Mr. Philippe Dufresne:** Yes.

**Mr. Sean Fraser:** When Mr. Julian says we're up to 600 pages, that might include one page with the personal cellphone number of an individual public servant.

**Mr. Philippe Dufresne:** Yes.

**Mr. Sean Fraser:** In fact, the true volume would not be 600 pages at all. It would be a much smaller number.

**Mr. Philippe Dufresne:** If you're looking at the volume of redactions, yes.

**Mr. Sean Fraser:** I want to ask one final question. It follows up on Mr. Poilievre's line of questioning about the second motion on document production. Before you got too far down this path, you answered that the disclosure requested in the second motion was predicated on the parameters of the July 7 motion. There's a principle of law about how you interpret lists. When you describe a general category that includes subcategories, those subcategories are only required if they fall within the broader category.

In the second motion—and I think this is what you were getting at but I'm curious as to your opinion—were you saying that because the second motion requested only documents that were requested in the first motion, in fact, the subcategories requested were requested only insofar as they were requested in the July 7 motion?

**Mr. Philippe Dufresne:** That's my understanding, but at the end of the day, it's up to the committee to make its determination on that point.

**Mr. Sean Fraser:** I was asking only for your interpretation, so thank you very much. I appreciate that.

**The Chair:** Thank you both.

Now we are on to Mr. Poilievre.

You will be followed by Ms. Koutrakis, I believe.

Go ahead, Mr. Poilievre.

**Hon. Pierre Poilievre:** Mr. Dufresne, can you point me to where, in any of the motions the committee adopted, the government was permitted to black out information that it considered to be irrelevant?

**Mr. Philippe Dufresne:** I do not believe that's stated in either of the motions.

**Hon. Pierre Poilievre:** Right, so Mr. Fraser's whole line of questioning comes crashing down like a house of cards. He was claiming that somehow the "irrelevant" exclusion was contained in the original motion. It was not, as you've just confirmed, and it was not included in the second motion. Therefore, the government was in no way empowered to black out things it considered to be irrelevant.

There could be all kinds of evidence of corruption related to this scandal that the government considers irrelevant to the public. I mean, let's remember that this is a scandal about the Prime Minister personally intervening to award half a billion dollars to a group that gave his family half a million dollars. It's the kind of corruption that puts politicians behind bars in other countries, but it's the kind of corruption that is apparently accepted in this government, and now we expect the same government that engages in these practices to have the authority to black out information that it doesn't consider relevant to the public. That is not what this committee requested.

Mr. Fraser personally committed to me and to this committee that the only information that would be excluded in the disclosure to you would be on the grounds of cabinet confidence. That is a commitment that he and the government have violated. That will have to be taken into consideration the next time we agree to a compromise with him and with the members of the government. I'm very disappointed to learn that they did not honour the commitment we agreed to when we passed the second motion in November.

Mr. Clerk, in going back to our original discussion about witness appearances, I'm going to again read from the report you gave me:

In order to facilitate the witness's attendance, the Committee presented a report to the House requesting that the Speaker issue a warrant for his appearance. The House subsequently concurred in the report.

In other words, a committee can pass a motion seeking a warrant to physically compel witnesses to appear. If the House then concurs in the issuance of that warrant, the Speaker would then seek law enforcement to carry it out. Is that your understanding, Mr. Dufresne?

• (1550)

**Mr. Philippe Dufresne:** The committee would first adopt a motion to issue a summons, and then serve that summons on the witness and see if the witness complies. If it did not, then the committee could report the matter to the House and the House could instruct the Sergeant-at-Arms to take necessary steps.

**Hon. Pierre Poilievre:** What would those steps include in that case?

**Mr. Philippe Dufresne:** Those steps could include bringing the individual to the committee or to the bar of the House.

**Hon. Pierre Poilievre:** Who would bring them to the committee?

**Mr. Philippe Dufresne:** This is something that would be coordinated, according to the House's direction, with the Office of the Sergeant-at-Arms and potential authorities. As I said, we have not seen that. The latest precedent was bringing Mr. Karlheinz Schreiber to testify while he was incarcerated. A warrant was issued so that he could be brought from that institution to the committee. It's a different situation.

**Hon. Pierre Poilievre:** The Sergeant-at-Arms would use law enforcement in order to compel an appearance in those circumstances.

