



House of Commons
CANADA

Standing Committee on Access to Information, Privacy and Ethics

ETHI • NUMBER 036 • 2nd SESSION • 40th PARLIAMENT

EVIDENCE

Thursday, November 5, 2009

Chair

Mr. Paul Szabo

Standing Committee on Access to Information, Privacy and Ethics

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● (0905)

[English]

The Chair (Mr. Paul Szabo (Mississauga South, Lib.)): Order, please.

Welcome to meeting 36 of the Standing Committee on Access to Information, Privacy and Ethics. Our order of the day, under Access to Information Act reform, is a continuation of our consideration of the response of the Minister of Justice to our report on quick fixes to the Access to Information Act.

In discussion of the matter, we have a specific motion, presented at the meeting, by Mr. Pat Martin, who was sitting in on the day. It is still on the table.

Colleagues, as you know, we can only have one motion on the floor at a time, so we're going to deal with that one first.

Under committee business, we also have two other motions. One, somewhat related, is Mr. Poilievre's motion. We also have a motion from Mr. Del Mastro. Both have been given the necessary notice. They will be dealt with once we conclude our work on the government response and anything that would come up directly in relation—I want to stress, again, directly in relation—to the reference of dealing with the response from the minister.

I think all colleagues have a copy of the letter from the minister that was received yesterday. The date on the letter was November 4. We have that one nailed down.

Interestingly enough, I notice that this one has a stamped date. That's probably why the other one didn't have a date on it—it's not actually typed on the letter; it's a stamp. That probably is the reason why we didn't see that.

October 9 is the date it actually appeared on our web and was tabled in the House.

I would like to ask members if there are any observations, comments, or questions about the minister's latest letter.

Madame Freeman.

[Translation]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Mr. Chair, I have seen the letter that arrived at my office at 5:00 p.m. yesterday.

Regarding that letter, I do not understand what Mr. Nicholson is saying at all. He is asking us to go back to work, to reconsider things. A report has already been published. We have already done

all the consultations. In fact, we have been holding consultations for years. The committee has worked on the question. All the information is available. I think it is now time to proceed.

Once again, this response from Mr. Nicholson is a non-response. He is saying things that have no point, given that the report has already been made and the recommendations submitted. It is not just a matter of the government's desire to prepare a bill. We cannot continue working on it. We have done the work.

I propose that we invite Mr. Nicholson to meet with the committee members and parliamentarians. I think that is the minimum. He can't keep sending us responses like this that get us nowhere. I move that the committee ask Mr. Nicholson to appear before us so we can have a clear talk with him about the reasons why he is not bringing forward a new access to information bill, when everything has been done and all the recommendations have been submitted.

● (0910)

[English]

The Chair: *Merci.*

Mr. Wrzesnewskyj, please.

Mr. Borys Wrzesnewskyj (Etobicoke Centre, Lib.): I concur with everything that Madame Freeman has just stated. It's extremely disappointing, because this letter basically is a restatement of what we've already received from the minister.

I think this committee has clearly demonstrated that this is an area that we treat very seriously. We want to see reform. We spent ten committee meetings on this issue. For six of those meetings we called witnesses from across the country, people who are expert in the field, to provide us with advice. All committee members took part in very fulsome questioning of those witnesses. These were people with tremendous professional experience in this field of access to information.

Basically, in bureaucratic wording, he's told us, "Go back to your playpen. We're not going to do this."

I hope that's not what he's intending with this letter, but I think this letter clearly demonstrates that the onus is now upon us to bring the minister back before this committee to explain the dismissiveness with which the government and he have treated this consensual report that has substantive recommendations on an issue that's of critical import for the Canadian public.

We're a democracy. Access to information is one of the fundamental principles of democratic societies. It's transparency of government, knowing what those who govern are actually up to.

From witness after witness we've heard that not only is it not working; it also appears that a culture of secrecy has evolved. The data seem to indicate that it's never been as bad as it is right now.

We see the top levels of government, the PCO, involved in putting up a bureaucratic wall to prevent access. They're trying to camouflage it by saying they've opened up access to all these other entities, crown corporations.

Well, it's not access if there is a wall that prevents you from actually getting in there.

A dismissive letter of this sort does not do justice to the committee's work. It shows poorly on the government, and it certainly does not serve the interests of the Canadian public.

So in looking at this letter, I'm convinced that we are obligated to call the minister before this committee to explain himself, to explain why he has made this decision to basically toss our good work aside, to dismiss us out of hand, and to state that there will be no access to information when it comes to this government.

The Chair: Thank you.

Mrs. Simson, please.

Mrs. Michelle Simson (Scarborough Southwest, Lib.): Thank you, Chair.

I don't want to repeat what my colleague had to say, but I do want to reiterate that I believe this committee did an extensive study of what was required. From my perspective, we worked extremely well together. We produced a report with conclusions that we basically all concurred with. I was extremely proud to be a part of it.

What I am really having trouble with is the fact that it was in fact dismissive. My perception, in hearing testimony from the minister, was that he had already made up his mind. Having seen how he behaved and his responses...while this is disappointing, wasn't surprising.

I think he owes this committee an explanation. I would like to see him brought forth to this committee, because there is nothing in this except ragging the puck—go back and study, go back and study.

We've heard testimony from the interim commissioner that the quick fixes, or what was in the report, is urgently required, that right now the Access to Information Act is imploding because it's bogged down. Well, the Federal Accountability Act did provide more access to more crown corporations. Without fixing the act, it is now collapsing.

So I'd like to concur with Madam Freedom...or Freeman—

An hon. member: *La même chose.*

Mrs. Michelle Simson: —and Mr. Wrzesnewskyj that we're entitled to more of an explanation.

• (0915)

The Chair: Thank you.

Mr. Dechert, please.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

I think I can clarify a few things for my colleagues, who seem to be misunderstanding the minister's letter.

It seems very clear to me that the minister is suggesting that we need to do a more fulsome study. He referred in his letter to his appearances before the committee in 2007, 2008, and 2009. At these appearances, he pointed out that the government had tabled a discussion paper and a series of legislative proposals prepared by former Information Commissioner John Reid. He has suggested that we study this material and undertake a full review of the act, rather than a short-form update of it. It's clear that this is his view, and it makes sense to me. Why would you amend the act twice when you can amend it once and do a proper job?

There's nothing to be served by having the minister come back here again. He stated very clearly that it would be worthwhile to have a full study of Commissioner Reid's report and discussion paper, to examine witnesses in connection with that report, and then to make recommendations on a thorough updating of the act. This seems to be the reasonable thing to do. I think the minister was clear on that. There's no obfuscation or any doubt about what he's suggesting. He made it clear several times when he appeared before the committee.

I'm sure the members opposite would love another opportunity to examine the minister and make speeches to him, but I don't think the taxpayers of Canada will gain anything by that. I think we should continue to study this important matter. We should take a look at Commissioner Reid's report in its entirety, and we should undertake a study to see how the Access to Information Act could be amended from top to bottom, not just in a few summary areas.

The Chair: Mr. Siksay.

I also note that Madam Freeman and Mr. Wrzesnewskyj want to be on the list again.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Thank you, Chair.

I appreciate the opportunity to discuss this letter from the minister. However, Chair, we do have a motion that was moved during the course of the committee's business last Thursday. My understanding of procedure is that this motion should be taking precedence over the other business of the committee.

Now, I know we've put it off because we had the acting commissioner come to the committee meeting on Tuesday. But I hope this discussion doesn't go on for a long time, because we should be considering that motion, in my opinion. Whereas this general discussion on the minister's response is, I think, valuable, I hope we don't spend a lot of time on it.

