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Speaker: The Honourable Geoff Regan

Privilege

Ms. Dianne L. Watts (South Surrey—White Rock, CPC):

Mr. Speaker, I am rising to offer additional submissions on the question of privilege which was raised last week by the hon. member for Victoria and supported by the hon. member for Perth—Wellington.

In his remarks on Friday afternoon, the hon. Parliamentary Secretary to the Leader of the Government in the House of Commons quoted from one press release in an effort to exculpate the government's arrogant approach to setting up the Canada infrastructure bank while Parliament is seized with legislation proposing its creation.

Mr. Speaker, I would like to refer you to the job postings at the appointments.gc.ca website maintained by the Privy Council Office. Those documents are the ones any serious candidate interested in the positions would be reviewing. Nowhere on there is there any suggestion that Parliament's approval has yet to happen. A reader might be forgiven for concluding that the bank already exists, that this is a *fait accompli*.

Not only do these job postings suggest that the bank is a done deal, but they also treat the particulars of the bank's mandate, which are actually details buried in the government's omnibus budget bill, Bill C-44, in the same fashion. Let me quote from the job postings as found on the government's website on Friday.

On the posting for the bank's chairperson, we read, "The new Canada Infrastructure Bank is being established to initiate and invest...." That also appears in the postings for directors and the president.

Then, we read the following concerning the mandate of the Canada infrastructure bank:

The Bank will be mandated to invest \$35 billion into projects.... The Bank will also act as a centre of expertise on infrastructure transactions...and provide advice to all levels of government in that context. In addition, the Bank will lead a data initiative to improve knowledge....

Those same phrases appear in all three job postings.

Now, if we turn to the proposed Canada infrastructure bank act, which would be enacted by clause 403 of Bill C-44, we see the following: Proposed paragraph 7(1)(e) of the proposed act would establish the bank as “a centre of expertise on infrastructure projects”. Proposed paragraph 7(1)(f) would give the bank a mandate to “provide advice to all levels of government with regard to infrastructure projects”. Proposed paragraph 7(1)(g) would authorize the bank to “collect and disseminate data”.

Proposed section 23 of the proposed act reads in part:

The Minister of Finance may pay to the Bank, out of the Consolidated Revenue Fund, amounts of not more than \$35,000,000,000 in the aggregate

Later in the job postings for the chairperson and directors, we see this comment: “The Board of Directors of the Bank will be composed of the Chairperson and 8 to 11 other Directors.”

Looking at the proposed act, proposed subsection 8(1) states, “The Bank has a board of directors composed of the Chairperson and not fewer than eight, but not more than 11, other directors.”

These are all details which are currently before the House of Commons and could theoretically be amended at committee, at report stage, or even by the other place, but the government treats them as final and settled, given how those job postings read.

The parliamentary secretary's defence of the government's arrogance seems to be that some other document that includes a passing reference to parliamentary approval should get them off the hook.

Speaker Milliken ruled on May 29, 2008, at page 6276 of *Debates*, on advertisements about pending amendments to the Immigration and Refugee Protection Act. He stated:

It is with these precedents in mind that I reviewed the advertisements in question. They contain phrases such as “the Government of Canada is proposing measures”, “These important measures, once in effect,” and “These measures are currently before Parliament”. In my view, the advertisements clearly acknowledge that these measures are not yet in place. I am therefore unable to find evidence of a misrepresentation of the proceedings of the House or of any presumption of the outcome of its deliberations.

There is nothing in the job postings to suggest that Parliament has yet to approve the bank's creation or that it could, in its work, tweak the government's proposed details. The job postings most certainly presume the outcome of deliberations in the House.

Most recently, the Speaker's predecessor, the hon. member for Regina—Qu'Appelle, was also asked to rule on a procurement notice seeking audit information concerning the financial impact of scrapping the Canadian Wheat Board monopoly, a policy initiative in the 2011 Conservative platform. His ruling on September 28, 2011, at page 1576 of *Debates*, held:

The notice itself presents a hypothetical scenario. It does not foresee a specific timetable for legislative action, let alone presume the outcome of such action. As I see it, the notice and task force terms of reference form part of a planning process that might be expected in contemplating the possibility of the repeal of the Canadian Wheat Board Act. I know the member for Malpeque does not expect the Chair to monitor all internal processes undertaken by the government as part of its preparatory work in advance of proposing legislative measures to the House. Accordingly, I cannot agree with the hon. member for Malpeque's statement that "The government presumes that the act has been repealed, which in fact it has not". I see no evidence of such a presumption.

In the present instance, I do not believe that the wording of the text of the notice of procurement posted on the MERX site is ambiguous: rather, in my view, it presents a hypothetical case and seeks information on the impact of such a scenario.

There is, to put it simply, nothing hypothetical about how these job postings read. Given that the appointments.gc.ca website is administered by the Privy Council Office, I can only assume that it was acting on the express instructions of the Prime Minister's Office, which would have been micromanaging the rollout of a marquee initiative of the budget.

Mr. Speaker Parent, on March 13, 1997, at page 8987 of *Debates*, was also called upon to rule on advertisements, and offered this piece of advice to government communications staff:

Those whose duty it is to approve the wording of communications to the public for a minister must surely be aware that the terms used in parliamentary language have a very specific meaning. Trying to avoid them or to use them for advertising purposes shows a lack of consideration for the institution of Parliament and the role of the members in the legislative process. If there is no ambiguity in the choice of terms the public will be better served and the House can get on with its work without being called upon to resolve the difficulty caused by such misunderstanding.

Unfortunately, this sound counsel was simply ignored by those in the PMO who approved the wording of these job postings. The whole episode is, sadly, yet another example of a prime minister and a government who are dismissive of Parliament, and simply find the House of Commons to be an irritant and speed bump on their path to governing.

The House of Commons is, and must always be, seen as more than a rubber stamp for the government's legislative proposals. To address this attack on the authority and dignity of the House of Commons, I urge you to find a prima facie case of privilege.

The Speaker:

I thank the hon. member for South Surrey—White Rock for the submission she made to add to the submission of the hon. member for Victoria. I am aware that the hon. Parliamentary Secretary to the Leader of the Government in the House of Commons has also made a submission on this question of privilege. I will take it under advisement, and look forward to coming back to the House with a ruling.