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Chair

Mr. Marcel Proulx

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• (1530)

[English]

The Chair (Mr. Marcel Proulx (Hull—Aylmer, Lib.)): Good afternoon, ladies and gentlemen; bonne après-midi.

The legislative committee is on Bill C-38.

Before we let you go on, Mr. Toews, I want to clarify something with you. How do you intend to go down the list of witnesses? Can we go down one at a time and you make your comments, so that the clerk and researcher can follow you? Do you want to do it one witness at a time and tell us who you are proposing to accept and what you are proposing to answer?

Mr. Vic Toews (Provencher, CPC): I will let you know as those witnesses unfold. I have my notes in a particular order, and I can deal with them.

The Chair: You will refer to the order on the list so that we can follow you, please.

Mr. Vic Toews: My issue is on the fact that the ones I want aren't on there.

The Chair: As you go down the list, you'll tell us which ones you want so that we can make note of them as we go down the list. I want to avoid mistakes. I want to make sure we're following you.

Mr. Vic Toews: Yes. I will let the committee know in due course who I will accept of the witnesses who are on the list.

The Chair: Thank you.

Yes, Mr. Boudria, you have a point of order.

Hon. Don Boudria (Glengarry—Prescott—Russell, Lib.): It's not clear what it is we're doing here. We had a motion at the last meeting. Is that motion still before us?

We also had a motion, and then, when giving a speech to the motion, someone was telling us he had other, separate motions. I've read the blues.

Of course, there can't be any more than one motion on the floor at any one time. Could the chair enlighten us on exactly what is before the committee? Is there a motion and an amendment or more than one amendment. If so, which one is in order?

The Chair: We have one motion. It is Mr. Toews' motion, where he was discussing the list of witnesses and telling us where he was at, as far as making recommendations.

Hon. Don Boudria: Mr. Chairman, if I may, it was again my understanding that there was a motion to adopt the report of the

subcommittee and that Mr. Toews moved an amendment to that motion.

There's a motion before us and an amendment. I think we were discussing the amendment. Could we have the wording of exactly what it says in that amendment? If that's still the one before us, yesterday the wording only talked about one witness. Is that what's before us?

Mr. Vic Toews: No. We're talking about a number of witnesses who I have proposed to add to the list. I have dealt with them either in a group or separately, whatever the appropriate process is.

I had moved an amendment to include Bishop Henry. I moved an amendment to include—

Hon. Don Boudria: Mr. Chairman, I have a point of order. There can't be two amendments on the floor at the same time.

I bring the blues to the attention of the chair:

Mr. Toews: I move that we also add Bishop Henry and I will give the reasons why....

Then he goes on with the rest of his speech.

Is that the motion before us?

• (1535)

The Chair: Was your motion strictly on Bishop Henry?

Mr. Vic Toews: We can include all of the individuals in one motion or we can do them separately, whatever the rules provide.

The Chair: Let me ask you this question. How will we solve the matter of the fastest or easiest way to do this? Is it all in one, or one change per witness that you wish to see?

Mr. Vic Toews: It's whatever is acceptable. I want to propose a number of witnesses.

I've made a motion with respect to Bishop Henry. I can continue talking on that particular motion and add additional witnesses as part of that motion. If that's the appropriate procedure, I can do it that way.

Hon. Don Boudria: Mr. Chair, I'm not sure what the honourable member wants. If he wants to withdraw that motion, put a new one, put all the names in the same one, then we can debate whether or not we accept his motion. But he can't say he moves a motion, and he moves a second motion, and a third motion, and he's debating all three of them at once.

I've never heard of this before, and I'm sure nobody else around this table ever has either.

[*Translation*]

Mr. Réal Ménard (Hochelaga, BQ): Mr. Chairman, I don't know if the mover would agree to having us send the matter back to the subcommittee for a later response.

The Chair: One moment please, Mr. Ménard. The person to whom your comments are directed does not have his...

Mr. Réal Ménard: It shouldn't be a case of two solitudes, Mr. Chairman.

The Chair: Would you care to start over, Mr. Ménard?

Mr. Réal Ménard: Gladly.

Would the mover agree to our sending the list of witnesses back to the subcommittee and to our waiting for a recommendation on a resolution to this matter? The subcommittee could then come to an agreement on an amended list. Since I'm assuming that there is good faith to draw up a list, this could be one solution, Mr. Chairman.

