



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

41st Parliament, Second Session

The Standing Committee on Procedure and House Affairs has the honour to present its

THIRTY-FOURTH REPORT

On September 25, 2014, the House of Commons adopted the following motion: “That the question of privilege regarding the free movement of Members of Parliament within the Parliamentary Precinct during the state visit of September 25, 2014, be referred to the Standing Committee on Procedure and House Affairs.¹”

This Order of Reference was made following a ruling by the Speaker on September 25, 2014, who concluded that the allegations raised by Mr. Yvon Godin, Member for Acadie—Bathurst, concerning his denial of access to Parliament Hill during the official visit to the Hill that day by the President of Germany, constituted a *prima facie* case of privilege.

As became apparent from testimony before the Committee, this question of privilege is ultimately about the impact on parliamentarians’ access to Parliament Hill of the broader system and associated logistics in place for managing the motorcades of visiting dignitaries. On September 25, 2014, it was within this broader context that police and security officers were doing their job, in good faith, within the context of operating procedures intended to protect the safety of everyone on and approaching Parliament Hill, including parliamentarians themselves.

Evidence

During its consideration of the matter, the Committee heard from the following witnesses: Mr. Godin, Member for Acadie—Bathurst, Mr. Marc Bosc, Acting Clerk of the House of Commons, Mr. Kevin Vickers, Sergeant-at-Arms of the House of Commons, Mr. Patrick McDonnell, Deputy Sergeant-at-Arms and Director General, Security Services of the House of Commons, Mr. Bob Paulson, Commissioner, RCMP, Mr. Gilles Michaud, Assistant Commissioner, Commanding Officer, National Division, RCMP, Mr. Mike Cabana, Deputy Commissioner, Federal Policing, RCMP, Mr. Charles Bordeleau, Chief of Police, Ottawa Police Service, and Mr. Murray Knowles, Inspector, Ottawa Police Service.

¹ House of Commons, *Journals*, 25 September 2014.

On October 2, 2014, the Committee heard testimony from Mr. Godin, Member for Acadie—Bathurst. He gave to the Committee his account of the events that took place on September 25, 2014. Mr. Godin indicated he was in his office in the Justice Building when the lights and bells in the building signalled a vote was to take place in the House. He boarded a green bus heading for the House, along with other Members from other parties. Behind the Confederation Building, the bus stopped, caught in a long line of traffic. Mr. Godin, along with other Members, exited the bus and proceeded on foot toward Parliament Hill. At the Bank Street access point to the Hill, Mr. Godin was prevented from gaining access to the Hill by an RCMP member. When Mr. Godin explained to the member that he had a right to unfettered access to the Parliamentary Precinct, that it was to attend a vote in the House, and that votes in the House were important matters (i.e. a vote could potentially cause the dissolution of the House), Mr. Godin indicated that he was told by the member: “I don't care, and get on the sidewalk.” Mr. Godin also indicated that a second officer, from the Ottawa Police Service, who had dismounted from her motorcycle, reiterated to him that he needed to return to the sidewalk and wait. At that time, the motorcade of His Excellency Joachim Gauck, the President of Germany had not yet arrived on the Hill. Mr. Godin explained to the Committee that he felt the incident was completely unacceptable, that it ran contrary to his well-established rights as a Member under parliamentary privilege, that preventing his attendance in the House in effect disenfranchised his constituents, and that eventually a similar incident will have serious consequences. Mr. Godin testified that, after the motorcade had entered onto Parliament Hill, the RCMP officer escorted Mr. Godin across Bank Street, saying “I am doing that for your safety.”

On October 9, 2014, the Committee heard testimony from Mr. Marc Bosc, Acting Clerk of the House of Commons, Mr. Kevin Vickers, Sergeant-at-Arms of the House of Commons, and Mr. Patrick McDonnell, Deputy Sergeant-at-Arms and Director General, Security Services. During the course of their appearance, the process for determining the security arrangement during visits by foreign dignitaries to Parliament Hill was explained. It was stated that during such visits, extensive planning and numerous meetings take place between the three partners involved in providing security on the Parliamentary Precinct: the House of Commons Security Services, the RCMP and the Ottawa Police Service. Mr. Vickers noted a key step towards interoperability was taken five years ago with the creation of the master security planning office, comprised of representatives from the Senate, House of Commons and RCMP. The mandate of this office is to provide guidance and strategic direction, and to ensure a proactive and coordinated security approach within the precinct.