I'm not going to do anything formally about my suggestion, but I hope this doesn't carry on for a long time, so that we can instead get to the discussion of the motions that have been given notice and are properly part of the business of this committee.

That being said, Chair, I'm not impressed by the minister's letter. This committee, over many years, not just in this Parliament and the previous Parliament, but going back a number of Parliaments, and in fact during other governments, has made very strong and clear recommendations about the need for legislative change; and very strong, clear and definitive recommendations about what that legislative change should be.

I think we can't do anything more than that at this point, and I think the government has had the best input from this standing committee over many years and could easily proceed to presenting new draft legislation around access to information.

I think this is just ragging the puck on the part of the government and a backing away from the commitments they made around access to information in their platform document in 2006, and a backing away from their appreciation of the importance of access to information, which they certainly articulated well when they were in opposition. I am extremely disappointed by the minister's response.

I'm also disappointed by Mr. Dechert's characterization of the opposition as only wanting the minister here so we can make speeches to him. That's certainly not the way I have behaved when the minister has been present at committee; it's not the way I intend to behave when the minister's here. I feel it's dismissive of my participation on the committee and I hope he'd reconsider his position, because it's certainly not my intention to "make speeches" to the minister, as he put it.

But I do think the minister should be asked to come. I think he's given this committee short shrift in the past and has limited his appearances and the time he's had available to this committee, despite the importance of access to information. As Mr. Pat Martin, who was here last week on behalf of the NDP, says, access to information is in fact the "oxygen" of democracy. I think we need to make sure that flow is resumed and continues to illuminate the work of government—and we're not getting that.

Thank you, Chair.

• (0920)

The Chair: Thank you, Mr. Siksay.

If I may, I'd like to address the point raised by Mr. Siksay on the precedence of motions.

You can appreciate that if the committee is in the middle of doing something and someone makes a motion to do something else before that work is done, it would be counterproductive to be in a position where you must decide on that motion before you finish the work.

The Martin motion is very specific to the discussion on the minister's response, and that motion is going to be dealt with as soon as the members have given their final inputs on the role. Then that item of order of business—which is to consider the minister's response to the quick-fix report—will be completed, unless there are any other motions coming from members on that order of reference. Okay?

Mr. Martin's motion is a consequence of our meetings, our consideration, that we're continuing right now. So we will be doing that. It's not as if it's something that's done after we have finished

this; no, it is the conclusion of this discussion. It is the only motion on the floor that specifically relates to the order of the day, which is to consider the minister's response.

If other motions on unrelated matters come up, they are dealt with after all of the other scheduled business. They are entitled to be heard, but not to pre-empt other approved and scheduled business of the committee.

I think you wanted to rebut that a little bit.

Mr. Bill Siksay: I'd like to challenge that by making a motion that we move directly to consideration of Mr. Martin's motion.

I'm doing that because I believe the consideration of the government response is exactly what Mr. Martin's motion is about. If members want to respond to either the minister's letter or the government response to the report, they can do that as part of the discussion of Mr. Martin's motion, which is exactly on that topic.

I think we should not further delay the consideration of that motion. It has been debatable and in order for several meetings now, and I think we should move exactly to that.

I would propose that motion right now.

The Chair: I think everybody understands it.

Would you like to take a vote now?

Is everybody fine with that?

Okay.

All those in favour of moving to Mr. Martin's motion now?

(Motion agreed to)

The Chair: Okay.

Mr. Martin's motion has to do with the minister's response and how we respond to it. The speakers list that I had is now clean, so we'll start again.

If I may, Mr. Martin's motion reads as follows:

That the Committee report to the House its profound disappointment with the response of the Minister of Justice to its 11th report entitled "The Access to Information Act: First steps towards renewal".

We'll start with Mr. Del Mastro, from the speaking list.

• (0925)

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chairman.

You'll forgive me, Mr. Chairman, if I had assumed that we *were* dealing with that.

I think the positions of the committee are well known on this. I move, in the interest of time, that we move directly to a vote on this matter. I think all members, opposition members and government members, have been clear on the motion. I think we can move forward.

Thank you.

The Chair: You would like to move that the question be put?

Mr. Dean Del Mastro: Yes, that the question be put.

Thank you.

The Chair: Would members like to debate the motion?

Would you like to call the question now?

Mr. Borys Wrzesnewskyj: I was on the list.

[Translation]

Mrs. Carole Freeman: What does he want, exactly?

[English]

The Chair: The motion itself is debatable.

[Translation]

Mrs. Carole Freeman: If I understand correctly, this is Mr. Martin's motion.

[English]

The Chair: *Pardon.*

I just learned something new—

Mr. Dean Del Mastro: If we're considering a motion, I can only propose an amendment to the motion. I can't propose a motion on a motion.

It's simply a request that, I think, if we're all ready—

The Chair: I think your motion does express a sentiment. So we're not going to put that.

Just for clarity, this motion from Mr. Martin is an effort by one of our colleagues to bring this subject matter to a conclusion in order to move on with other business.

Mr. Martin's motion is amendable. Any member can make a motion. There's no notice requirement. As long as you're sitting at this table at this meeting, you can make amendments. I guess it's obvious; even the motion to put the question actually exists in the House and it is debatable, so it really doesn't do anything except stop anybody from making an amendment.

That is not permissible in committee. That's the new little wrinkle. Amendments are possible to the Martin motion. We've had Mr. Del Mastro....

The whole subject matter of the response to the minister's thing is still alive, but in the context of the Martin motion.

Mr. Wrzesnewskyj.

Mr. Borys Wrzesnewskyj: Thank you, Chair.

We just heard that the reason the minister has dismissed our report is that...well, the government doesn't want to amend the act twice. It was an explanation provided by Mr. Dechert. I find that transparently disingenuous. The government has not given any indication that it has any intention of amending it even once, never mind twice.

It is interesting; it's in such stark contrast to the Conservative Party's platform from 2006 during the election campaign, when they said a number of things. There was reference to John Reid's "open government" proposal paper, and a commitment in their platform to put that into legislation. There was a commitment to address the problem of access we have due to cabinet secrecy, and the inability of the commissioner to take a look to verify whether or not cabinet

secrets are at stake when the government decides they will not provide documentation.

We heard the current commissioner's response to some of these. The government has not moved on any of these fronts, whether it's proposals that were made by John Reid or any of the proposals made by Mr. Marleau that we spent a tremendous amount of time looking at. And those were quick fixes. We were trying to help the government address this very important situation where the transparency of our government was being undermined.

All the data clearly indicate that a fundamental principle of our democracy is seriously being eroded. We can't take lying down this sort of dismissive response from the minister. We would not be acting in a responsible manner as elected representatives of the public if we were to allow this to pass without a challenge.

These attempts at explaining the minister's dismissive attitude toward the committee's report and the current and previous commissioners on this fundamental principle of transparency of government is....

What is transparent here is that the minister has made a decision not to address this issue. What really worries me is that this is running in a parallel track to a situation where our government is engaged in one of the biggest expenditures in the history of our country. It has to be done expeditiously. Mistakes will happen. Public accounts will have the opportunity to look at some of those mistakes. But it's worrisome when we see the manner in which the government has conducted itself over the last months when it comes to infrastructure funding. Whether it was the affair with the cheques, where the Canadian flag was replaced by the Conservative logo, ministers and the Prime Minister putting their names on cheques, it's worrisome. It shows an attitude.

We have to remember that it wasn't the money of a member of Parliament. It wasn't—

• (0930)

Mr. Dean Del Mastro: I have a point of order, Mr. Chairman.

The Chair: Mr. Del Mastro, please.

Mr. Dean Del Mastro: The motion we're dealing with from Mr. Martin is quite different from the point Mr. Wrzesnewskyj is making.