[*English*]

The Chair: Mr. Toews, are you ready to send it back to the subcommittee to let the committee work?

Mr. Vic Toews: I am prepared to do that on the condition that I don't lose the floor, if there's unanimous consent in that respect.

I have stated previously that I am willing to accept additions to the list. I made that offer to all the members of the committee. There are about 10 to 15 witnesses I want to see added. I don't think that's an unreasonable number of witnesses.

There was a proposal originally of 50, and then there was a reduced list of 43. And quite frankly, if there are 10 to 15 witnesses, that can accommodate what I require. And I can set out the reasons why someone like Bishop Henry should be there, and others.

I can do that, or I can continue with my motion in respect of Bishop Henry.

The Chair: Before we get bogged down in amendments and so on, can you give us a clue as to who your 15 witnesses are, Mr. Toews?

In response to your condition, I don't agree that you can put conditions on the committee to send the list to the subcommittee. I mean, if we send it to the subcommittee, you can't keep the floor, because the subcommittee is not the same as the committee.

You can't have it both ways.

Mr. Vic Toews: No.

The Chair: Let's be of good faith. Let's look at the list of your 15 witnesses that you want to add, and maybe we can solve this quickly.

I assume your additional witnesses would be part of the list that your party submitted through your member of the subcommittee. Am I right?

Mr. Vic Toews: Yes, that's correct.

The Chair: I have a list of proposed witnesses for Bill C-38, the Conservative Party submission, so maybe you can identify those additional witnesses.

Mr. Vic Toews: The witnesses in the heading under "Legal experts"—and I stand to be corrected here by my colleague—are Mr. Miller—

An hon. member: Mr. Miller's already on the list.

Mr. Vic Toews: I'm sorry. The rest were not.

Mr. Gerald Chipeur—

• (1540)

The Chair: He's already on the list.

Mr. Vic Toews: He was accepted. All right.

I'm just going through the list so I don't omit anyone here. I wasn't intending on getting quite this far in my discussions today. If you could just give me a moment here....

[*Translation*]

Mr. Réal Ménard: We live in a wonderful world.

The Chair: Indeed.

[*English*]

Mr. Vic Toews: Can we suspend for five minutes? Then I can give you a full list.

The Chair: Let's suspend for five minutes.

Thank you.

• (1541)

(Pause)

• (1542)

• (1550)

The Chair: Mr. Toews.

Mr. Vic Toews: In respect of the individuals under the heading "Legal experts", the three we would like to add are David Brown, Peter Lauwers, and Ted Morton; under the heading "NGOs", the Catholic Civil Rights League, John McKellar, Joseph Ben-Ami, and Iain Benson; then under "Religious organizations/leaders", Bishop Fred Henry, Dr. David Mainse, and the Christian Reformed Churches of Canada.

I don't believe the Canadian Islamic Congress is a witness, is it?

The Chair: No, it's not, sir.

Mr. Vic Toews: All right. That was an addition.

Under "Academics" would be Alan Brudner of the University of Toronto, Fred DeCoste of the University of Alberta, and then one of Kathryn Young or Paul Nathanson of McGill—our preference is Kathryn Young and then the alternative is Paul Nathanson—and Doug Farrow and David Novak.

Then under the heading "Affected individuals", we'd like Chris Kempling; under the heading "Former Marriage Commissioners", the one from Ontario who's listed and the other one from Newfoundland; then under "Other individuals", Mr. Stanley Hartt.

If we can come to an agreement on those.... I think that's a fairly modest list. You can certainly see I have compromised to a great extent as to what we would be willing to do. If we bring those individuals here, I think we can save the committee a lot of time in the long run.

Mr. Richard Marceau: That's how many?

The Chair: It's 20.

Just give us two minutes, if you would, so that we can consolidate our lists here to know exactly where we're going, and we'll be right back.

• (1553) _____ (Pause) _____

• (1604)

The Chair: Okay.

Mr. Vic Toews: Could I put our understanding on the record, Mr. Macklin?

Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.): Sure, if you wish, and I'll see if I agree.

Mr. Vic Toews: Essentially, Mr. Macklin and I had a discussion. There were some interesting proposals put forward by committee member Neville in respect of how we deal with witnesses. There is some disagreement on my side on that particular issue, but what I will commit is that we will start hearing witnesses Wednesday night, which is originally what I assumed we would do if we could deal with all my motions. I'll commit to the witnesses going ahead Wednesday night. We'll come back in the morning and talk about the additional witnesses and Ms. Neville's proposal. Hopefully we can resolve some of this overnight.