**Mr. Philippe Dufresne:** That would be if it were ordered by the House, which, as I say, it has not been in a long time.

**Hon. Pierre Poilievre:** Right, but the authority is there that we are the grand inquest of the nation, and therefore we have the power to convene any persons for testimony, whether they are willing or not.

**The Chair:** This is your last question, Mr. Poilievre.

**Hon. Pierre Poilievre:** As the grand inquest of the nation, do we—as Parliament—have the power to compel anyone on Canadian soil to appear and testify?

**Mr. Philippe Dufresne:** You have the power to order them, and the House then has disciplinary powers if there is a breach. It could include a finding of contempt of Parliament. It could be calling the individual to the bar of the House.

**Hon. Pierre Poilievre:** Thank you.

**The Chair:** Thanks to both of you.

We will go next to Ms. Koutrakis. To give a heads-up, we are back to the Bloc for two and a half minutes and then the NDP for two and a half minutes, the Conservatives for five and the Liberals for five.

Ms. Koutrakis.

**Ms. Annie Koutrakis (Vimy, Lib.):** Thank you, Mr. Chair.

Thank you, Mr. Dufresne, for your testimony before the finance committee this afternoon.

I'd like to add my comments to Mr. Poilievre's comments calling into question my participation here as a Liberal member of the finance committee. As everybody knows, I'm a relatively new MP. It's my first mandate, but I can tell you that nobody has ever questioned my integrity or whether I, as a Liberal member or otherwise, have negotiated in good faith. I don't appreciate, and I want this on the record, comments shaming me and my Liberal caucus members on this committee, because I know that everybody on this committee, regardless of party, works in good faith. I'd like to believe that we are given the same courtesy.

Mr. Dufresne, how important is it for a government to review information that is considered cabinet confidence or irrelevant to the issue at hand, without sharing this information with the office of the law clerk? Why are these safeguards in place?

**Mr. Philippe Dufresne:** I think the Clerk of the Privy Council testified to that more eloquently than I could, in terms of why the government acts and feels the way it does. What I can say is that the government has, the public service and the clerks of the Privy Council, consistently defended cabinet confidences, irrespective of political party and power. We have a neutral, non-partisan public service in this country. They serve the interests of the executive branch in a non-partisan, impartial way, as my office serves the interests of the legislative branch.

In terms of cabinet confidence, as I said, the testimony from the clerk was eloquent and talked about the necessity for ministers to be able to speak frankly and to have discussions in cabinet. Once the decision is made, cabinet solidarity requires all to defend the decision, and that needs to be protected. That's the basis for the government's....

The court quite rightly noted that cabinet confidences have been recognized by the Supreme Court of Canada, so it is not something to be taken lightly. My point here today is that, in my view, the House, as the grand inquest of the nation, does have the power to request all information but should give weight, and perhaps significant weight, to some of those public policy considerations.

• (1555)

**Ms. Annie Koutrakis:** Thank you for that. Thank you for echoing what I too believe: that we have an amazing impartial civil service branch, and we should never, ever—either indirectly or directly—accuse them of being anything but impartial. I thank them for their service.

With some members of this committee suggesting that information considered cabinet confidences or irrelevant should be reviewed by those outside of the government and members of the public service, are you at all concerned that this may create a dangerous precedent going forward?

I would also like to hear your comments, Mr. Dufresne, on how we could do better as a committee when we put forward motions like this. How can it be more clear so that we don't run into these issues going forward?

**Mr. Philippe Dufresne:** On the issue of whether it would create a dangerous precedent for the committee or for my office to review cabinet confidences, I would simply point out that committees and the House have been creative in the past, including in the Afghan detainee matter, which dealt with very confidential issues of national security. The Speaker noted that members of Parliament ought to be trusted, that they have democratic legitimacy. If need be, as was the case in that case, there could be some sworn statements of confidentiality and those types of measures. My response to that point is that there may well be ways of achieving the necessary levels of safety, even for something like cabinet confidences.

In terms of your second question...I'm sorry. Can you repeat the second part of your question?