Mr. Vickers indicated that all official visits are accorded different security levels, ranging from levels 1 to 5 (level 1 being the highest level of risk). The visit on September 25, 2014 was designated as a level 4 visit—during which it is common practice to not limit pedestrian access at closed points—and that in this particular event, there was to be no stopping of pedestrians, regardless of whether they were Members of Parliament or not.

It was noted that the RCMP member did acknowledge knowing that Mr. Godin is a Member of Parliament. Mr. Vickers stated that House Security Services would double its efforts to ensure that front-line officers thoroughly understand that Members must have unfettered access to the precinct.

It was also noted that while House Security Services ultimately has no control over the methods employed by the RCMP during such events, they do have a role to play in assisting the RCMP train members on matters related to parliamentary privilege.

Mr. McDonnell noted that following the incident, he and his staff met with Assistant Commissioner Gilles Michaud on September 29, 2014, to discuss how to prevent similar incidents from arising in the future. A recommendation of note arrived at during this meeting was to direct motorcades that will impede traffic circulation or pedestrian movement on the Hill to the Elgin gate, and if possible, have such motorcades exit through the Elgin gate.

On 21 October 2014, Mr. Bob Paulson, Commissioner, RCMP, Mr. Gilles Michaud, Assistant Commissioner, Commanding Officer, National Division, RCMP, Mr. Mike Cabana, Deputy Commissioner, Federal Policing, RCMP, Mr. Charles Bordeleau, Chief of Police, Ottawa Police Service, and Mr. Murray Knowles, Inspector, Ottawa Police Service, appeared before the Committee alongside Mr. Vickers and Mr. McDonnell. Commissioner Paulson provided the Committee with an overview of the RCMP's role on Parliament Hill and during visits by foreign dignitaries. The RCMP is responsible for securing the grounds of Parliament Hill as well as ensuring the security of the Prime Minister. The RCMP is also responsible for the safety and security of visiting dignitaries while these individuals are outside of the buildings that comprise the Parliamentary Precinct. Often the RCMP is faced with competing security priorities, as evidenced by the events of September 25, 2014. Commissioner Paulson stated that the RCMP takes every measure possible to ensure that security operations do not impede parliamentarians. He further noted that it is not, in his view, reasonable to expect that with the variety of activities that take place on Parliament Hill on a daily basis (i.e. construction, protests, crowds, visiting heads of state and motorcades) that the occasional delay will not occur.

To assist in explaining the incident that occurred on September 25, 2014, Commissioner Paulson showed the Committee a video taken by a security camera of the interaction between the Member for Acadie—Bathurst and the RCMP member which took place on Bank Street, a few metres north of the intersection with Wellington Street. The video shows four advance outrider motorcycles from the motorcade arriving at the point on Bank Street at which Mr. Godin and the RCMP member would soon have their exchange, at 11:03:06, 11:03:09, 11:03:13, and 11:03:17, respectively. The motorcycles are moving, according to Commissioner Paulson, at “a good rate of speed”. The Commissioner's characterization as to the speed of the outriders can be verified from the video.

The job of the outriders is to block off all intersections along the motorcade route, creating the minimum possible delay for traffic, while permitting the motorcade to proceed with the speed that it needs, in order to ensure the safety of the persons being thereby conveyed (in this case, the President of Germany). The RCMP member would have been aware, although Mr. Godin likely would not, that the speed at which the outriders had arrived was very close to the speed at which the motorcade would be moving.

Under the circumstances, this awareness would have been critically important, because of the fact that a stone wall runs along the south edge of Parliament Hill, abutting the Wellington Street

sidewalk and creating a visual barrier which, from the viewpoint both of Mr. Godin and of the RCMP member, made the motorcade invisible until it was nearly on top of them.

Also at 11:03:17, three individuals including Mr. Godin become visible as they emerge into the camera's field of view from behind leaves. They are walking southbound on the west side of Bank Street, north of Wellington, and approaching the RCMP member and an already-arrived and stopped motorcycle from the motorcade. This is after Mr. Godin and other M.P.s had descended from a House of Commons shuttle bus after their bus had been delayed due to a back-up at the Bank Street vehicular checkpoint for vehicles seeking to drive onto Parliament Hill. This delay was a result of the RCMP holding vehicles, including parliamentary buses, in anticipation of the arrival of the motorcade.

At 11:03:23, the three individuals including Mr. Godin can be seen on the video stepping onto Bank Street to cross diagonally toward the open vehicle gates on the east side of Bank Street in order to walk up the Hill to attend the pending vote, having made the decision that he might not make the vote if he remained sitting in the House of Commons shuttle bus that had come to a halt north of the Confederation Building due to traffic being held at the Bank Street vehicle checkpoint. It is not possible to identify which of the three is Mr. Godin. At the same time as they step onto Bank Street, the video shows the RCMP member begin to walk northbound toward the three individuals while gesturing to them.