At this point I would suggest that the hearing not proceed. I can talk, whether Mr. Boudria wants to hear me talk about Bishop Henry by himself or any number of witnesses, but what I would do is commit then that Wednesday night we'll hear witnesses. This doesn't set the schedule any further back than I've already indicated it would be on Wednesday evening.

I think that's a reasonable proposal. I want to thank Mr. Macklin for considering it and Ms. Neville for bringing forward what may well be a constructive idea.

• (1605)

The Chair: Excuse me. I must be missing....

Yes, Mr. Boudria, on a point of order.

Hon. Don Boudria: Even though I don't want anything to be misinterpreted here, our listening to these witnesses tomorrow night doesn't mean that every thing Mr. Toews wants is by definition in order, nor that we agree with it. Sometimes I hear some of both in what he says.

The Chair: Hold on just a second. I've heard part of what was the subject of discussions this afternoon, but the other part I haven't heard about.

One of our main roles, as far as the committee is concerned, is to agree on a list of witnesses, and it was the subcommittee's report on that we were discussing.

I haven't heard your comments with regard to the acceptance or rejection or modification of that report, Mr. Toews. Where do we stand on that, according to your plan?

Mr. Vic Toews: According to my plan, as I had suggested, I listed a number of names. I understand they amount to 20 names; those are essentially the names I would like to see added.

There have been some suggestions made that there are other ways of being able to expedite this, whether I take the floor now and continue talking on the motion—

Hon. Don Boudria: A point of order, Mr. Chairman. Why do we always have to act under a constant threat from Mr. Toews? If he doesn't utter a threat every 35 seconds to hijack this committee, then he feels compelled to repeat it every second sentence for our benefit.

The Chair: Mr. Boudria—

Hon. Don Boudria: How does that make a committee work? How does that respect the democratic rules assigned to us by the House of Commons? How does that respect the Standing Orders?

The Chair: Let's agree, you and I, that this is not a point of order, as such.

Merci.

Mr. Toews.

Hon. Don Boudria: With respect, Mr. Chairman, if I may...?

One member of this committee saying he has a motion that is out of order before this committee is a point of order. His saying that he wants witnesses who don't conform to the Standing Orders is out of order, and I'm sure he knows that too. For him to repeat that unless he gets it his way he'll talk until the cows come home, which is what he's been telling us three or four times this afternoon, doesn't make what he says in order if it's out of order to begin with. He knows that. He's learned it in the law and has served in two different parliaments in this country.

The Chair: Okay. Thank you.

[*Translation*]

Thank you, Mr. Boudria.

[*English*]

Mr. Toews, I know what you can do; that's not what I want to hear.

Mr. Vic Toews: Yes, and—

The Chair: I want to hear from you what your plan is with regard to accepting or rejecting or modifying the report from the subcommittee, sir.

Mr. Vic Toews: One of the things I can't do today is to consider and fully accept what has been proposed by one of the other committee members. It seems to be an idea we can work with. What I've indicated is that we'll think about this overnight, but I don't want to delay the process of the committee any further. I've indicated that if we set this over for tomorrow morning, just the way we promised—

The Chair: Excuse me, you can't have a meeting tomorrow morning. The next meeting is scheduled for tomorrow afternoon at 3:30. We have one scheduled from 3:30 to 5:30 and then one from 6 to 8.

Mr. Vic Toews: I'm sorry. I was confused. That's the first meeting on Wednesday, I assumed. I'm not suggesting that we add another meeting there. I'm simply saying that I'll come back at 3:30 if we can't agree. Whether we can agree or not, we are going to hear witnesses, as far as I'm concerned, in the evening. That's all I'm saying here.

Hon. Paul Harold Macklin: All I want to say is that when we finish our discussions tomorrow, in the 3:30 to 5:30 time slot, whatever we agree upon I want to be considered final and that all committee members to agree to it, and that we will go immediately to clause-by-clause thereafter. In other words, we'll hear those witnesses on a format that we've agreed upon. I don't want to be in a position where more witnesses are going to be added in the process. We want the list to be final, whatever we agree to tomorrow.