**Ms. Annie Koutrakis:** The second part was looking to you for guidance on how we can do this better going forward.

**Mr. Philippe Dufresne:** The more that committees, in their motions, can set out the grounds that they consider acceptable for redactions, the better it will be, because it is the committee's author-

ity to make those determinations. That would avoid situations where there are grounds put forward that the committee has not necessarily adopted, which create the types of issues that have occurred in this matter.

**Ms. Annie Koutrakis:** Do I have time for one more?

**The Chair:** We'll give you one more.

**Ms. Annie Koutrakis:** If, in the wording of the motion, we had specifically included that we should use legislative standards, would that have made a difference in how the documents were presented?

**Mr. Philippe Dufresne:** It certainly would have strengthened the argument that those grounds ought to be included. My advice would be to be as specific as possible—either set the grounds themselves or, if referring to a statute, refer to a specific statute. Again, what matters is not so much the form but that the committee turn its mind and confirm that it is endorsing those grounds or any given process.

As I say, sometimes the issue is whether to make the document public to the world, as opposed to making it known to the committee members, who may well need to know but it may need to be maintained as confidential and not go beyond the committee members, for instance.

• (1600)

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

Ms. Gill, we'll go with you for about three minutes, and the same with Mr. Julian.

Ms. Gill.

[*Translation*]

**Mrs. Marilène Gill:** Thank you, Mr. Chair.

I would have liked to respond to my colleague from Vimy with regard to the best way to do things. Here, it's all about trust. It's a matter of trusting the committee, but also trusting the elected officials, by extension, who represent Quebeckers and Canadians. We can see that it has become a standard practice for officials to make redactions. Instead, we should trust our elected officials. We should have confidence in their ability to protect confidential information.

In his remarks, Mr. Dufresne outlined five ways for the committee to protect confidential information. Why not use these options? I don't have all the figures. However, we heard that about 15% of the documents were redacted. I'm concerned about this. I think that the committee orders documents to be produced, not the Prime Minister or his office. As I just said, there are ways for the committee to protect confidential information.

Mr. Dufresne, we heard about 5,000 pages of documents related to the WE scandal. Of course, the committee didn't ask for all these documents to be produced. However, if it had done so and had analyzed all the documents in camera, to ensure confidentiality, of course, do you think that it would have found additional relevant information? Again, the committee must determine whether the information is relevant to its study.



**Mr. Philippe Dufresne:** It's hard for me to answer that question. At first glance, if the documents were included in the response, it means that they were relevant. Our role was to look at the documents to determine whether any information fit with the grounds provided.

I want to clarify something. The reference to the percentage concerned the number of pages, not the number of documents. Mr. Gauthier told me that the irrelevant documents that were included in the July disclosure and that we didn't receive amounted to about 20 pages in the second disclosure.

**Mrs. Marilène Gill:** Thank you.

Do I have any time left, Mr. Chair?

[*English*]

**The Chair:** Yes, you do.

[*Translation*]

**Mrs. Marilène Gill:** I'll go back to my first question.

You said that, on a few occasions, officials decided to redact documents without being asked to do so by a committee. You spoke about the Afghanistan case. Do you remember other cases where this has happened?

**Mr. Philippe Dufresne:** I need to think about the other committees that conduct investigations. I can tell you that this has happened before. It's a common practice. According to the evidence given by the Clerk of the Privy Council, the public service seems to be taking this approach. The Privy Council Office considers that it's bound by the Access to Information Act and that it has no choice but to proceed in this manner.

We see this practice and it comes up from time to time, as it did with the documents concerning Afghanistan.

**Mrs. Marilène Gill:** I understand that you don't recall all the details. However, could you send the response to the committee?

**Mr. Philippe Dufresne:** With the committee team, we could try to determine the prevalence of this practice, to give you an idea of the order of magnitude.

**Mrs. Marilène Gill:** You could also check what practice is in place regarding content. Sometimes it's a matter of quality, not quantity.

Thank you.

[*English*]

**The Chair:** Thank you both.

We'll move to Mr. Julian for about three and a half to four minutes and then we'll go to, I believe, Mr. Kelly.

Mr. Julian.

[*Translation*]

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

Ms. Gauthier and Mr. Dufresne, thank you again for being here today. We're learning a great deal.

According to the latest figures that you just gave Ms. Gill, roughly speaking, over 620 pages were wholly or partially redacted. Is that figure correct?