At 11:03:27, one of the three individuals – Mr. Godin – ceases progress across the street and begins walking toward the RCMP member, who is still walking northbound toward the group. The other two individuals continue to cross the street.

At 11:03:30, the second of the three individuals has stopped in the middle of Bank Street and will retreat westward back across Bank Street to join with Mr. Godin and the RCMP member. The third individual has made it entirely across Bank Street and is in close proximity to another RCMP member.

At 11:03:31, the third individual begins to walk westward back across Bank Street to join the first RCMP member and the other two individuals. The second RCMP member, on the east side of Bank Street, can be seen to have gestured to the individuals crossing the street and, in one case, having already crossed the street, to stop and retreat back toward the first RCMP member.

Also at approximately 11:03:31, Mr. Godin has reached a point in close proximity to the first RCMP member on the west side of Bank Street. The first RCMP member has stopped gesturing to the individuals and appears to begin speaking to Mr. Godin.

It is reasonable to presume that both RCMP members were speaking and gesturing to the three individuals at least since the moment they began their attempt to cross Bank Street. The video clearly shows the members gesturing, and the three individuals each radically changed course at three different times within an 8 second period.

At 11:03:38, the third individual reaches the first RCMP member on the west side of Bank Street after re-crossing Bank Street westward.

At 11:03:43 it is clear from the video that all three individuals have regained position on the west side sidewalk of Bank Street.

At 11:03:49, the video shows the first motorcycle of the motorcade proper arriving on Bank Street at the apex of executing a 180 degree rightward turn from westbound to eastbound, behind which the rest of the motorcade would proceed through the open vehicle gate. The video halts before the entire motorcade is shown completing this maneuver.

According to the video:

- the time elapsed between the three individuals beginning to cross Bank Street and the arrival of the first motorcycle in the motorcade proper is 26 seconds, from 11:03:23 to 11:03:49;
- the time elapsed between the first individual arriving in close proximity to the first RCMP member and the arrival of the first motorcycle in the motorcade proper is 18 seconds, from 11:03:31 to 11:03:49;
- the time elapsed between the third of the three individuals arriving back on the west side of Bank Street in a reasonably safe position and the arrival of the first motorcycle in the motorcade proper is 12 seconds, from 11:03:37 to 11:03:49;
- the time elapsed between the third of the three individuals arriving back on the west side sidewalk of Bank Street, and the arrival of the first motorcycle in the motorcade proper is 8 seconds, from 11:03:41 to 11:03:49; and
- The video halts at 11:04:00, approximately 24 seconds after the three individuals arrive in close proximity to the first RCMP member.

In oral testimony, Commissioner Paulson stated, using still photographic aids taken from the video footage, that at 11:04:44, "...the motorcade has just entered through the Bank Street gate and is driving toward Centre Block. A police officer is seen escorting the Member for Acadie—Bathurst across Bank Street and onto the Hill." The still photo shows that at this time, 11:04:44, the first RCMP member and the three individuals including Mr. Godin appear to have stepped off the west side sidewalk of Bank Street and to have begun to cross Bank Street heading eastbound. We can use this time stamp as the point at which the delay of Mr. Godin ceased. From these timestamps, we can deduce that the motorcade took approximately 55 seconds to clear the intersection, with the first motorcycle arriving at 11:03:49 and the last vehicle having passed by no later than 11:04:44.

Commissioner Paulson further stated that the entire period during which Mr. Godin was delayed, including the time during which he had to wait for the cars to pass, "was resolved in approximately 70 seconds." The Commissioner's statement closely follows what we can see from the timestamps of the video and still photo captures, along with the Commissioner's statements. After having descended from the House of Commons bus behind the Confederation Building and then making his way south along the west side of Bank Street, Mr. Godin appears to have been delayed for no more than 77 seconds from the time he changes course at the instruction of RCMP members, 11:03:27, and the time the RCMP member begins to escort Mr. Godin and others across Bank Street following the motorcade's passing at 11:04:44. Mr. Godin himself confirms that he did make it to the House of Commons in time to vote.

Commissioner Paulson noted that the RCMP strives to ensure parliamentarians are not prevented from accessing the grounds or the buildings, that it would have been unacceptable that an RCMP member would treat any citizen, especially a parliamentarian, rudely, and that the incident, including the delay of green buses, was unfortunate considering it was a time-sensitive situation. Commissioner Paulson further testified that he had met with the RCMP officer who Mr. Godin said had told him that he did not care that Mr. Godin was an M.P. seeking to get to a vote in the House. The Commissioner reported that the officer indicated he did not recall having spoken in this fashion.