I would encourage Mr. Wrzesnewskyj, based on the comments I've heard from opposition members across.... I think they've bought into what he's saying. Perhaps the chair could encourage him to stay somewhere within the confines of the relevance of the motion.

The chair has on many occasions—in a previous Parliament for sure—suggested to me, in my comments, that I may wish to guard them and keep them within certain confines. I encourage the chair to be consistent on that and encourage Mr. Wrzesnewskyj that his point is taken.

Thank you.

The Chair: Mr. Wrzesnewskyj, I'm sorry, I'm not going to critique what you've been saying, but I will pass on from the member an encouragement to stay within the relevance of the motion before us.

Mr. Borys Wrzesnewskyj: Absolutely. This is perhaps something my colleague hasn't connected the dots on, but let me do this for my colleague across the way.

This money doesn't belong to the Conservative Party. It's 100% the taxpayers' money. We have a responsibility to provide transparency on how the taxpayers' monies are being used, especially at a time when this money is being pushed out in a rapid manner and we have worries about the attitudes that the government has when it comes to these projects.

I can't help but feel that the minister—

● (0935)

The Chair: You're straying again. Bring it back, please.

Mr. Borys Wrzesnewskyj: I was about to get back to the minister.

I can't help but think there's a connection here. The minister is worried. The minister may not want these quick fixes because the government is worried about providing transparency. In their platform they said clearly and unambiguously that they wanted greater transparency. We had session after session where we went through this and heard from witnesses. There was a consensus at this committee table. A well-thought-through and well-documented report was tabled in the House, and it's been dismissed out of hand.

Why does the government want to hide behind a veil of bureaucratic secrecy? Why is the PCO stopping Canadian citizens, their elected representatives, and the media from accessing information about what the government is doing with Canadian tax dollars—the people's money?

I can't help but feel that we would not be acting responsibly if we didn't call the minister before this committee to explain why he, as a minister of the crown, is acting on behalf of the government in this manner; why this government does not want access to information; and why they don't want transparency in the way they go about governing our country.

The Chair: Thank you.

Mr. Siksay, you're on the list next.

Mr. Bill Siksay: With regard to Mr. Martin's motion, I think it's very important that the committee express its disappointment with the minister's response, with the government's response, to our report and to the work we did.

I think that Mr. Martin, who is known for his ability to turn a colourful phrase in his work as a member of Parliament, was judicious in his choice of language. The word “disappointment” is a clear word, but I don't think it's inflammatory. I think it's a good motion in that regard.

When we look at the minister's response, we see that we have a very skimpy concession to further progress on the reform of access to information. The only thing the minister grants in the official response to the committee's report is that there should be an opportunity for enhanced guidance and training. That clearly is valuable but is, in the minister's reply, over-valued in terms of a response to the need for the reform of access to information. It doesn't address the need for dramatic legislative change. It doesn't

address the need for a better compliance model. I don't think it addresses many of the other issues related to the reform of access to information.

Mr. Martin has tabled the former Information Commissioner's “open government act” as a private member's bill. I believe Madam Freeman has also done something similar with legislation in this area. Opposition members have tried to keep those excellent suggestions from the former Information Commissioner. They are specific and detailed, a full draft bill. This is an unusual step for an officer of Parliament to take. We've kept the importance of those changes alive. It shows that in the opposition benches there has been an attempt to do the proper homework on this matter.

I have spoken about Mr. Martin's measured language. Other members of the committee this morning have characterized the minister's response to our report as dismissive. Perhaps that's a strong term, but I think other people in the community who have an interest in the reform of access to information have seen this matter in even stronger terms.

I want to quote from a letter from three organizations that have a clear interest in the reform of access to information. They are the Canadian Taxpayers Federation, through their federal and Ontario director, Kevin Gaudet; the Canadian Newspapers Association, through their president and CEO, John Hinds; and the B.C. Freedom of Information and Privacy Association, through Darrell Evans, their executive director. They recently wrote to the Prime Minister about the government's response to our report. They are upset with this response. They reiterate the promises that Conservatives have made in past elections and show how the government's response comes nowhere close to keeping those promises. They also use strong language. I want to quote from the paragraph in which they react to Minister Nicholson's response to our report.

They say to the Prime Minister:

Your government's response is contemptuous of the members of the Committee, including the members of your own party, and reflects similar contempt for the right of Canadians to have access to government records in order to hold their government accountable.

Those organizations and individuals who have a clear interest and have worked hard on these issues used strong language to describe the inadequacy of this response from the government.

I agree with Mr. Wrzesnewskyj that there are many issues of government accountability before Parliament and before the public. Given the size of the stimulus package and the quick roll-out of it, there are good reasons to want to ensure that we have the best possible regime for access to information, the best possible means of holding government accountable.

We would be turning our back on decades of work by this standing committee and others, as well as by concerned members of the House of Commons, if we didn't move to express our disappointment in the government through this motion. We need to continue our work to ensure that there is significant and real reform of access to information in Canada.

● (0940)

Thank you, Mr. Chair.

The Chair: We'll carry on with the list.

Madam Freeman, please.

[Translation]

Mrs. Carole Freeman: Mr. Chair, to get back to the Minister's letter, certainly it looks to us, as it is, a contemptuous response, to the work all of the members have done here, on this committee, month after month and year after year.

Mr. Marleau said when he appeared that the responses he had given us were somewhat slight, so it is all the more so. To quote Mr. Marleau, this way of operating and this kind of response to the committee means that Parliament and the work of parliamentarians lacks credibility in the eyes of the public and the taxpayers to whom we are accountable.

This government that was elected fought its election campaign on the greatest possible transparency and openness. Since it was elected, all we have seen is closed doors, limits on access to information, a culture of secrecy and a lack of transparency. We also see an absence of any will to change things and carry out the commitments made.

As far as I'm concerned, I want to move an amendment to the motion, Mr. Szabo.

The last time, it wasn't noted that I wanted to move an amendment. I would therefore like to move an amendment to this motion.

[English]

The Chair: If you can give it slowly, we will write it down carefully.

[Translation]

Mrs. Carole Freeman: We have the translation of the motion.

The Chair: Read it in French.

Mrs. Carole Freeman: I also want to say that I made a motion last February. In response to the work done by Commissioner Reid and his report, I asked that the government produce a new bill on the Access to Information Act. That motion was made in February 2009, an we passed it.

I think that everything dealing with amending the Access to Information Act, all the information gathering and all the consultations, has been done. We have listened to the people. We have all the information needed. Commissioner Reid, before Mr. Marleau, did exceptional work in presenting his bill. Last February, in response to the work done by Commissioner Reid, I asked this committee, in a motion, to ask the government to introduce an access to information bill.

So may I move my amendment to Mr. Martin's motion now?

● (0945)

[English]

The Chair: My understanding is that as a consequence of this, we ask that the government table a bill to amend or reform—

[Translation]

Mrs. Carole Freeman: No.

This is my amendment. I am asking:

that the Committee recommend to the government that it introduce in the House, no later than March 30, 2010, a new Access to Information Act that would reflect the Committee's proceedings and recommendations.

[English]

The Chair: You're recommending that we do something as opposed to the minister do something, as in "recommend to the committee that".

[Translation]

Mrs. Carole Freeman: I want to add that to Mr. Martin's motion.

[English]

The Chair: Let me read for the committee what I've just received here.

Mrs. Carole Freeman: I have the translation.

The Chair: I just want everybody else who's listening to also have the words: that the Committee recommend to the government that it introduce in the House, no later than March 30, 2010, a new Access to Information Act that would reflect the Committee's proceedings and recommendations.

This is what I understood it to be in the first instance. We're asking the minister to table a bill in the House by such-and-such a date.

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Mr. Chair, I think we're making really good progress here. I would be prepared to go to a vote on that.