• (1610)

Mr. Vic Toews: I can tell you that if we add these lists of witnesses, I'm not proposing any further witnesses.

Hon. Paul Harold Macklin: I want understanding among all of us on the committee that when we agree tomorrow, we will have agreed to a final proposal on a methodology, the number of witnesses, and how we're going to finish this committee work.

Mr. Vic Toews: I can't promise that we'll all agree, but if we agree to these witnesses, I can certainly say I will not add any further witnesses.

The Chair: Mr. Toews, let me ask you a question. If there was to be a motion on the table that the additional witnesses you have listed for us this afternoon were to be added to the proposed report from the subcommittee that was tabled yesterday, would you be happy with that being the full and final list of witnesses for this committee?

Mr. Vic Toews: Yes.

The Chair: Okay. Is there anything—and I'm just suggesting this for the good progress of the committee—that would keep other members from accepting the addition of these additional witnesses to the existing report that was tabled yesterday?

Yes, Mr. Savage.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): There have been a lot of discussions that have gone back and forth since we arrived in this room half an hour ago, and I haven't been subject to all of them. To me, this issue is an issue that has been of great interest to Canadians. It seems to me that if we had 22 witnesses that support and 19 that oppose, we should add three more that oppose and let you decide who those three are—have 22 in favour and 22 opposed—and get on with the business. I think that would be a fair and reasonable way to go.

The Chair: What I hear is that at this time you are not necessarily ready to accept a motion to add these new witnesses to the report.

Hon. Paul Harold Macklin: Mr. Chair, I believe that in fact it needs to be a package that we put together. If we're going to agree to those witnesses, we agree to the methodology, as to how we're going to work with those witnesses, and put it all together so we can all agree, as I say, on the plan from now until we finish this exercise. That's what I'd like to accomplish tomorrow.

[Translation]

The Chair: Mr. Ménard.

Mr. Réal Ménard: I want to be clear about this matter and make a suggestion as to how the committee should proceed on this.

If we agree to the list...

The Chair: Not everyone is listening to you.

Mr. Réal Ménard: That's most unfortunate. It's also the story of my life, Mr. Chairman.

Our Conservative colleagues are proposing the addition of some 20 names to the witness list. I believe Mr. Marceau will be speaking on behalf of the Bloc Québécois, but as I see it, the committee should be favourable to this suggestion because it will help us do our job right.

I'd like to know the specifics of the committee's agenda. When are we planning to hear from all of these witnesses? Might it not be a good idea, Mr. Chairman, for you to adjourn these proceedings and ask the Subcommittee on Agenda and Procedure to meet and decide how we should proceed? I believe the Parliamentary Secretary had some valid suggestions. That way, we would have some idea by tomorrow of what we need to do to pass this bill as quickly as possible, while being mindful of everyone's convictions.

If our Conservative colleagues want to hear from additional witnesses, I think we should accommodate their request, provided no one goes back on their word and everyone abides by the yet-to-be-determined rules of operation set down for the committee. Once we've agreed on these rules, we won't go back on our word.

The steering committee could meet during the next hour, because this is not a matter that can be settled by the main committee.

[English]

Mr. Vic Toews: I'm just saying, how can I agree to something in advance of knowing what it will be? What I have committed to is that we will start hearing witnesses on Wednesday evening. That's what I've committed to, and that's all I can commit.

I think we want to approach this in good faith. These 20 witnesses are essentially what we want. If we were to say today, "Add these 20 witnesses, and let's go"... Let's go.

• (1615)

The Chair: Okay. What I understand you to be saying, Mr. Toews—and again, I'm repeating what I had understood previously—is that if we were to take the list of witnesses from the subcommittee report tabled yesterday and add to that list the list of new witnesses that you outlined verbally for us ten minutes ago, you would be satisfied that this would be the final list of witnesses to be heard by this legislative committee.

Mr. Vic Toews: I think in the interest of compromise and in the interest of good faith, yes.

The Chair: So your answer is yes.

Mr. Vic Toews: Yes.

The Chair: Fine.

Now I turn to you, Mr. Macklin. Are you telling us that you are not ready today to accept these additions?

And I'm not judging; I'm just trying to facilitate a result here.

Would you be ready to accept that these additional 20 or 22 new witnesses Mr. Toews has listed for us would be added to the list that comprised the subcommittee's report?

