



**HOUSE OF COMMONS  
CANADA**

**QUESTION OF PRIVILEGE RELATING TO THE  
FAILURE OF THE GOVERNMENT TO FULLY  
PROVIDE THE DOCUMENTS AS ORDERED BY  
THE HOUSE**

**Report of the Standing Committee on  
Procedure and House Affairs**

**Joe Preston, M.P.  
Chair**

**MARCH 2011**

**40th PARLIAMENT, 3rd SESSION**

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# **STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS**

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Nicolas Auclair, Analyst; Andre Barnes, Analyst; Nancy Vohl, Research Assistant



# **THE STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS**

has the honour to present its

## **TWENTY-SEVENTH REPORT**

Pursuant to the Order of Reference from the House of Commons of Wednesday, March 9, 2011, the Committee has studied the question of privilege relating to the failure of the Government to fully provide the documents as ordered by the House and has agreed to report the following:



# **QUESTION OF PRIVILEGE RELATING TO THE FAILURE OF THE GOVERNMENT TO FULLY PROVIDE THE DOCUMENTS AS ORDERED BY THE HOUSE**

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Pursuant to the order of reference from the House of Commons on March 9, 2011, the House of Commons Standing Committee on Procedure and House Affairs (hereafter the Committee) is pleased to report as follows.

On October 6, 2010, the House of Commons Standing Committee on Finance (FINA) passed a motion requesting certain financial information from the government within 10 days. Specifically, FINA requested the Department of Finance Canada provide it with:

- The estimated cost of the F-35 aircraft per airplane, and how these costs fit into the fiscal framework;
- The original estimates and the final costs of hosting the G-8 and G-20 summits;
- The adjustments to the fiscal framework to incorporate the costs of Bills C-4, C-5, C-16, C-17, C-21, C-22, C-23(A), C-23(B), and C-39 from the 40<sup>th</sup> Parliament; and
- The estimated cost to the federal treasury of the Government of Canada's planned reduction of corporate tax rates from January 1, 2011 onwards.

Upon receiving none of the requested information, FINA passed a second motion on November 17, 2010. This motion ordered the government to provide FINA with electronic copies of the following information within seven calendar days:

- Five-year projections of total corporate profits before taxes and effective corporate tax rates (2010-11 to 2014-15); and
- All documents that outline acquisition costs, lifecycle costs, and operational requirements associated with the F-35 program and prior programs (CF-18).

The motion also requested information in respect of certain justice legislation be provided to FINA within seven calendar days. Concerning the bills requested in FINA's October 6, 2010 motion, as well as Bills S-2, S-6, S-7, S-9, S-10, C-48, C-50, C-51, C-52 from the 40<sup>th</sup> Parliament, FINA ordered the government to provide FINA the following information:

- The incremental cost estimates of the requested bills;
- The baseline departmental funding requirement excluding the impacts of the bills and acts;
- The total departmental Annual Reference Level (ARL);
- Detailed cost accounting, analysis and projections, including assumptions, for each of the requested bills and acts, conducted in accordance with the Treasury Board Guide to Costing; and
- The Department of Finance’s adjustments to the fiscal framework to incorporate the costs of the Government of Canada’s justice legislation.

On November 24, 2010, the government sent FINA a response which stated that: “Projections of corporate profits before taxes and effective corporate income tax rates are a Cabinet confidence. As such, we are not in a position to provide these series to the Committee.” Later, on December 1, 2010, the government sent a further response to FINA which similarly stated that information or documents could not be provided on any of the costs associated with the implementation of any of the government’s justice bills, as these were subject to “Cabinet confidence.”

In the course of their work, in order to determine the government’s course of action, ministers and ministers of state meet regularly as a Cabinet to discuss political issues and reach a consensus. To ensure ministerial solidarity and the effectiveness of the decision-making process, it is essential that ministers be able to speak freely with the assurance that their remarks will be protected. It is specifically the private nature of their proceedings that is protected by the privilege associated with Cabinet confidences. The fact that ministers take the Privy Council oath, which obliges them to keep secret every matter discussed in their meetings, illustrates the importance of this principle. The privilege associated with the confidentiality of Cabinet proceedings is established in three sections of separate federal statutes: section 69 of the *Access to Information Act*,<sup>1</sup> section 70 of the *Privacy Act*<sup>2</sup> and section 39 of the *Canada Evidence Act*.<sup>3</sup>

Given that Cabinet confidences are specifically exempt from the *Access to Information Act* and the *Privacy Act*, when the government has to prepare documents to be disclosed in response to an access to information request made in accordance with either of these statutes, it is not required to include documents that contain Cabinet confidences. In real terms, when only part of the document has to be protected, that part will be censored and the rest of the document will be disclosed. Regarding the *Canada*

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1 R.S. 1985, c. A-1.