The Chair: You would; good.

Madam Freeman, that amendment, which actually would add the word "and", and then your motion...to the very end?

Mr. Siksay, does that seem to be right?

Do all the members have this motion?

I think the members understand the gist of the motion: there's a calling on the government to introduce a bill to reflect our work—and anything else, I assume—by March 30, 2010.

Madam Freeman, are you going to speak to your amendment?

Okay.

[Translation]

Mrs. Carole Freeman: Yes. In fact, I made the same motion last February. That being said, I want to point out that all the work has been done by this committee and all the commissioners have submitted their recommendations. Mr. Reid and Mr. Marleau have made their recommendations. So we have all the information. The government has all the information.

Now, I would like to point out that it is up to this government to demonstrate its political will. As Mr. Marleau said, it is a question of leadership, of political will, from above. If they absolutely do not want to give the Canadian and Quebec public access to information and they reject all transparency, that has to be clear. Canadians and Quebecers have to get the very clear signal that this government does not want transparency and it wants to retain a culture of secrecy. It is important that this be very clear. Let's stop passing the buck with Mr. Nicholson's responses, which simply dilute things.

However, that being said, that does not prevent me from also asking that Mr. Nicholson appear before us to explain his political will and so that we know exactly where it stands.

• (0950)

[English]

The Chair: Just for clarity, that could happen, but you're not suggesting that it happen; you're not going to amend it.

[Translation]

Mrs. Carole Freeman: I am making my motion. However, that does not prevent the request I just made for the Minister to appear before us from also standing, without being an amendment.

[English]

The Chair: *Je comprends.*

Madam Simson, please.

Mrs. Michelle Simson: Thank you, Chair.

With respect to the actual motion, I think it is extremely important that we hear from the minister directly. To Mr. Siksay's point, I think it has been judiciously worded, but it doesn't even tell the tale about the disappointment and the lack of thought that went into his response. I'd almost question whether or not he'd even bothered to read it.

I'd like to address what Mr. Dechert said about having the minister appear.

I do take great exception to the fact that you believed it was for the purpose of making a speech. I'm not interested in speaking, I'm interested in listening. I would love to hear why he put on paper what he did in terms of a response. I'd like to hear it from his own mouth.

I'm really concerned about what seems to be a systematic closing of doors and tackling of—

The Chair: Mr. Del Mastro, on a point of order.

Mr. Dean Del Mastro: Thank you very much, Mr. Chair.

I would just remind the member, or perhaps you could remind the member, Mr. Chairman—I don't want to overstep my bounds—that we're talking about a subamendment that specifically speaks about tabling a new Access to Information Act by March 30, 2010. It doesn't have anything to do with whether or not the minister might appear at the committee.

We are actually talking about the amendment right now that was proposed by Madam Freeman, and I think pretty clearly.

Thank you.

The Chair: Thank you.

This is always a difficult judgment call, because if the next words out of the member's mouth were, "For that reason, I am opposing the amendment", then it becomes quite relevant.

I haven't heard her final words, but I will just say, for the member and maybe for all honourable members, that it is in our best interest and in the public interest to be additive to the conversation. It's not just relevance. It is also repetition.

We talked about ragging the puck on the minister's behalf. We shouldn't be ragging the puck ourselves, either, unless it's absolutely necessary for you to bring things together.

I think we understand, but I do want the members to think very carefully. This is just a suggestion for consideration. Think very carefully about where you want this to end up. If it is a full stop and we don't agree with you and you don't agree with us and somebody else is going to have to pick up the ball, that is one thing. That would not be my personal view, but again, we'll hear how the committee goes. Let's see if we can start targeting in on ultimately what makes sense for us with regard to our mandate.

Madam Simson.

Mrs. Michelle Simson: With respect to the amendment, I am not convinced that a new Access to Information Act is required at this time, but I am prepared to support it only because it has taken this committee the better part of months to get quick fixes done. We have heard from witnesses, and without question, every witness agreed that this Access to Information Act is broken, is not working, and is denying Canadians the right to access information to which they are entitled.

I do believe we have to let the minister know, in the strongest possible terms, that it's unacceptable to have the status quo and further study. Based on what he had to say in his letter, I don't know how successful we'll be. One man decided that what we did was trash, that the Access to Information Act is a strong piece of legislation.

It's over a quarter of a century old, from a time when people had no access to computers. I agree with Madam Freeman: we need to convey to the minister that it's unacceptable, not only to this committee but to all Canadians.

Thank you.

• (0955)

The Chair: Mr. Wrzesnewskyj, then I have Mr. Siksay.

Mr. Borys Wrzesnewskyj: I support the sentiment of this amendment. It shows an attempt in a responsible way to compel the government to respond responsibly. But the original motion was a motion expressing our sentiment about the correspondence and the communication back to the committee as a consequence of our report.

I worry that if this amendment were to pass at this point in time, I believe we can have another motion that's put forward as a separate motion that deals with this particular issue of the government's response to it and timelines, but I think that should occur after the minister appears before the committee to provide an explanation as to why he has dismissed the report so out of hand.

Although I support and concur with the sentiment, I wouldn't want this to take away from intent of the original motion. Even more worrisome, we've seen how the government has tried to avoid dealing with this particular issue. I would hate to see our committee members' measured and responsible approach to this as an excuse for the minister to say there's no reason for him to appear before the committee because we have already said he is not expected to give a response until March 30.

Let's get the minister before us here. Let's have him answer those questions. Then perhaps we can put a motion on the table that would deal with this particular issue.

The Chair: I'll just remind members that we can only have one motion on the floor at a time, but there can be an amendment and a subamendment to a current motion. For instance, the Martin motion has an amendment and there could be a subamendment, but I think the member is suggesting a new motion. We wouldn't be able to entertain moving that at this time until the Pat Martin motion is disposed of; just so it's understood.

Members, I really need to know this. Does anyone have a copy of the minister's discussion paper that he referred to in both of his letters? Has anybody read it? Has anybody ever seen it? Does it exist?

I raise that a bit facetiously because the researchers and the clerk have been scouring, and we have no evidence of any kind of recommendations or discussion paper that we can bring to the committee for its interest.

That concerns me. There was no title to this apparent discussion paper and no date other than the year, but it may be relevant to what we're discussing. I simply raise that it was referred to in both his letters, his original response as well as in this supplementary response.

I hope I don't have to explain to committee members or justify why I sent him the blues of Mr. Marleau's appearance and asked if he had any further comments, and he responded. That was not directed to me. The chair took that as a chair's decision, as a courtesy in case there was any clarifying information, and he has some. So that's how that happened, if members are interested.

Mr. Siksay, please.

• (1000)

Mr. Bill Siksay: Thank you, Chair.

I just want to say very briefly that I strongly support and thank Madam Freeman for tabling this amendment and for bringing forward yet again this idea that we want the government to bring forward a new Access to Information Act and giving them a deadline to do it. I live in hope this will be the last time we have to request that from this committee, that we will get the government to agree to do that in the timeframe that's suggested in her motion.

Mr. Chair, I also think this amendment complements very nicely our sense of disappointment that's expressed in the original motion. I think it gives a concrete suggestion about what we think needs to be done that would deal with our sense of disappointment and deal with the fact that we believe change is needed to the Access to Information Act.

I think this is a very helpful amendment and will support it strongly.

The Chair: Thank you.

Madam Freeman, you're next on the list.

[Translation]

Do you want to comment?

Mrs. Carole Freeman: As far as I'm concerned, I think we should vote on Mr. Martin's motion and my amendment.

To answer our colleague who just spoke, I will say that in my opinion, having the Minister appear before us and give oral answers is a common procedure in the parliamentary system. At present, he is sending us letters that say nothing or just dilute the issue. In fact, my amendment and the Minister's presence are not mutually exclusive; quite the opposite.