Chief Bordeleau also provided the Committee with an overview of the Ottawa Police Service's role as a security partner during visits by foreign dignitaries. Primarily, the Ottawa Police Service is responsible for protecting the safety and security of individuals along motorcade routes. This includes the general public, pedestrians, motorists and members of the motorcade. He notes that the police minimize risk during such events through ongoing training and communication with the RCMP and House of Commons Security Services.

Some members of the Committee were interested in the efforts made by security partners to avoid the occurrence of such events in the future, as the Committee reported on a similar incident in its 26th Report of the 41st Parliament, First Session. Commissioner Paulson noted that since 2012, a number of measures have been implemented including:

- the distribution of booklets to all RCMP members posted on Parliament Hill which includes photos of all parliamentarians;
- ensuring all newly-assigned RCMP members to Parliament Hill are thoroughly briefed on parliamentary privilege; and
- ensuring prompt dismantling of security perimeters established for major events and demonstrations at the conclusion of each special event or visit.

Following the events of September 25, 2014, Assistant Commissioner Michaud noted two measures he has discussed with House of Commons Security Services to mitigate and minimize the delays during such events. First, motorcades will begin using an alternative gate to enter and exit Parliamentary Hill. This route was used on October 9, 2014, during the visit of His Excellency Sauli Niinistö, President of the Republic of Finland, and the flow of traffic was not disturbed and no problems arose.

Secondly, any last-minute changes to the movement of motorcades will be communicated to House of Commons Security Services by an RCMP vehicle that will arrive ahead of the arrival of the motorcade. That vehicle would be in direct contact with the House of Commons Security official who is in charge of the visit on the Hill; that vehicle may, in turn, receive information of any changes of activities that may be occurring on the Hill that would impede access on the Hill, either for the motorcade or Members of Parliament.

In the context of this overview of the evidence presented to the Committee, the Committee takes note of a misunderstanding that arose after the playing of one of the videos of the events of September 25, 2014, by Commissioner Paulson during the giving of evidence. Mr. Godin

expressed his view that the video had been played at a faster than normal speed, noting specifically that it seemed impossible that the entirety of the conversation he had with officers could have occurred in the short time that appeared to pass during the screening of the video. However, the Committee wishes to make clear for the record that Mr. Godin was in error, and that the video had been played at normal speed. As Commissioner Paulson noted in responding to Mr. Godin's concern, "As far as I am concerned, there would have been a lot of time for you to speak to each other." The Committee agrees with this observation.

Parliamentary privilege

In Canada, both Houses of Parliament have claimed the full extent of parliamentary privileges enjoyed by the UK House of Commons at the time of Confederation through section 4 of the *Parliament of Canada Act*, and section 18 of the *Constitution Act, 1867*. *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament* ("*Parliamentary Practice*") defines parliamentary privilege as "the sum of the peculiar rights enjoyed by each House collectively ... and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals" (24th ed. (2011), p. 203).

As part of parliamentary privilege, Members of the House of Commons possess a right to unimpeded and unfettered access to the Parliamentary Precinct, and are entitled to go about their parliamentary duties and functions undisturbed and without any form of interference.

This privilege has old roots in our parliamentary system, and cases in which Parliament has asserted the right of its membership to attend either House without obstruction date at least as far back as April 12, 1733. That year, the British House of Commons resolved: "That the assaulting, insulting or menacing any member of this House, in his coming to or going from the House [...] is a high infringement of the privilege of this House, a most outrageous and dangerous violation of the rights of Parliament and an high crime and misdemeanour" (UK House of Commons, *Journals* (1732-37), p. 115). Further, on June 6, 1780, the British House of Commons resolved: "That it is a gross breach of the privilege of this House for any person to obstruct and insult the members of this House in the coming to, or going from, the House [...]" (UK House of Commons, *Journals* (1778-80), p. 902).

In Canada, the parliamentary authorities have been unequivocal in their affirmation of the existence of this privilege. For example, Joseph Maingot's *Parliamentary Privilege in Canada* states that: "No impediment should be placed on the Member in going about his parliamentary business, whether in the House, on his way to the House, or while on his way home" (2nd ed., (1997). p. 176).² On numerous occasions, both the Speaker of the House, and the Committee have underlined the existence and importance of this privilege. Indeed, the Committee has studied and reported on instances of impeded access of Members as recently as in 1999, 2004 and 2012.