● (1605)

**Mr. Philippe Dufresne:** If it would be helpful to you, we can send you written confirmation of these statistics. However, I think that the figure is indeed around 600 pages or a little more than that.

Nevertheless, I want to make it clear that whole pages aren't redacted. In some cases, a small part of the page is redacted, but it still counts as a redacted page.

**Mr. Peter Julian:** Yes, but sometimes a whole page is redacted. I understand the need to be accurate. I'm glad that you made this clarification. My Liberal colleague suggested that only a few phone numbers were redacted. However, in the vast majority of cases, it was more than that.

We received documents just before the prorogation and after the filibusters that dominated the work of the Standing Committee on Finance for a few months.

First, about 1,000 pages of documents were wholly or partially redacted, right?

**Mr. Philippe Dufresne:** I'll need to confirm this information.

You should know that my office also redacted these documents, as requested by the committee. As I said in my August letter, my office redacted the names of officials, given the committee's reference to protecting officials in this matter.

So some of the redactions came from me and some came from the government.

**Mr. Peter Julian:** Can you give us more specific figures in the next few days?

**Mr. Philippe Dufresne:** Yes.

**Mr. Peter Julian:** Thank you, Mr. Dufresne. I greatly appreciate it.

Honestly, I must say that I'm very frustrated, as a member of the House of Commons and a member of this committee. After the start of the pandemic, we were given the task of reviewing all government spending and ensuring that the spending was done properly. When spending was questionable, we were responsible for following up. We tried to do so this summer. The Prime Minister's Office then suspended Parliament, instead of letting the Standing Committee on Finance ask questions. Now we're learning more about the number of redacted or censored documents. We're talking about over 600 pages.

Rather than ask Mr. Dufresne a question, I want to make a comment. The committee must get to the bottom of things, have access to unredacted documents and release to the public whatever needs to be publicly available. The House of Commons gave this responsibility to the Standing Committee on Finance at the start of the crisis.

[English]

**The Chair:** Thank you.

I don't know if Mr. Dufresne has anything he wants to add to that or not.

**Mr. Philippe Dufresne:** No, Mr. Chair.

**The Chair:** All right.

We're back to Mr. Poilievre, and he will be followed by Mr. Fraser.

Pierre, the floor is yours.

[Translation]

**Hon. Pierre Poilievre:** Thank you, Mr. Chair.

To sum up the situation, we're talking about a scandal where the Prime Minister stepped in to award a half-billion dollar contract to a group that had paid his family half a million dollars. Our committee asked for all the documents related to this situation, but the government redacted hundreds of pages. After a long period of filibustering, the government said that it wanted to provide all the documents, except the documents protected by cabinet confidence. Now we're learning that, contrary to their commitment, the Liberals again redacted documents on the basis that the documents weren't relevant.

Mr. Dufresne, you confirmed three things today. First, the government didn't honour the committee's motion to release all the documents without redactions. Second, some documents are still redacted on the basis that they aren't relevant. Third, you have no way of knowing whether the documents redacted on the basis of cabinet confidence were actually redacted for this reason.

Would you like to add anything to my comments?

• (1610)

**Mr. Philippe Dufresne:** Mr. Fraser asked me earlier whether, based on my understanding of the November motion, the appropriate steps were taken with regard to the irrelevant documents. I raised the possibility of an interpretation to the effect that these documents weren't required by the original motion, but—

**Hon. Pierre Poilievre:** We don't know whether the documents are relevant because we don't know what's in them. Since the government prevented everyone from accessing them, we can't determine whether their content is relevant. You can't magically know whether these documents are relevant.

**Mr. Philippe Dufresne:** True.

**Hon. Pierre Poilievre:** With regard to the Kielburgers, who refuse to appear even though they have been summoned by the committees, I'll read the passage from the *House of Commons Procedure and Practice* that you referred to today:

... the House of Commons possesses the right to confine individuals as a punishment for contempt, although it has not exercised this authority since 1913. In the years immediately following Confederation, the House ordered the Sergeant-at-Arms to take individuals into custody on four occasions and ordered the imprisonment of others. Again in 1913, the Sergeant-at-Arms was ordered to imprison an individual.