[English]

The Chair: Okay.

I am going to ask Madam Davidson to take the chair now. I'd like to take a chair on the side. I'll be subject to the rules of relevance and all other good things in order to sit at the table.

Madam Davidson will be chairing my intervention.

The Vice-Chair (Mrs. Patricia Davidson (Sarnia—Lambton, CPC)): Members, the next on the list is Mr. Szabo.

Mr. Paul Szabo: Thank you, Madam Chair.

I am the only member of this committee who was here at the beginning; everyone else is new. As a matter of fact, I did participate in the all-party committee of former member of Parliament John Bryden, where we considered the proposed bill by Mr. John Reid, the former Information Commissioner. We had several months of discussions, and we did bring forward a report, which we circulated to all members of Parliament. But because it wasn't an official committee, we couldn't table it in the House.

The open government act, which is a complete rewrite proposed by former Information Commissioner John Reid, was considered and basically recommended by the John Bryden committee. The transcripts are still available of that discussion with former Commissioner Reid, for those who are interested. This whole subject we're dealing with about reforms or amendments to the Access to Information Act has been around for a long time.

The reason I asked Madam Davidson to take the chair, the reason I wanted to express my personal views, is that I'm concerned about the direction we're going in.

First of all, I'm concerned about our relationship with the minister. I'm not happy with the Pat Martin motion, in terms of its language. I understand the frustration, but we also have to respect that the minister has to take a certain position. Committees cannot generate legislation; all we can do is propose matters for consideration. It is only the government, and indeed only this minister, who can do legislation.

I think we are aware that the current government, in an election platform, in fact had promised to implement the open government act fully. Unfortunately, that has not been acted on.

The reason I raise it is that our committee, in my recollection of how all of this worked, didn't feel it was important for us to review the act in its totality and to come forward with suggestions and do the hearings, etc., for the reason that the government had promised to do it—without having what the minister, in his letters and so on, created in terms of this disappointment that we're talking about—and it wasn't necessary for us to do that. All we could do was recommend to the minister. But the minister had already committed, indirectly, to do the open government act.

That's point one. Point two is that the Minister of Justice has appeared before this committee on the Access to Information Act only once. Even then he restricted it to an hour: one hour. We didn't get a chance to have a conversation with him. I think the clerk will verify that it even took a long time to get him to come to committee. I always thought there was a reluctance....

I think the committee has demonstrated that we do want to see a serious commitment to some reform and some changes. Now, if you look back at our steering committee recommendations—what we're doing and what we have been doing—the committee came to the conclusion that in a minority government, which is quite short, it would be virtually impossible to do a comprehensive review of the entire Access to Information Act, to come forward with recommendations, to have the government consider them, to have the government propose them, and then to have the government bill handled through the House and its normal channels.

• (1005)

It's clear to anyone who knows the parliamentary process that it would be impossible to go through all of that in the life of a minority Parliament. The Privacy Commissioner had come forward with quick fixes to the Privacy Act. That was before we got the quick fixes to the Access to Information Act. She was of the same view that I could come forward with all kinds of things, but we are not sure that any individual change would be acceptable to the government or whether they would be prepared to touch the act in any way.

As a consequence, I approached Mr. Marleau, the access to information commissioner, and asked him what he thought about quick fixes. He told me that they had also come up with the quick fixes and—

• (1010)

Mr. Dean Del Mastro: I have a point of order.

The Vice-Chair (Mrs. Patricia Davidson): Mr. Del Mastro, on a point of order.

Mr. Dean Del Mastro: Thank you very much, Madam Vice-Chair.

I am interested in this. I think the history of how we got to this point is valid. Perhaps Mr. Szabo, as the independent chair of the committee, could provide this timeline and narrative to committee members to read on their own time, but I would stress that committee time is valuable.

We do have a subamendment or an amendment that has been brought forward by Madam Freeman that I know she would like to vote on, which I believe was presented in order. We have a motion by Mr. Martin, which I believe is also in order, and out of respect to

those members, I think we should be moving to the motions at hand. We have other motions to deal with today at the committee. I just suggest that while I am interested in hearing all of the timelines and how we arrived at this point, I think this morning might not be the appropriate time.

I'd encourage Madam Vice-Chair to encourage the member to speak specifically to the motion. Perhaps, out of respect to the members who have brought those motions, we could deal with them.

Thank you.

The Vice-Chair (Mrs. Patricia Davidson): Thank you, Mr. Del Mastro.

Mr. Szabo, I remind you that we are debating the subamendment at this point. If you can bring your discussion to the subamendment, that would be appreciated....

I'm sorry, it's an amendment, not a subamendment.

Mr. Paul Szabo: Thank you.

The amendment deals with coming forward with a new Access to Information Act. What I have been saying, Madam Chair, is that this committee, as you may recall from my presentation here, came to the conclusion that we could not do that. If the government were to be so moved, it is quite unlikely, during the average life of a minority Parliament, that this could ever achieve anything.

I don't want to say how I'm voting, because I like to vote after we've had all the discussion. But my sense right now is that this subamendment would simply go into a black hole, and we would never see anything. That's my own view, and I wanted to express it. That's why I left the chair. It was so I could say that and have an opinion.

I'm hoping that members want to see some changes. The reason Mr. Marleau came forward with his quick fixes was for that very reason. We have no time, or we won't have enough time, for the committee to do a whole review and then have the government do a bill. So let's try to at least get some things that would accomplish two things: one, address administrative efficiencies in the act, and two, deal with some of the legislative components. Those are the two areas of difficulty that have been expressed to us by that commission.

The reason I've taken this unusual step of leaving the chair—it occurs sometimes—is that I'm concerned about the direction we're going in. I'm concerned that we have entered into a situation where our relationship with the Minister of Justice, who is responsible for this act, is being eroded in terms of quality. I know the minister personally. I respect him. I've read carefully what he's written in his letters, and I try to understand the underlying thinking. The words on the paper reflect a lot of other consultation and stuff that we don't have on paper.

You assume good faith, but there is a problem. The government is not in a position, for whatever reason, to come forward with the John Reid open government act. If this motion goes forward with the amendment, I'm pretty sure about what the outcome will be. That's why I want to make this intervention. If this amendment passes, this matter leaves our desk. It leaves the order of business of this committee, and we wait until next March to see. But I'm pretty sure that we won't see a bill.

I don't want it to end like that. I want to appeal to the committee to reconsider the decision we made at the beginning of this process. Rather than try to do the impossible, which would be a full review of the Access to Information Act—to do it properly would take a couple of years—consider that the quick fixes are important and that maybe what we should be doing is paring them down. Let's see what the committee, not Mr. Marleau, is recommending as quick fixes. Let's see whether we have one or two solid positions we would accept and recommend to the minister and seek, at least, amendments to the act. That's the test. The test of whether there's good faith is whether the minister is prepared to accept and implement changes this committee would unanimously agree to, based on its knowledge and understanding of the act.

• (1015)

I referred earlier to this discussion paper. I am a little concerned that we don't have it. We're going to keep looking. I think what I'm going to do, if we can't find it by the end of the day, is ask the minister if he could provide us with this discussion paper that we're unable to find. I think it's very relevant, because that's the whole basis on which he said to us that we should consider those recommendations on this discussion paper, and we don't have it. If that's his view, I think we should respect his view, but I think we should look at it before we take a decision.

Chair, I think I've gone on long enough. I think the members understand where I'm coming from. I simply don't like where I think this is going to end up, and I hope we would consider trying something that would get us in a position that would help us to reaffirm a positive relationship with the minister and see if there is any common ground on some modest amendment or two with regard to the Access to Information Act.