2 See also Bourinot's *Parliamentary Procedure and Practice in the Dominion of Canada*, 4th ed. (1916), pp. 55-56; Beauchesne's *Parliamentary Rules and Forms*, 6th ed. (1989), pp. 33-34, § 129; and *House of Commons Procedure and Practice*, 2nd ed. (2009), p. 108 and ff.

In its 1999 report, the Committee recommended, among other things, that greater communication and coordination be encouraged among the different police and security services responsible for security in and around Parliament Hill, and that the general level of awareness regarding security issues and Members' access to Parliament Hill be raised (Sixty-Sixth Report, 36th Parliament, First Session, presented to the House on April 17, 1999). In its 2004 report, the Committee made clear that Members must not be impeded or interfered with while on their way to the Chamber, or when going about their parliamentary business, as to permit this would interfere with the operation of the House, and undermine the pre-eminent right of the House to the service of its members (Twenty-First Report, 38th Parliament, First Session, presented on December 15, 2004, concurred in by the House on May 17, 2005). In its 2012 report, the Committee set out certain obligations and expectations with regard to the RCMP and Members, when security was heightened and access on Parliament Hill was limited. These included that RCMP members assigned to controlling access to the Hill were to be made aware of the parliamentary privilege of Members of unfettered access to the Parliamentary Precinct and have in their possession a copy of the *Directory of Members of the House of Commons*, that RCMP members would seek to collaborate with House of Commons Security Services to help identify Members, and that no Member once identified as a Member ought to have his or her access to the precinct impeded (Twenty-Sixth Report, 41st Parliament, First Session, presented to the House on May 31, 2012).

Discussion

Having given careful review to the events of September 25, 2014, the Committee considers that the officers managing both vehicular and pedestrian traffic during the visit of the President of Germany, in a time-sensitive context where safety was a paramount consideration, were simply attempting to do their jobs within procedures they had no control over. It further considers its principle task to be that of mitigation against similar incidents arising in the future. Cases of privilege in which Members have had their right to unimpeded access to the Parliamentary Precinct denied have occurred in the recent past with all too great a frequency. The Committee considers the best solution to this issue to be improved planning, greater coordination between partners, and increased education and awareness of security services and Members.

The evidence provided to the Committee by the partners of the master security planning office indicates that significant advancements, in terms of guidance and strategic direction in order to ensure a proactive and coordinated security approach, have been put in place over the past five years. The Committee also considers important the additional steps taken by the security planning office following the events of September 25, 2014. The Committee recognizes and appreciates that the interaction of parliamentary privilege with the significant challenge of providing security for visiting dignitaries, at the same time as safety for others during the visits, has been addressed in a substantial way by changes to operational procedures.

Specifically, the Committee believes that the utilization as a standing operating procedure of Parliament Hill's Elgin Street entrance during visits to Parliament by foreign dignitaries in lengthy motorcades, to be an important improvement in respect of deconflicting the routes taken by motorcades and by parliamentarians. Where possible, the Committee considers it a best practice for the office of the Sergeant-at-Arms to continue to provide to Members through communiqués as much relevant information as possible in order to reduce the possibility of a Member encountering

an otherwise avoidable delay. In the event that a Member is having his or her access to the precinct obstructed, the Committee considers it a useful option to provide all Members with a phone number they can call to report any undue obstruction.

The Committee, therefore, recommends that the office of the Sergeant-at-Arms provide to all Members a phone number they can call in the case of an emergency related to an obstruction to their access to the Parliamentary Precinct.

The Committee also considers the inclusion of a dedicated paragraph focusing solely on parliamentary privilege in the operational plans employed by security partners to be an important step. The Committee would be remiss if it did not state that the utility of including such a paragraph in the operational plans will be lost unless its importance is emphasized to the officers on the ground executing the security plan. Parliamentary privilege ought to be counted among the priorities during the preparation of the master security plan by the precinct's security partners. Members must have easy access to the Parliamentary Precinct at all times.

The Committee wishes to express that it is fully confident that the partners providing security to Parliament Hill and the precincts will give all due consideration to the importance of parliamentary privilege during the planning and execution of security plans, and that they will continue to ensure the security and safety of the public, foreign dignitaries and parliamentarians, while also ensuring that any heightened security stance will not obstruct access to the Parliamentary Precinct by Members, and is respectful of parliamentary privilege.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 50, 51, 52, 54, 66, 68, 70, 72 and 74](#)) is tabled.

Respectfully submitted,

JOE PRESTON
Chair

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