



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

HOUSE LEADER
OF THE OFFICIAL OPPOSITION

LEADER PARLEMENTAIRE
DE L'OPPOSITION OFFICIELLE

Hon. Andrew Scheer, MP
Speaker of the House of Commons
Room 222-N, Centre Block
House of Commons
Ottawa, ON K1A 0A6

Monday, June 11, 2012

Dear Mr. Speaker,

Pursuant to Standing Order 48(2), I am writing to you this morning to give notice that I intend to rise later today on a question of privilege. I will be asking that you find that a prima facie breach of privilege has occurred that constitutes a contempt of parliament and an affront to our parliamentary institutions.

Created as a key oversight body by the Conservative government's 2006 Federal Accountability Act (S.C. 2006, c. 9), the Parliamentary Budget Officer (PBO) carries out critical work on behalf of parliamentarians from all political parties to ensure that the government is held to account and to ensure that parliamentarians are well-informed of the costs (be they economic, social, human resource, or otherwise) of policy decisions proposed by the government. As an officer of parliament working with a very specific and defined mandate grounded in the Federal Accountability Act, "the Parliamentary Budget Officer is entitled, by request made to the deputy head of a department... to free and timely access to any financial or economic data in the possession of the department that are required for the performance of his or her mandate" (section 79.3(1) of the Act).

Members of our caucus have been trying for some time to attain information from the government on the human resource cuts implicated in C-38, *An Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures*. You will have noted from questions asked during Question Period, during debate in the House on C-38, throughout the work of the Standing Committee on Finance during their study of C-38 and in Questions on the Order Paper that we have been trying to get this information to aide our caucus in deliberations on this bill. We have also asked the PBO to pursue this through his work on behalf of Parliament.

After numerous requests to various departments and agencies for information related to the cuts, the PBO received a letter from Mr. Wayne Wouters Clerk of the Privy Council who informed him that the information was being withheld as it relates to contractual obligations and collective agreements between the employer and the employees. Minister Clement, in his capacity as President of the Treasury Board, has indicated that this information exists, but that it will not be released until this coming fall.

As the PBO was correct to point out in his response to Mr. Wouters, "the grounds for resisting disclosure are limited, among them, personal data, the disclosure of which is restricted under s. 19 or Schedule II of the Access to Information Act 1985, and information contained within a Cabinet confidence. As I understand it, neither of these grounds is being advanced as a justification for resisting disclosure. Rather, it is other contractual obligations and commitments under collective agreements that form the basis of the decision not to provide the information... the unions to which the concerns relate have expressed both their acceptance of disclosure and their view that provision of the information requested would not fall foul of the collective agreements by which the government is bound."

By failing to disclose this information to the PBO, I will argue today that members of parliament have been prevented from properly discharging their duties on behalf of the Canadian public. Through deliberate obstruction and interference on the part of the PCO and the President of the Privy Council, members have not been able to adequately fulfill their principal functions which are to "legislate, deliberate and hold the government to account" (Canada (House of Commons) v. Vaid, [2005]). Freedom from obstruction, interference, intimidation and molestation are a set of privileges specifically defined through precedence and a litany of rulings handed down by previous Speakers in Canadian Parliament and elsewhere, and this particular case is one where a *prima facie* breach of privilege ought to be considered to have taken place given the fact that the information requested does exist and our members are still be prevented from receiving this information despite going through all of the regular channels afforded to them both in the House and through Acts of Parliament.

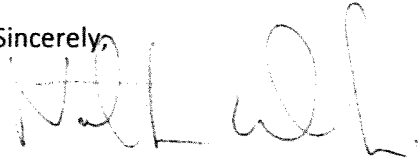
Furthermore, *House of Commons Procedure and Practice, Second Edition*, underscores that "the House also claims the right to punish, as a contempt, any action which, though not a breach of a specific privilege, tends to obstruct or impede the House in the performance of its functions; obstructs or impedes any Member or officer of the House in the discharge of their duties; or is an offence against the authority or dignity of the House, such as disobedience of its legitimate commands or libels upon itself, its Members, or its officers" (p. 82). In addition to a breach of privilege, this matter also touches on matters of contempt and ought to be scrutinized thoroughly in the collective interests of the House.

The information that members need to make an informed decision on a bill currently before parliament exists and is being deliberately withheld for the next number of months. The government has indicated that they intend for C-38 to have passed into law before Parliament rises for the summer recess. Asking members to make these voting decisions now when they do not have all of the information necessary to adequately do so touches on our well-defined privileges and is a contempt of Parliament.

I will expand on this argument later today in the House and I trust that you will, indeed, find that a *prima facie* breach of privileges exists in this very important matter. If you agree with me in your ruling I will be prepared to move the appropriate motion at that time and will seek your guidance as this process moves along.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Cullen', written in a cursive style.

Nathan Cullen, MP

Opposition House Leader