2 R.S. 1985, c. P-21.

3 R.S. 1985, c. C-5.

*Evidence Act*, it is important to note that this statute serves another purpose. In the event of a dispute, requests are often made in order to obtain disclosure of all documents and information pertaining to the issues at play in the dispute. Cabinet confidences are frequently among the pertinent documents compiled by the government in response to such requests. The *Canada Evidence Act* authorizes the Clerk of the Privy Council to ensure that Cabinet confidences are not disclosed in these cases by issuing a certificate under section 39 of the Act. Finally, it should be noted that under these three statutes, Cabinet confidences are protected from disclosure for 20 years.

On February 7, 2011, Hon. Scott Brison, Member for Kings—Hants, rose on a question of privilege in the House. Mr. Brison, a member the House of Commons Standing Committee on Finance (FINA), presented this question of privilege on its behalf. Mr. Brison argued that the failure of the government to provide FINA with the financial information that it had ordered constituted a *prima facie* case of privilege.

Mr. Brison noted, among other things, that FINA had included in its tenth report presented to the House during Routine Proceedings earlier in the sitting, which contained the following statement:

Accordingly, the Committee wishes to draw the attention of the House on what appears to be a breach of its privileges by the Government of Canada's refusal to provide documents ordered by the Committee, and recommends that House take whatever measures it deems appropriate.<sup>4</sup>

On February 17, 2011 the government tabled documents related to corporate taxes and the cost estimates of certain justice bills. The government indicated that it was willing, in the case of some information, to waive Cabinet confidence and allow certain documents to be made public. Members opposite noted that, on the other hand, the information tabled by the government was insufficient as compared with the information requested in FINA's order for the production of papers and documents. That same day, during the Business of Supply, the House debated an opposition motion ordering the production of the same documents demanded by FINA. This motion was subsequently adopted in a vote held on February 28, 2011, setting a deadline of March 7, 2011 for the production of the documents in question.

On March 9, 2011, the Speaker ruled that the question raised by Mr. Brison constituted a *prima facie* question of privilege. The Speaker made reference to his ruling of April 27, 2010, in which he quoted *House of Commons Procedure and Practice*, pages 978-979, which states, among other things, that the power of the House of Commons or of standing committees to order the production of papers and records is "broad," "absolute," and "on the surface appears to be without restriction."

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4 The Standing Committee on Finance, Tenth Report, House of Commons, Ottawa, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=4927173&Language=E&Mode=1&Parl=40&Ses=3>.

As such, in respect of the question of whether the House of Commons or its committees have the authority to order the production of documents, the Speaker stated:

[P]rocedural authorities are categorical in repeatedly asserting the powers of the House in ordering the production of documents. No exceptions are made for any category of government documents[...] Therefore, the Chair must conclude that it is perfectly within the existing privileges of the House to order production of the documents in question.<sup>5</sup>

The Speaker noted that in his view, the documents provided by the government on February 17, 2011 did not constitute all of the information that had been ordered by FINA. While he found the lack of response on the part of the government on this matter to be “unsettling,” he stated that what was of greater concern was “the absence of an explanation for the omissions.” He noted that on page 281 of Bourinot’s *Parliamentary Procedure and Practice*, it states that:

[U]nder all circumstances it is for the House to consider whether the reasons given for refusing the information are sufficient. The right of Parliament to obtain every possible information on public questions is undoubted, and the circumstances must be exceptional, and the reasons very cogent, when it cannot be at once laid before the houses.<sup>6</sup>

The Speaker concluded by stating that this was a serious matter, which went “to the heart of the House’s undoubted role in holding the government to account.” He further noted that it may well be that the government has valid reasons for not complying with FINA’s order, but that this judgement must be made by a committee empowered to investigate the matter, and not by the Chair.