I agree that we don't want to imprison anyone. However, I just want to confirm in French what you already said in English. At

worst, if a witness refuses to appear after receiving an order from Parliament, we have the power to turn to the Sergeant-at-Arms and even the police to compel the witness to appear.

**Mr. Philippe Dufresne:** I simply referred to the background on the use of this parliamentary power. The last time that the House used this power was in 1913. The other precedents are older. This certainly isn't a current thing. The House has several powers, including the power to find someone in contempt of Parliament. There are options available. This option hasn't been used for a very long time. This may raise some issues.

**Hon. Pierre Poilievre:** Indeed.

How much time do I have left, Mr. Chair?

[English]

**The Chair:** You have about 30 seconds, so you're going to have to make it quick.

[Translation]

**Hon. Pierre Poilievre:** As noted in the committee report that you sent us, the House of Commons used some of these powers in 2007 to compel Karlheinz Schreiber to appear before one of its committees.

So when people refuse to appear, we have powers, as parliamentarians, to compel them to do so. We could use this tool.

**Mr. Philippe Dufresne:** Yes. I referred to this precedent in the case of Mr. Schreiber. The House ordered him to appear before the committee in question while he was incarcerated.

• (1615)

**Hon. Pierre Poilievre:** Thank you.

[English]

**The Chair:** Thanks to both of you.

We'll now turn to Mr. Fraser, and we'll have time for another couple of quick questions after Mr. Fraser.

**Mr. Sean Fraser:** Thank you, Mr. Chair.

Mr. Dufresne, I just had a note come through that Mr. Poilievre tweeted out not long ago that, during this meeting, you revealed that the government did not reveal all the documents the finance committee ordered released in the summer, and that the government is blacking out information it claims is not relevant. From your testimony, I don't think that's a fair description.

I think what you actually said is that the non-partisan public service has redacted information that was not relevant because this committee didn't ask for it in the first place. Is that a better characterization of your testimony?

**Hon. Pierre Poilievre:** I have a point of order, Mr. Chair. The member is asking the clerk to comment on the relevance of content that he has not seen. He hasn't seen the documents.

**Mr. Sean Fraser:** This is debate.

**The Chair:** Mr. Poilievre, that is not a point of order.

**Hon. Pierre Poilievre:** It's unfair to ask someone to comment on something they've not seen.

**Mr. Sean Fraser:** Well, I'm not—

**The Chair:** I think that's happened here before. That's not a point of order.

Mr. Fraser, the floor is yours.

**Mr. Sean Fraser:** Thank you.

Mr. Chair, I'll inform the clerk that Mr. Poilievre has made a tweet indicating that the government redacted documents that this committee ordered produced in the summer. The testimony that you gave earlier is contrary to what Mr. Poilievre has asserted. Is it a better characterization—

**Hon. Pierre Poilievre:** I have a point of order, Mr. Chair. Now Mr. Fraser wants to mis-characterize my tweet and ask the law clerk to comment on it, and he 's asking him to comment on documentation he has not seen.

**The Chair:** Mr. Poilievre, that is not a point of order. I'm sorry.

Mr. Fraser has the floor. Maybe you could send us your tweet, and we would know.

Mr. Fraser.

**Mr. Sean Fraser:** In any event, during this meeting, Mr. Poilievre has made the assertion, or has at least attempted to make the assertion, that the government has redacted information that the committee ordered produced in the summer on the basis that it is not relevant.

My understanding of your testimony was that the non-partisan public service redacted information on the basis of relevance because the committee did not ask for it in the first place. Is that a fair assessment?

**Hon. Pierre Poilievre:** I have a point of order, Mr. Chair.

**The Chair:** What's your point of order? I'm going to Mr. Dufresne to answer this question.

Mr. Poilievre, what's your point of order?

**Hon. Pierre Poilievre:** That is not in fact what I tweeted. He's asking the clerk to contradict something that I didn't say.

**The Chair:** That's not a point of order. It's a matter of debate.

Mr. Dufresne, you've heard the discussion. You've heard Mr. Fraser's question. Could you answer Mr. Fraser's question as asked?

**Mr. Philippe Dufresne:** Your description is fair, Mr. Fraser. I would agree with that characterization. The redactions were made, as it seems to me, by the public service, the non-partisan public service, on the argument that "not relevant" would not be part of the original motion.