The Chair: Mr. Wrzesnewskyj, you have the floor, sir.

Mr. Borys Wrzesnewskyj: Thank you, Chair.

Madam Freeman stated that the intent of her amendment was to do something that should be “normal”—I think she used that word—in terms of normal for the government to proceed in this way.

Mr. Szabo spoke of good faith in government.

As I've said previously, I understand the sentiment of this amendment, but it is quite clear to me that we'd be generous in assuming that the government would proceed in a normal way on this.

What we've seen from the minister, speaking on behalf of the government, is a breaking of a trust—

• (1020)

The Chair: Mr. Del Mastro has a point of order.

Mr. Dean Del Mastro: Thank you, Mr. Chair.

With due respect, I might suggest that we're seeing some contempt toward the members who have brought these motions in order to this committee. I don't think there is any question that they've been talked out. I think positions are known, and I don't think there is any question that what's occurring here is a deliberate attempt to stretch out debate on these motions.

I don't think Mr. Wrzesnewskyj has said a single thing that pertains to the amendment, which perhaps the chair might wish to reread. He may or may not have any comments on the amendment, but that is what's before the committee right now.

An hon. member: It's just transparently disingenuous, Mr. Chair.

The Chair: I hope that didn't get on the record. That's unparliamentary.

Mr. Pierre Poilievre: He was just quoting Borys.

The Chair: Oh. Let's be careful with our choice of words.

This has come up a couple of times with regard to speaking to a motion or an amendment. Some amendments in their totality are nonsensical without putting it in the context of the motion itself.

When we're speaking here on the amendment of Madam Freeman, it has to be in the context of the motion. So as long as a member is talking about the motion and its amendment and subamendment, if there is one, that really is relevant. Sometimes people stretch it, but let's not stretch it too far.

Mr. Wrzesnewskyj, I think you've heard the concern of the members. Carry on, and let's be constructive or productive.

Mr. Borys Wrzesnewskyj: Yes. In fact, Chair, I started by quoting Madam Freeman, who stated, when speaking to her amendment, that this is something that should be seen as normal. So I was dealing specifically with the amendment, and then the broader context of the original motion and the statement of whether or not the minister is dealing in good faith.

I'm not willing to be as generous as perhaps Madam Freeman is in regard to whether or not we can expect good faith on behalf of the minister speaking on behalf of the government, because I think he's clearly demonstrated the opposite. His letter of November 4, in dismissing our—

The Chair: Go ahead, Mr. Del Mastro.

Mr. Dean Del Mastro: Mr. Chair, on a point of order, the minister's letter of November 4 has nothing to do with a new Access to Information Act that could be brought by March 30, 2010. That is the motion that's before the committee.

As I've said previously, the member is making a very thinly veiled attempt to stretch out this debate. Frankly, I think it's disrespectful to the members who have brought the motions forward.

The Chair: The minister is encouraging the committee to consider comprehensive reforms to the Access to Information Act. So the subject matter is the act and about fixing it, no matter how that may happen. As long as the member is talking about how we get there, whether it's our making recommendations to the government or the government coming forward with some, it's close enough. Okay?

But again, I'm encouraging members, as I've expressed at least three times now, to look at what the motion and the amendment say, how they work and where they leave us. The debate now should be an articulation of the point of view of a member, which would possibly be reflected in their vote on the amendment and the motion. That's where we're going. The funnel is going down, and we should be going down to the issue of "So what?" We've had a lot of talk....

Mr. Wrzesnewskyj, you have the floor, but be mindful of where we're going here.

• (1025)

Mr. Borys Wrzesnewskyj: Absolutely.

You used the example of the funnel and how we end up at a decision when it comes to the actual vote.

Referencing the minister's letter of November 4, I note that in that letter where he once again dismisses the report that has caused this motion to be brought forward in this committee—I'll read it into the record, although it's there, but just to remind fellow committee members that the reason he has dismissed our report is because he'd like to guide us in a different direction—he states that he wants us to "study the issues raised in the government's discussion paper".

That's in his letter of November 4. In his appearance before the committee on May 4, he said something quite different, when we were working on our report. When I asked him about the Conservative platform, "Stand up for Canada", where they pledged that so-called cabinet confidences would not be excluded from the commissioner's review, one of the most important recommendations we made in the committee that has been dismissed out of hand, this is what the honourable minister responded:

I'm pleased to hear any recommendations or any analysis that is made.

It's not restricted to the government's discussion paper, it's "any recommendations".

He went on to say the following: The whole question of cabinet confidentiality, quite frankly, is a long-standing cornerstone of the Westminster system of government, so if this committee would like to examine that issue—and I think they should—I would be pleased to have a look at this issue.

He emphasized it by stating, "I think they should". He thought that we should be addressing these issues. He stated on the record that he'd be pleased to address those issues. Yet when we came forward with our report and recommendations, he dismissed them out of hand and now he's telling us to go in a very different direction and study the government's discussion paper.

But then he even challenged us. He said, I'm here to tell you that if you would again take up the challenge...I would be pleased to see whatever you have to say.

That's what the minister told us on May 4. We did our work in good faith. We took the minister at his word. He clearly stated that he thought that we "should", that he would "look" at the issue.

Those are the minister's words. He told the committee to take up the challenge.

The Chair: Mr. Del Mastro, on a point of order.

Mr. Dean Del Mastro: As I said, Mr. Chair, I have considerable experience with the chair in this committee in the previous Parliament, and on many occasions the chair cut me off, in fact, or reduced my speaking time for repetition. If Mr. Wrzesnewskyj were a record, his needle would be skipping.

I feel as though I've heard this several times. Unless we're going to start reading the letter backwards to see if there's a hidden meaning in it, I'd suggest that we could probably move to a vote. I think members of the committee would be very interested in moving to a vote.

The Chair: I tend to agree. I think I've heard some of the argument. I understand how, as members, we tend to loop around. We go back, pick it up again, bring it up, and the progress forward is....

I think we're probably getting very close to the "so what" part. So let's go.

• (1030)

Mr. Borys Wrzesnewskyj: I think it's quite clear, Chair, that faith has been broken with this committee, with the Canadian public. Consequently, although I respect this amendment to the motion, the intent of the amendment, the way it's currently worded I wouldn't be able to support it.

Finally, in terms of Mr. Del Mastro's comments, I think it was good for him to hear what the minister had to say back on May 4 when he was not on this committee, to hear the minister's commitment that he clearly made to this committee, and to hear why this committee has decided to put forward a motion of this nature for discussion before the committee at this time.

Thank you.

The Chair: Mr. Siksay, please.

Mr. Bill Siksay: Thank you, Chair.

I just wanted to respond very briefly to your comments when you stepped out of the chair.

Chair, I disagree most strongly that this amendment or this motion would in any way limit our ability as a committee to look at the issues we want to review, any issue related to access to information. I think we can encourage the government to bring forward a new piece of legislation and set a deadline for it, given the length of time that has passed without that kind of legislation.

Even though we do that, I don't think we have to wait until March 2010 to look at other issues that may affect access to information in Canada. If this committee wants to look at administrative issues like proactive disclosure or cost recovery, or if it wants to look at an electronic application system, we could choose to do that. There's nothing in this motion or this amendment that would prevent us from doing that in the meantime.

In fact, Chair, I would say we could even look at specific legislative issues related to access to information, even if we pass this motion. I believe there's enough on the table and enough water under the bridge; there have been enough presentations and enough studies that the government has the information it needs to bring forward a recommendation, bring forward legislation. We don't need to do one more hearing on it to make that possible for the government. It has that information. It has its own opinions. It has its own commitments and its own platform promises, as well, on practically all of these issues.