On March 16, 2011, the Committee began its study on this matter. Appearing before the Committee, Mr. Robert R. Walsh, House of Commons Law Clerk and Parliamentary Counsel, began his testimony by stating that a *prima facie* ruling means that it appears on the face of it that a breach occurred, and that a subsequent investigation could conclude that a breach did indeed occur. He further indicated that the Speaker had concluded in his ruling that Parliament has the right to receive all the information that it requires, but the government may decide to refuse to provide this information. In that event, the government must convince Parliament that its decision is well-founded. In this instance, Mr. Walsh noted that the Speaker, in his ruling, had pointed out that the government had chosen not to release all the information that had been requested by Parliament and that it had not provided its reasons for doing so.

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5 *Debates*, House of Commons, Ottawa, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&Parl=40&Ses=3&DocId=5027930#Int-3794835>.

6 *Ibid.*, <http://www2.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&Parl=40&Ses=3&DocId=5027930#Int-3794835>.

As to Cabinet confidences, although the concept was not defined in the *Canada Evidence Act*, but rather through tradition and practice, Mr. Walsh stressed that the House of Commons is not a court of law and is not bound by this Act. In the parliamentary context, it was up to Parliament to decide whether the costs associated with the bills introduced by the government constituted Cabinet confidences. Mr. Walsh pointed out that, until a bill is introduced in the House, the costs associated with the bill could be considered a Cabinet confidence. Once a bill is introduced in the House, however, this was no longer the case since MPs needed to be able to state their position on the bill. Insofar as a decision can only be as well-founded as the information upon which it is based is complete, Mr. Walsh stated that in order for MPs to exercise their right to vote in an informed manner, they may require this information.

Mr. Mel Cappe, former Clerk of the Privy Council, indicated to the Committee that he was a great defender of Cabinet confidences and that Cabinet confidences were specifically excluded from the *Access to Information Act* and the *Canada Evidence Act*. He stressed that Cabinet confidences must be protected without preventing parliamentarians from obtaining the information they needed to make decisions. To balance these two concepts, he stated that “good government requires openness[...], but good government also requires secrecy.”

Mr. Cappe also maintained that the government’s decision to invoke Cabinet confidence had been unjustified. In his view, once a bill has been introduced, the costs of that bill cannot be considered a Cabinet confidence and must be provided to parliamentarians to enable them to arrive at an informed opinion. Mr. Cappe affirmed that he considered the decision to not provide this information to be unjustified. On the other hand, all documents and information submitted to Cabinet for the purpose of preparing a bill and making a decision remained Cabinet confidences. Mr. Cappe also pointed out that if the government has not evaluated the costs associated with a bill, this would be a violation of Treasury Board directives and the government expenditure management system.

That same day, the Committee heard testimony from Ms. Suzanne Legault, the Information Commissioner of Canada (Information Commissioner), who was accompanied by two senior officials. The mandate of the Information Commissioner, which is to receive and investigate complaints, is set out in sections 30 to 37 of the *Access to Information Act*. These sections of the Act require the Information Commissioner to investigate complaints received from persons and organizations that maintain that a federal institution has violated their rights under the Act. Appearing before the Committee, Ms. Legault indicated that there are two separate procedures that MPs may use to gain access to documents. There is the parliamentary process, which is governed by the rules of parliamentary procedure, and the access to information process, which is governed by the *Access to Information Act*. The Information Commissioner has jurisdiction only over matters about which a complaint is made under the *Access to Information Act*. The two processes are different, but there is no reason why a parliamentarian cannot seek to obtain access to documents using both processes at the same time. The Information Commissioner provided details about the Office of the Commissioner’s investigation process, the

precedents the Office draws on and its experience in this regard. She pointed out that her testimony does not in any way pertain to the parliamentary process.

The Committee also heard testimony on March 16, 2011 from Mr. Kevin Page, the Parliamentary Budget Officer, along with senior officials from his office. Mr. Page noted at the outset that it was his office's position that the Canadian Constitution establishes and affirms the fiduciary duty of Parliament, on behalf of all citizens, to control public monies. In this respect, the provision to members of Parliament of more economic and financial governmental data would foster better informed Parliamentary debate, and improve the ability of members to hold the government to account. He noted that it was incumbent upon the government and the public service, during the Estimates process, to examine all costs to assess impacts not just at the federal level but at provincial levels as well.