**Mr. Sean Fraser:** There's no way, shape or form, in your opinion, based on what you know, that the redaction of information on the basis of relevance would constitute a violation of the privilege of this committee, based on your interpretation.

**Mr. Philippe Dufresne:** I'm not raising that as a concern. What I've raised is invoking grounds in the Access to Information Act that were not part of the committee's motion, and I flagged that it's for the committee to decide if it wants to accept those.

**Mr. Sean Fraser:** Thank you. I think it's very clear that your concern is not related to the batch of documents marked "not relevant" but to other documents.

On the issue of relevance, Mr. Poilievre made the point earlier in this meeting that there was no explicit power to exclude the documents based on relevance, but of course, if documents are not asked for they need not be produced.

I'm curious whether you would agree with me that documents that may pertain to, say, vaccine procurement or domestic production of PPE, and that may have been redacted, are similar in kind, in your view, to the other documents that would be within the custody of the Government of Canada on other issues that did not pertain to the motion.

**Mr. Philippe Dufresne:** I'm not sure I understand your question, but what I would say is that, to me, something that's not relevant is something that is simply beyond the scope of the motion. The motion will ask for documents about a certain topic. If it's not about that topic, then it's not relevant.

• (1620)

**Mr. Sean Fraser:** Thank you.

I guess my concern is that, if the government were required to produce all the information that was not relevant, there would be endless reams and reams of millions of documents and it would be impossible to satisfy the motion.

I see you nodding. I take it that you agree.

**Mr. Philippe Dufresne:** Everything that's not relevant is the infinity of whatever is left. It could be significant.

**Mr. Sean Fraser:** Thank you.

Mr. Chair, is there any time remaining?

**The Chair:** We lost a little time there, so you have about a minute and a half.

**Mr. Sean Fraser:** Ms. Dzerowicz, I think you had a question or two you wanted to ask.

**The Chair:** She'll have time later if you want to take....

**Mr. Sean Fraser:** Okay.

To wrap up, I'll give a summary of some of the things I've heard you say. At the end, Mr. Dufresne, could you confirm whether my assessment of your testimony is accurate?

You've said that the government made redactions pursuant to cabinet confidences and pursuant to relevancy, and was entitled to do so. So far as you can tell, those were made by the independent public service. You also indicated that, although you have some concerns about the access to information grounds, if the legislative standard was actually the one that was properly applied, it was done consistent with those legislative standards.

Is all of that accurate in your view?

**Mr. Philippe Dufresne:** I would agree with that.

**Mr. Sean Fraser:** Just for a final piece of confirmation, when you provide the information that Mr. Julian and, I believe, Madame Gill requested, about the number of pages, I wonder if you could actually demonstrate to us, not in terms of how many pages were wholly or partially redacted, because you made the point that some of these have very small redactions.... I've seen some of the documents that the government produced. I haven't seen the unredacted versions of them, but you can tell that some of them are clearly labelled as a cellphone number and, on an entire page, that's the only piece that's been redacted.

Is it possible for you to demonstrate to us in some quantitative way how much of the document package was actually redacted, rather than having a page statement, which would obviously artificially inflate the sense of the redactions?

**Mr. Philippe Dufresne:** We will bear that in mind and try to have information that is as useful as possible in terms of giving a sense of scale.

**Mr. Sean Fraser:** I would ask one additional favour of you before I finish my questioning, Mr. Dufresne.

Ms. Dzerowicz asked previously about the public interest that is served by some of the exemptions to production outlined in the access to information legislation. If you could offer a summary of the reasons those exemptions exist, I would be grateful as a committee member.

**Mr. Philippe Dufresne:** Are you asking me to do this now or to do that—

**Mr. Sean Fraser:** No, that would be on a follow-up basis. I don't think we have time in the limited questioning I have remaining.

**The Chair:** We're looking for that in writing, Mr. Dufresne.

We have about three minutes for questions from the Conservatives and three minutes from the Liberals.

Are you on, Mr. Poilievre?

**Hon. Pierre Poilievre:** Mr. Chair, to confirm what we said all along, Conservatives were never looking for every irrelevant document to be included. We were looking for documents that the government covered up with black ink on the grounds that—as it claimed—they were irrelevant to be reviewed by the clerk.