Hon. Paul Harold Macklin: I am in a position today to say that I would be prepared to accept the list if we can agree upon a methodology that meets our general concerns about time. That's what Mr. Toews is going to check on tonight, to see if in fact he can come up with a methodology, as outlined by Ms. Neville, on how this might be accomplished in a way that might be more effective than the way in which we've been traditionally following the process of questioning witnesses here—in other words, a concept of round table, and maybe as many as a dozen witnesses at a time.

The Chair: I see.

Monsieur Marceau.

[*Translation*]

Mr. Richard Marceau (Charlesbourg—Haute-Saint-Charles, BQ): Mr. Chairman, the subcommittee was scheduled to meet from 3:30 p.m. to 5 p.m. We still have one hour and fifteen minutes left of our scheduled time. I know how incredibly persuasive our colleague Vic Toews can be. In the interests of the smooth running of this subcommittee, could it not make the necessary verifications within the next hour and a quarter, so that we can resolve this matter today, even if it means not making too much progress on this issue? I wouldn't have a problem with that.

I feel quite confident that the subcommittee could verify the names and if, as Ms. Neville suggested, it agrees to this course of action, it could let us know today so that we can come to an agreement and move forward.

The Chair: So that we can proceed.

Mr. Richard Marceau: That's right.

The Chair: Fine then.

Mr. Boudria.

Hon. Don Boudria: I simply want some assurance, Mr. Chairman, that as we do hear from these witnesses, we respect our rules of procedure.

[*English*]

Standing Order 113 says quite clearly that we are authorized to hear witnesses on technical matters and so on.

It says in Marleau and Montpetit, on page 811, "Should a legislative committee—that's us—"require additional powers"—that's powers other than the one I just read—we can only do so by obtaining a motion of the House to that effect. If they're not technical, I don't object to that, but make sure that it's not just us who agreed to that. It only takes 30 seconds for someone to say that notwithstanding the Standing Orders, the following list be agreed to, and the House passes that.

I don't believe we have the authority to hear witnesses who are technical witnesses. When someone submits a list of NGOs, surely, by definition, those are not technical witnesses. I don't think they're NGOs, either, from looking at them. But that's another matter.

I just want to make sure that we respect the rules. The rules aren't there to protect me very much any more. I'm not even running again.

The Chair: Mr. Toews.

Mr. Vic Toews: And perhaps that's all the pity, Mr. Boudria, because you've given us so much wisdom over the years.

With respect to these witnesses, the problem with trying to define what are technical witnesses is a great difficulty. About some of these individuals, one would say, well, they can only give us partial technical evidence. But as Mr. Boudria knows—he's a learned man—when you have a legal case and you bring forward technical witnesses, you have to establish the factual foundation in order for the technicians to make the decisions. These are part and parcel of establishing a case for technical witnesses. But we could go back and forth on that particular issue.

Look at how many witnesses we heard, Mr. Chair, in the last.... I think one of our witnesses yesterday said it was 467. We've whittled this down to about 60 or 70. The Prime Minister promised that there would be a full public hearing. That's the political commitment that the Prime Minister made—

• (1620)

The Chair: Mr. Toews, you and I have had this discussion at this legislative committee in regard to what the Prime Minister has said and what the Prime Minister has not said. To my knowledge, the Prime Minister is not a member of this legislative committee. The Prime Minister can make a comment like any other citizen.

We have a committee sitting around this table. We have some rules and regulations, so we're going to have the committee meeting.

Mr. Toews, I want to bring you back to the question from Mr. Marceau. Is there a possibility that you could look at this with your colleagues within the next hour?

Mr. Macklin and Mrs. Neville can stand by, and everybody else can stand by very closely. Whenever you're ready, within the next hour and five minutes, we can all come back here to arrive at a solution.

Mr. Vic Toews: I can attempt to do that, and I say this in good faith.

As you know, it has been a busy day on Parliament Hill. Some of our colleagues are tied up in a meeting right now, but I have a caucus meeting this evening. This is something that—

The Chair: Is this something that you need to bring back to your caucus?

Mr. Vic Toews: I may well have to bring it back to some of the members, yes. This is not a decision that I can make without my House leader and others.

The Chair: Okay. Could somebody make a motion that we adjourn until tomorrow afternoon at 3:30?

It's moved by Mr. Boudria and seconded by Mr. Ménard.

(Motion agreed to)

The Chair: We're adjourned until tomorrow afternoon at 3:30.

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