During questioning, a number of members of the Committee asked Mr. Page whether, in his view, the documents tabled by the Minister of Justice and the Minister of Public Safety adequately addressed the requirements for costing information set forth in the motions passed by FINA. Mr. Page noted that, in respect of the motions passed by FINA, the provision of departmental information on methodology, underlying assumptions, cost drivers, risks, and certain basic statistics were critical for sound economic forecasting to occur. In a response tabled to the Committee on March 17, 2011, Mr. Page's office provided the Committee with, among other things, the following observations:

- Additional information has indeed been provided to parliamentarians when compared to the government's tabling of documents on February 17, 2011;
- Four of the proposed bills are not expected to have a fiscal impact owing to their procedural nature;
- The information requested by FINA and Parliament from the government included breakdowns of costs by capital, operating and maintenance, and other costs. The information provided on March 16, 2011 provided virtually no reference to capital expenditures; and
- There remained significant gaps between the information requested by parliamentarians and the documentation provided by the government which will limit the ability of parliamentarians to fulfill their fiduciary obligations.

Mr. Page was questioned, on March 16, 2011, by a member of the Committee as to the potentially widely varying impact that could result should projections be made employing different economic and financial assumptions. Mr. Page acknowledged that different assumptions could certainly lead to a wider range of projections, and that, therefore, he advocated greater openness and sharing of as much statistical data as possible between the federal government and his office, as well as with the private sector and the provinces. In this respect, Mr. Page noted that it had been a struggle for his office to gain access to the relevant statistical information needed to respond to a motion passed

by FINA on a request to his office that it provide FINA with estimated costs in respect of, among other things, certain crime bills.

Mr. Page also noted that, in his professional experience, and having worked in the Privy Council Office, most costing information had been, in the past, “broadly circulated in order to generate estimates.”

Mr. Alister Smith, Associate Secretary, Treasury Board Secretary, appeared before the Committee. In his statement and in responding to questions from Committee members, he provided clarification on the directives given to departments regarding the costs of initiatives and Treasury Board’s role in approving funding to implement government initiatives. For his part, Mr. Page, Parliamentary Budget Officer, stated in this regard that if “it’s going to have an impact not just at the federal level but at provincial levels as well, [the government and the public service] would estimate all the costs” [...] “as I understand today, a former Clerk of the Privy Council said that it’s a centre practice (of the Privy Council) under the expenditure management system to kind of look at costing at different levels of government”. This is worth noting in the context of the November 17, 2010 FINA motion, which had ordered the government to provide detailed cost accounting, analysis and projections, including assumptions, for each of the requested bills and acts, conducted in accordance with the Treasury Board Guide to Costing.

Also on March 16, 2011, the Hon. Rob Nicholson, Minister of Justice, and the Hon. Vic Toews, Minister of Public Safety, along with a number of departmental officials, appeared before the Committee to give testimony. Prior to the resumption of the meeting at 1:30 p.m., a binder was tabled before the Committee. This binder contained additional and detailed information on costs associated with the 18 crime-related bills for which FINA had requested information in its October and November 2010 motions. The Minister of Public Safety noted that the information was compiled by public servants to respond to the Speaker’s ruling, and that the information contained therein did not impinge upon any information or documents covered under Cabinet confidence. The ministers explained that it was their view that the information contained in the projected cost estimate that had been tabled by the government in the House of Commons on February 17, 2011 had fully satisfied the FINA motions. The Minister of Public Safety noted, in respect of the Speaker’s ruling, that it was difficult to ascertain in what regard the Speaker felt that the documents tabled by the government in February were insufficient, as he had not specifically indicated what documents or pieces of information were missing.

The ministers further noted that the cost estimates provided in the binder to the Committee did not substantially differ from those provided to the House in February. Both ministers were also careful to note that the costs provided to the Committee and to the House were based on the relevant department’s best available estimates. They further made clear to the Committee, on a number of occasions, that costs could only be given for bills where it was reasonably possible to do so.

In respect of the testimony of the Minister of Justice and the Minister of Public Safety, a number of questions arose from some Committee members. There were also comments, including that members found it difficult to understand why the FINA deadline

was not respected, and why it took the government four months to provide FINA and Parliament with the information that it had requested. Members also commented that the information contained in the binders provided to the Committee was insufficient in a number of respects, including that certain bills were expected to have no cost. It was also noted that certain other costs, including the costs borne by the Correctional Service of Canada, and those borne by the provinces, were either not reflected or not sufficiently detailed. Further, members stated that the binders did still not comply with the specific information requests in the motions made by FINA. They concluded that the information in the binder appeared to be the same information that the Speaker had found to be insufficient, but with more details. In that respect, some Committee members indicated that the time they had been given to review the information contained in the binders tabled by the government was insufficient. A member wondered why information that had been considered to be a Cabinet confidence, according to a statement made by the government in December of 2010, could now be made public in March 2011.