The reason for that is to ascertain if, in fact, the information contained under that ink was irrelevant, which is something the clerk cannot confirm because he has not seen them. If it were completely unrelated, then it would not have been included in the disclosure in the first place. Obviously, information not relevant would not have been included because, as Mr. Fraser correctly points out, that would have been literally millions or even billions of pages.

We're talking about information that was included but blacked out. If the government has nothing to hide—if, in fact, this is just unrelated information about PPE procurement, as Mr. Fraser claims—it would have let the clerk look at it and confirm as much. He could, in a confidential way, have determined the relevance.

I ask again, Mr. Dufresne, did you have the ability to look at information marked “not relevant” to confirm whether in fact it was or was not relevant?

**Mr. Philippe Dufresne:** No.

**Hon. Pierre Poilievre:** There you go.

Again, Mr. Fraser expects us just to take the government's word that nothing behind the black ink was relevant to Canadians.

Furthermore, the government is saying that there is no precedent for cabinet confidences to be reviewed by parliamentary committees in manners that are protected from public disclosure. Can you confirm whether, in the Afghan detainee controversy, a parliamentary committee was able to look at those sorts of things, in private, without public disclosure?

• (1625)

**Mr. Philippe Dufresne:** The Afghan detainee did not raise cabinet confidence as the ground. It was the ground of national security.

**Hon. Pierre Poilievre:** It was security.

**Mr. Philippe Dufresne:** There may be an argument that cabinet confidence is distinct, but certainly, with respect to the very sensitive national security information, a compromise solution was found in the creation of an ad hoc committee of parliamentarians with the support of a panel of former judges who could make determinations on whether certain things could be released publicly.

**Hon. Pierre Poilievre:** Did any of the members of Parliament then breach their duties of confidentiality and jeopardize national security when they were given private access to that information?

**Mr. Philippe Dufresne:** They did not to my knowledge.

**Hon. Pierre Poilievre:** Right, so there is a successful precedent under a previous government—it was Conservative, but that's actually not relevant—that allowed members of Parliament to scrutinize secret and confidential sensitive information without imperilling the public interest.

I thank you very much, Mr. Dufresne, for your work, and I wish you well.

**Mr. Philippe Dufresne:** Thank you.

**The Chair:** That will end that round.

Ms. Dzerowicz, you'll have to wrap it up.

**Ms. Julie Dzerowicz:** Thank you so much, Mr. Chair.

There might be time for one minute, if one of my colleagues has another question.

I want to correct the record, because I think that is important to do in these cases. My colleague Mr. Poilievre made a statement that was not true when he indicated that the Prime Minister intervened to give WE Charity the half-million dollar contract. That has proven to be completely untrue, according to all of the evidence that we heard throughout the summer. I think we need to make sure this is on the record in this meeting.

I also want to address what Mr. Poilievre just said about their having to take the government's word that the documents were not relevant. I want to remind everyone that when we're saying “the government”, these are non-partisan civil servants who are responsible for ensuring that they follow the committee's instructions and provide the documents as instructed.

My question to you, Mr. Dufresne, because I want to make sure this is crystal clear in the minds and understanding of anyone who is actually listening to us, is this: Have you seen or has there been any evidence of, in your view, any political interference in the work that our civil servants have done to provide us with that information?

**Mr. Philippe Dufresne:** I have not seen any.

**Ms. Julie Dzerowicz:** Thank you very much.

Those were all of my questions, Mr. Chair.

**The Chair:** Ms. May, do you have one question?

Then ask it. You have time for one.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Thanks, Mr. Chair.

In your opinion, Mr. Dufresne, was the material that was provided to this committee responsive to the request you received?

**Mr. Philippe Dufresne:** Was it responsive to the request I received?

**Ms. Elizabeth May:** I'm sorry. It's not the request that you received but the request made by the committee, which you reviewed.

**Mr. Philippe Dufresne:** It was but for the claim of those grounds under the Access to Information Act, as I have identified.

**Ms. Elizabeth May:** That is very clear.

Thank you very much.

**The Chair:** That is a good point to end on.

With that, thank you to the witnesses, Mr. Dufresne and Ms. Gauthier. Thank you to all the members who raised very intense questions. I think we had a very lively discussion.

With that, the meeting is adjourned.

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