Chair, there is nothing in Madam Freeman's motion calling on the government to bring forward legislation in a certain timeframe and nothing in our expression of disappointment in the minister's response that would preclude any progress on this issue. I want to make that point very strongly. That's why I'll be supporting both.

Thank you, Chair.

The Chair: Thank you, Mr. Siksay.

Thank you for reminding all of us that the committee is the master of its own work plan. We certainly can address Mr. Dechert's cost recovery concerns. We can address the possibility of looking at or examining proactive disclosure, etc. That would be very interesting to me, and I hope, maybe, we could refer that to the steering committee for consideration when we look at our planning of work beyond what we've already approved. But that's up to the committee.

The other point I would just raise is that Madam Freeman already had a motion before this committee. It was tabled in the House, she moved concurrence in that, and there was already a debate that the government bring forward a bill. That was not embraced by the House. We'll give it another shot, though. I think that's what this motion is saying. I'll just let people know that we already tried this route.

Madam Simson, go ahead, please.

Mrs. Michelle Simson: Thank you, Chair.

I'd just like to address Mr. Del Mastro's comments with respect to your relinquishing the chair and giving us some history, because I for one really appreciated it. It was relevant to this particular issue, this motion, and this amendment.

It was something that Mr. Szabo had to say with respect to minority governments—

Mr. Dean Del Mastro: Mr. Chair, a point of order.

• (1035)

The Chair: Madam Freeman...or Madam Simson, I apologize; I didn't get much sleep last night.

Mr. Del Mastro has a point of order.

Mr. Dean Del Mastro: Just to be clear, we're now debating whether testimony or thoughts that were given by another committee member were actually relevant or valuable.

What in the world does this have to do with the amendment? Can somebody...?

I understand what's going on. I'll tell you, frankly, that it is within the chair's right to relinquish the chair and to provide his opinion

should he wish to do that. I have never seen it done, but that is what we saw this morning. We appreciated it. I encourage the chair to provide that.

In fact, if the chair would like to do a significant amount of work and provide that to you so that you would have more information, so that you can make your decisions in the future, I think that's fantastic. But as I said, I think the way your party is acting this morning is contemptuous to the members who have brought these motions in good faith, and we should vote.

The Chair: The member had just started her comments. I think I'm going to reserve my judgment on the relevance until she gets a little further into her comments. That was a preamble, I think.

Madam Simson, you did hear the member's intervention on a point he's raised a couple of times already in the committee. Again, I'm just going to encourage everybody to make sure, on their little watch, that their discussion is relevant to the amendment in the context of the motion.

Mrs. Michelle Simson: With all due respect to my colleague across the way, it was relevant. I was discussing the fact that while I really appreciated the spirit of the amendment that was proposed by Madam Freeman about the new Access to Information Act, the chair was able to drive home to me the fact that in a minority government it probably isn't a practical or most effective way of dealing with this.

What I'd like to do is propose a subamendment. Taking into account the fact that the committee does respect the minister—and I do—I would really like to see him appear before this committee not to make a speech but to hear his explanation, and maybe somehow find a way that we can get done the work that we all need to get done for the country.

The subamendment I'm proposing would ask that the minister be invited to reappear before this committee by November 30, 2009.

The Chair: Do we want to leave it implicit that it's concerning this matter? Is that self-evident? Or should we put that in there?

Mrs. Michelle Simson: It's in the motion, so I think it's fairly clear. I don't know that I want to keep driving that point.

The Chair: Fair enough.

This is a subamendment to the amendment. So it would read, after the word "recommendations"....

I'm sorry, Mr. Del Mastro?

Mr. Dean Del Mastro: Oh, I'm sorry. I'm thinking out loud. I apologize.

The Chair: A ventriloquist. All right.

The amendment starts off with "and that the committee...bring a new act by March 30". Then we have to add the words "and that the minister be invited to reappear before the committee before November 30, 2009".

The minister is invited, not ordered. The committee cannot order a member or a minister to appear. Only the Speaker could do that. The Speaker could order a minister to appear.

Madam Freeman.

• (1040)

Mrs. Carole Freeman: I just want to ask something.

[Translation]

Ms. Simson would like the Minister to be invited to appear before the committee before November 30. That is what she is asking?

The Chair: Yes.

Mrs. Carole Freeman: But he is not obliged to accept the invitation. Is that correct?

The Chair: You are correct, Ms. Freeman.

[English]

Mrs. Carole Freeman: What is the procedure, exactly?

The Chair: We certainly can invite anybody we want to appear before the committee—

Mrs. Carole Freeman: But we don't have the....

The Chair: —but we cannot compel certain persons, such as ministers or members of Parliament. For the public at large, for instance, you could issue a subpoena in fact, and that would force them to come.

Mrs. Carole Freeman: Yes, I understand that, but for a minister, what is the—

The Chair: We're inviting him.

Mrs. Carole Freeman: What is the procedure if we want Mr. Milliken to...?

The Chair: If the committee feels it cannot complete its work without having response or input from the minister, and it's viewed that the minister is trying to frustrate the committee's work, the committee could pass a motion for the chair to go to the House and table a report requesting that the Speaker order the minister to appear by such-and-such a date.

Mr. Dechert.

Mr. Bob Dechert: On a point of order, this meeting has gone on for a while. I confess I'm getting older in years and my short-term memory is getting shorter with each meeting of this committee, but I believe that some time ago in this meeting we had a vote to move to Mr. Martin's motion and to end the discussion on whether or not the committee was going to ask the minister to appear again.

I think we've already dealt with that question. There have been multiple circular arguments and tangential discussions that have very little relevance to the motion before us. But I believe that about an hour and a half ago there was a vote on this committee, which carried, that we should move to Mr. Martin's motion. And then there was an amendment made to that. There were multiple circular arguments around that. Now there is a subamendment made to the amendment and multiple circular arguments are being made to try to bring it back to the point that we originally voted against.

Somewhere in there is a perversion of the rules of order of this committee. With respect, I think you should rule on that.

The Chair: Mr. Dechert, you got the floor on a point of order, and—

Mr. Bob Dechert: I would like you to make a ruling. I'm asking you to make a ruling.

The Chair: Yes, I will. I think it's important; I think it's very important.

Mr. Bob Dechert: Have we not already voted on this point, on the point of whether or not this committee is going to ask the minister to reappear before this committee?

That was the point, I believe, of Mr. Siksay's motion, which I voted in favour of and he voted in favour of, which got us to move to Mr. Martin's motion. And now, after all this discussion and all these words that have flowed under the bridge, we're back to talking about what Mr. Siksay moved that we shouldn't talk to.

I realize they're trying to run the clock and it's very clear. But if I may, I think you should rule on whether or not we've already voted on this question.

• (1045)

The Chair: The question that the minister appear.

Mr. Bob Dechert: Yes.

The Chair: Okay.

I have a couple of people who do want to speak, and I will recognize you, but first if I will ask something of the clerk and the analyst. I know what I think, but I want to just check.

Has there been a motion and a vote of the committee on the question of whether or not the minister should reappear? I'm not asking the member, I'm asking the clerk.

Mr. Dechert, there was no motion or vote taken on whether or not the minister should appear.

Mr. Bob Dechert: On a point of order, can I ask you to have that part of the transcript reread to the committee with respect to the point that Mr. Siksay made, that was then voted on, to move directly to Mr. Martin's motion, which I think we're still debating in some form, although we're at least at the subamendment stage?

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

Don't put the chair in a position where I have to express what happened here. Everybody else was here.

Two members have asked to speak.

Madam Freeman.