A minority of committee members were satisfied with the responses provided by the ministers to these above-mentioned concerns. The ministers, in their testimony, noted that information had been provided in good faith to the best of the ability of the public service officials charged with overseeing these departments. It was also noted by the ministers and some members, on a number of occasions, that certain information sought by other members of the Committee during their questioning was beyond what had been asked for in the Speaker's ruling, and the motion which referred this matter to the Committee, or beyond what the departments were capable of reliably estimating at this time. In respect of the questions asked by members concerning potential costs to the provinces, the ministers replied that consultations with their provincial counterparts had occurred, and that the provinces had asked for these amendments.

The Minister of Justice and the Minister of Public Safety made a second appearance before the Committee on March 17, 2011. During the course of the hearing, questions again arose about the lack of information provided by the government in respect of the potential unknown costs that will be borne by the provinces as a result of the passing into law of the government's crime legislation. In response, the ministers indicated that it was at the suggestion of their provincial counterparts that these amendments had been brought forward. Minister Nicholson indeed noted that bills are not brought forward in a vacuum and that in some cases he had been encouraged by the provinces to introduce crime legislation. Minister Nicholson also noted that, as an example, the government had not yet received information from the provinces following amendments to the conditional sentencing regime several years ago. In response, some members of the Committee expressed disbelief that the provinces would not provide the government with such costs. They expressed doubts concerning the probable accuracy of the projections in the information provided to the Committee during the March 16, 2011 hearing. They further noted that the information binder placed before the Committee by the government inadequately and insufficiently replied to the documents that Parliament had requested. They also stated that members of Parliament had the right to know the full costs of legislative measures.

When asked by a member whether or not other information or documents were presently being withheld by virtue of having been deemed a Cabinet confidence, the Minister of Public Safety indicated that this was not the case. He also indicated that the response provided by the government originally in February, along with the information provided to the Committee on March 16, respected the letter and the spirit of the Speaker's ruling, and answered it in a substantive and complete manner.

The Minister of State (Finance), the Hon. Ted Menzies, also appeared before the Committee on 17 March 2011, to provide information and respond to questions from members. In his opening statement, he discussed the government's record in respect of improving transparency in Parliament. He also stated that the government had, in its view, already provided the information requested from the Department of Finance to FINA and the House of Commons. He indicated that the information already provided included the Department of Finance's "estimated cost of the 2007 legislative tax reduction, along with the five-year projections of total corporate profits before taxes and effective corporate tax rates." The Minister of State noted, in respect of this information, that business tax revenue for the government had increased over time despite the reductions in the business tax rate.

In the course of his testimony, Mr. Menzies noted, among other things, that in his view, the government had provided Parliament with all of the information it legally could. In this respect, he noted that from documents deemed Cabinet confidences, the government had extracted what was necessary in order to maintain Cabinet confidence, and provided FINA with the answers it was looking for. Indeed, the Minister of State (Finance) noted that, in his view, the information provided was "more than was actually asked for."

In response to the Minister of State (Finance)'s testimony, some members questioned him as to how it was that certain departmental information that had originally been withheld from release as a Cabinet confidence could later be turned over to Members of Parliament. Some members also expressed doubt that the information that had been withheld from Parliament constituted a Cabinet confidence. They further expressed concern that the government had not provided all of the information to the Committee and to Parliament that had been requested. A minority of the Committee members were satisfied with the Minister of State (Finance)'s testimony.

Mr. Ned Franks, professor emeritus in the Department of Political Studies at Queen's University, testified before the Committee on March 17, 2011. He brought to the Committee's attention a 1981 ruling made by Speaker Sauvé where she observed that the expression "confidential documents" had never been defined, and that it would be improper for the Speaker to attempt to develop such a definition. She stated that it is the government's prerogative to decide which documents are of a confidential nature. Mr. Franks also referred to Speaker Milliken's ruling on March 9, 2011, in which he established that there was a *prima facie* case for a finding of contempt of Parliament against the government because it had withheld information from Parliament. Faced with these two opposing rulings, Mr. Franks affirmed that he sided with Speaker Milliken and declared that, in his view, the government was not entitled to limit Parliament's power to receive information.

Mr. Franks stated that “Cabinet confidences” should be defined as narrowly as possible to ensure that the maximum information possible is provided. Mr. Franks also stated that, in his opinion, estimates of the costs that bills would entail for the provinces should also be included in the information the government provides to Parliament.

With respect to solutions for the Committee’s consideration, Mr. Franks proposed five reforms:

1) That Parliament and government immediately begin to work together to define what documents are Cabinet confidences and what are not;

2) That the report from the Committee recommend that all pieces of legislation not proceed beyond first reading unless they are accompanied by an analysis of their cost implications over at least a five-year period;

3) That the PBO be provided with the resources to make his own independent analysis or evaluation of the data provided by the government, and be instructed to do this;

4) That the House itself undertake an inquiry into the proper extent of the government’s right to declare unilaterally that papers and records are Cabinet confidences;

5) That Parliament should review the *Access to Information Act* and in particular reconsider the current provisions that put the responsibility for administering the legislation in the hands of departmental ministers.

In light of the testimony heard by the Committee on this matter referred to the Committee by the Speaker on March 9, 2011, the Committee concludes the following:

- 1) That the government has failed to produce the specific documents ordered to be produced by the Standing Committee on Finance and by the House;
- 2) That the government has not provided a reasonable excuse;
- 3) That the documents tabled in the House and in Committee do not satisfy the orders for production of documents; nor do they provide a reasonable excuse;
- 4) That this failure impedes the House in the performance of its functions;  
and
- 5) That the government’s failure to produce documents constitutes a contempt of Parliament.

# APPENDIX A

## List of Witnesses Third Session, 40th Parliament

Organizations and Individuals	Date	Meeting
<b>As individual</b>	2011/03/16	49
Mel Cappe		
<b>Canada Border Services Agency</b>		
Luc Portelance, President		
<b>Canadian Security Intelligence Service</b>		
Richard B. Fadden, Director		
<b>Correctional Service of Canada</b>		
Don Head, Commissioner		
<b>Department of Justice</b>		
Yves Côté, Associate Deputy Minister		
Catherine Kane, Director General and Senior General Counsel, Criminal Law Policy Section		
Hon. Rob Nicholson, Minister of Justice		
<b>Department of Public Safety</b>		
William V. Baker, Deputy Minister		
Hon. Vic Toews, Minister of Public Safety		
<b>House of Commons</b>		
Rob Walsh, Law Clerk and Parliamentary Counsel		
<b>Library of Parliament</b>		
Mostafa Askari, Assistant Parliamentary Budget Officer, Economic and Fiscal Analysis, Office of the Parliamentary Budget Officer		
Sahir Khan, Assistant Parliamentary Budget Officer, Expenditure and Revenue Analysis, Office of the Parliamentary Budget Officer		
Kevin Page, Parliamentary Budget Officer		
<b>National Parole Board</b>		
Marie-France Pelletier, Executive Vice-Chairperson		
<b>Office of the Information Commissioner of Canada</b>		
Suzanne Legault, Information Commissioner		
Emily McCarthy, General Counsel, Legal Services		
Andrea Neill, Assistant Commissioner, Complaints Resolution and Compliance		

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<p><b>Public Prosecution Service of Canada</b>            Brian J. Saunders, Director of Public Prosecutions,            Office of the Director of Public Prosecutions</p> <p><b>Royal Canadian Mounted Police</b>            Rod Knecht, Senior Deputy Commissioner</p> <p><b>Treasury Board Secretariat</b>            Donna Dériger, Acting Senior Director, Financial Management            Strategies, Costing and Charging,            Financial Management Sector, Office of the Comptroller General</p> <p>Alister Smith, Associate Secretary</p>	2011/03/16	49
<p><b>As an individual</b>            Ned Franks, Professor Emeritus,            Department of Political Studies, Queen's University</p> <p><b>Canada Border Services Agency</b>            Sylvain St-Laurent, Vice-President,            Comptrollership Branch</p> <p><b>Canadian Security Intelligence Service</b>            Richard B. Fadden, Director</p> <p><b>Correctional Service of Canada</b>            Don Head, Commissioner</p> <p><b>Department of Finance</b>            Hon. Ted Menzies, Minister of State (Finance)            Yvonne Milosevic, Senior Counsel,            Law Branch</p> <p>Doug Nevison, Director,            Fiscal Policy Division, Economic and Fiscal Policy Branch</p> <p>Geoff Trueman, Director,            Business Income Tax Division</p> <p><b>Department of Justice</b>            Yves Côté, Associate Deputy Minister</p> <p>Catherine Kane, Director General and Senior General Counsel,            Criminal Law Policy Section</p> <p>Hon. Rob Nicholson, Minister of Justice</p> <p><b>Department of Public Safety</b>            William V. Baker, Deputy Minister</p> <p>Hon. Vic Toews, Minister of Public Safety</p>	2011/03/17	50