[Translation]

Mrs. Carole Freeman: I am starting to get tired of how things are being done these days. Since the beginning, we have wanted to know, for one thing, whether the Minister will be able to come here to testify. We want to speak to the Minister responsible for this committee. The fact that we can't have him here in a satisfactory manner is very annoying, humiliating and embarrassing for all of the people we represent, in my opinion. He should answer our questions properly rather than sending us nasty little notes that respond to nothing and wasting our time. I think this is the last straw.

Not coming to testify or staying only an hour is a dismissive and cavalier approach. Can he refuse to come or postpone these meetings? If he doesn't appear before a particular date, what is the second step for us? Will we have to introduce a motion? We can't force him to appear before the committee, but we can address the House. That is what you explained. Can you explain for me what the procedure to follow will be if, after we invite him, the Minister refuses to appear? He is required to justify his actions, to give us an explanation.

On the question of the new Act, this request has been made several times. It is a question of political will. If the Minister does not want to give the public access to information, we would like him to say so clearly.

[English]

The Chair: I will try to tell you my understanding in terms of parliamentary precedent and customs. I don't believe I've ever seen it in my 16 years here, but it is in order for a committee that if there is a matter before the committee, and the committee requires the input of the minister with regard to clarification, intent, or understanding, the committee's first responsibility is to make all reasonable attempts to get what it needs from all sources, outside of the minister; and to make all reasonable attempts to invite the minister and to give the minister time to respond, and to see in what timeframe they could appear.

If the committee concludes, after taking all reasonable steps, that it cannot complete its work because the minister has refused, directly or indirectly, to provide us with that, the committee could consider a motion here, the effect of which would be to ask the Speaker of the House to order a minister to appear before committee. We can invite anybody we want; we cannot compel. We can't subpoena a minister, etc.

We have to demonstrate that we've taken all reasonable attempts and that we can't complete our work because of the minister. If we're being frustrated, or the minister is viewed as in contempt of the committee, we cannot provide sanctions. We don't have that authorization; only the Speaker of the House does. That's why you would have to go to the Speaker of the House and ask for that order that the minister appear.

Do you understand? Is that acceptable?

• (1050)

Mrs. Carole Freeman: Yes.

The Chair: Okay.

Mr. Siksay.

Mr. Bill Siksay: Mr. Chair, I'd like to call the question on Madam Simson's subamendment.

The Chair: We can't do that. As we indicated earlier, in the House you can do that. It's also a debatable motion itself. But it's not in order—

Mr. Bill Siksay: Right, thank you, Chair.

The Chair: —in committee to call for the question to be put.

Madam Freeman, you were on the list again.

You've finished your comments on Madam Simson's subamendment that the minister appear? I think you already commented on that.

Mr. Wrzesnewskyj is the last person I have on the list.

Mr. Borys Wrzesnewskyj: Thank you, Chair.

I like the subamendment, and with it, I think I'm able to support the original amendment to the motion. It addresses the concerns I mentioned earlier, my worry about the minister's dismissive response to our committee in both letters. We had given him a second chance to respond in a different manner, but the subamendment addresses that concern. Hopefully it will compel the minister to come before the committee. We're giving the minister an adequate amount of time, until the end of the month. So he has a month in which to—

The Chair: Mr. Del Mastro, you have a point of order.

Mr. Dean Del Mastro: I think we're into some very fruitful discussion on this subamendment to the amendment. I, for one, would like to see it continue all day. I think it's fantastic. I would just like to encourage members to extend the committee indefinitely. We could, of course, break for question period. Perhaps the chair could order lunch.

But I think this is a fantastic discussion. I would love to see it continue all day. In fact, I had eight hours sleep last night and I could probably go until nine or ten tomorrow morning.

I think we should continue this. Let's bring in some cameras, have some fun, and maybe have some cake, Mr. Chairman. Let's keep it going. I could get some microwave popcorn brought in by staff later tonight.

An hon. member: Pizza too.

Mr. Dean Del Mastro: We could really build some community here amongst the committee.

So I would just like to see the chair extend the committee until all motions before the committee are dealt with today.

Thank you.

The Chair: Thank you.

Mr. Wrzesnewskyj, you still have the floor.

Mr. Borys Wrzesnewskyj: Chair, I am astounded by the comments just made, putting this committee's work into the context of being a bit of a show, that we should have some popcorn and bring in some cake. It really diminishes the issue that we have at hand. It's a very serious issue that we have at hand: the transparency of the government and the minister jamming the committee and the work it has tried to do.

I'd just like to come back and say I will be supporting—

• (1055)

The Chair: Thank you. I've heard enough.

I think we've made the points. We're looping again.

I think in the best interests of the committee, we need to dispose of the subamendment, the amendment, and the Martin motion. If the members are agreed, I don't see any other speakers on the list, so I think we're done, in my opinion.

If it's the will of the committee, I want to put those questions now.

Okay? Would that be acceptable?

All right.

The first thing we will deal with is the Simson subamendment, which reads, "and that the Minister be invited to reappear before the committee before November 30, 2009".

Are the members all familiar with this? They understand what it is?

Can I put the question?

An hon. member: A recorded vote.

The Chair: You want a recorded vote?

Okay.

Mr. Clerk, please call—

An hon. member: A point of order.

The Chair: We're in the middle of a vote, sorry. We are. I've called the question.

(Subamendment agreed to: yeas 6; nays 5)

The Chair: We now move to the amendment as amended.

An hon. member: A point of order.

The Chair: We're in the middle of taking votes, sorry. There are no points of order; I think we're following the rules.

Madam Freeman's amendment would now read:

that the Committee recommend to the government that it introduce in the House no later than March 30, 2010, a new Access to Information Act that would reflect the Committee's proceedings and recommendations and that the Minister be invited to reappear before the Committee before November 30, 2009.

That is the motion; that is the amendment as amended that we are going to vote on.

Are we ready for the question?

I see no disagreement.

Did you want a recorded division?

Yes to a recorded vote.

Mr. Dean Del Mastro: I assumed that you were going to recognize me, because you did ask the committee if there were any questions, Mr. Chairman.

The Chair: On what we're voting on. I read it out.

Mr. Dean Del Mastro: But you are going to ask me if I have any questions.

The Chair: No; whether you have a problem with what we are voting on.

• (1100)

Mr. Dean Del Mastro: You did say if I have any questions.

The Chair: Well, I understand, but you understand that we are in the middle of voting on these. It's just about if there is any confusion about what we are voting on. I don't want members to be caught by surprise, which happened last night; what a surprise.

Okay. We will have a recorded vote.

Would the clerk please call the roll on the amendment as amended.

(Amendment agreed to: yeas 6; nays 5)

The Chair: I feel like Peter Milliken now: the chair votes yes.

We now move to the Martin motion as amended.

Do I have to do this? Do you want me to read it out?

Some hon. members: Yes.

The Chair: It reads as follows: That the Committee report to the House its profound disappointment with the response of the Minister of Justice to its 11th report entitled "The Access to Information Act: First steps towards renewal", that the Committee recommend to the government that it introduce in the House no later than March 30, 2010, a new Access to Information Act that would reflect the Committee's proceedings and recommendations, and that the Minister be invited to reappear before the Committee before November 30, 2009.

That is the full motion as amended that we are voting on now.

Are we all clear?

Shall we call the question now?

You're not clear?

Mr. Dean Del Mastro: I am just going to ask the chair if we are extending the committee beyond eleven o'clock, because it is now eleven o'clock; I'm just curious.

I'm in favour of extending this.

The Chair: Thank you.

We are in the middle of a recorded vote, please.

(Motion as amended agreed to: yeas 6; nays 5)

The Chair: I appreciate this enormous responsibility: the chair votes yes.

Colleagues, there is another standing committee that is scheduled to meet in this room right now. As Mr. Del Mastro said, we are over time.

The meeting is adjourned.

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