Organizations and Individuals	Date	Meeting
<p><b>National Parole Board</b>  Marie-France Pelletier, Executive Vice-Chairperson</p>	2011/03/17	50
<p><b>Public Prosecution Service of Canada</b>  Brian J. Saunders, Director of Public Prosecutions,  Office of the Director of Public Prosecutions</p>		
<p><b>Royal Canadian Mounted Police</b>  Rod Knecht, Senior Deputy Commissioner</p>		



# MINUTES OF PROCEEDINGS

A copy of the relevant Minutes of Proceedings ([Meetings Nos.49-52](#)) is tabled.

Respectfully submitted,

Joe Preston, M.P.  
Chair



## **Dissenting Report from Conservative Members of the Procedure and House Affairs Committee**

The Conservative members of the Procedure and House Affairs Committee (PROC) must issue a dissenting report in response to the March 21<sup>st</sup> PROC report. This dissenting report is made necessary by the fact that the conclusion of the committee's report does not take into consideration the actions of the Government to comply with the Speaker's March 9<sup>th</sup> ruling or the evidence heard at committee.

For instance, the committee's conclusion does not take into account the fact that the Government tabled the following sets of documents:

- On March 16<sup>th</sup>, in response to the Speaker's ruling and the Government's commitment to comply with the Speaker's ruling, the Ministers of Justice and Public Safety tabled a comprehensive response to the Finance Committee (FINA) motion of the Hon. Scott Brison, that supplemented the government's February 17<sup>th</sup> response.
- This information was formatted to answer each request contained in Mr. Brison's motion and incorporated in the Speaker's March 9<sup>th</sup> ruling, and clearly explained the reason why some cost information was unavailable to the federal government or inapplicable for legislation that is projected to have no meaningful cost. It should be noted that the information directly addressed the material requested by Mr. Brison. For example, the motion requested financial information of the Government of Canada, which is what was provided. The motion did not ask for financial information from provinces or territories.
- On March 17<sup>th</sup>, the Minister of National Defence sent to the chairs of PROC and FINA a wide ranging set of documents regarding the future purchase of the F-35 and maintenance costs of the CF-18 that had been requested by FINA and then later ordered by the House on February 28<sup>th</sup>.

It is clear, that the Opposition members who voted to pass the conclusions of the committee report gave only a cursory review of the information provided. Had they treated it seriously, they would have found detailed information that answered fully and directly the request of the motion.

Throughout the entire process, the Opposition showed little interest in the Government's compliance with the Speaker's ruling or with the findings of the committee's hearings. It was clear that Opposition MPs had pre-judged the outcome of the hearings before they had even begun. In fact, they appeared to regret the fact that the Government provided the supplemental information. The following are just three examples of the Opposition's disregard for the proceedings:

- As pointed out several times in committee, Liberal MP and member of PROC, Marcel Proulx, was quoted in the media days before hearings began on March 14<sup>th</sup> that the Opposition's ultimate goal of the committee hearings was to find the Government in contempt of Parliament;
- When pointed out by the Chair that he was not allowing witnesses to answer the questions he was asking, NDP MP Yvon Godin stated, "I make the decision if I want an answer or not"; and
- Liberal MP David McGuinty attempted to pass, in secret, a motion that would have banned the independent Library of Parliament analysts from including evidence in the report, leaving the report without the important input of witnesses and containing nothing but the Opposition's partisan conclusions. That in and of itself raises serious questions about whether the Opposition has any respect for Parliament and its processes.

In conclusion, it is clear that the Opposition members of the committee never intended to do the work laid before them by the Speaker. They have ignored the substance of the evidence provided by the Government and by the witnesses who appeared. The report tabled by the committee is simply a piece of partisan gamesmanship that diminishes the important work of Parliament.