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## Legislative Committee on Bill C-38

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**Chair**

**Mr. Marcel Proulx**

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## Legislative Committee on Bill C-38

Monday, May 30, 2005

• (1530)

[Translation]

**The Chair (Mr. Marcel Proulx (Hull—Aylmer, Lib.)):** Good afternoon and welcome to the Legislative Committee on Bill C-38.

[English]

Welcome to the Bill C-38 legislative committee meeting.

I am now ready to make a decision on the point of order raised by Mr. Boudria at the committee meeting on May 18 regarding the witnesses the committee can invite to appear. Let me begin by quoting subsection 113(5) of the Standing Orders of the House of Commons:

Any legislative committee shall be empowered to examine and enquire into the bills referred to it by the House and to report the same with or without amendments, to prepare a bill pursuant to Standing Order 68, and to report thereon, and except when the House otherwise orders, to send for officials from government departments and agencies and crown corporations and for other persons whom the committee deems to be competent to appear as witnesses on technical matters, to send for papers and records, to sit when the House is sitting, to sit when the House stands adjourned, and to print from day to day such papers and evidence as may be ordered by it.

The *House of Commons Procedure and Practice* manual provides the same information on page 811. We can look to the practice of recent legislative committees to guide us. For example, the legislative committee on Bill C-20 in 2000 heard 60 witnesses, and the legislative committee on Bill C-17 in 2003 heard 83 witnesses.

[Translation]

We can conclude from these recent experiences that each legislative committee has some latitude in the selection of witnesses it wishes to hear. In this regard, a number of decisions by the Speaker in 1988 and 1993 confirm that the House is reluctant to interfere in the work of a legislative committee.

Speaker Fraser made the following statement in a decision regarding the choice of witnesses of a legislative committee: “The question of what witnesses will be called to committees is one which all of us who have been here for some years know is often a matter of debate within the committee. It is not for the Speaker to say whether the decision the committee has made is a correct one or an incorrect one”.

[English]

Based on these precedents, it will be up to the committee to decide who qualifies as a technical witness to inform its review of Bill C-38.

Back to today's business, we are on the first report from the subcommittee on agenda and procedure.

Mr. Toews, you had the floor when we last adjourned the committee, so the floor is yours.

**Mr. Vic Toews (Provencher, CPC):** Thank you, sir.

Last date, I was discussing the provisions of the bill, and in particular the preamble of the bill, setting out what the preamble says and in fact what the law is, both constitutionally from a Charter of Rights point of view and from a division of powers point of view. These preambles, which are false in law and indeed very disconcerting in that we have a bill brought forward by the Attorney General of Canada that—

• (1535)

**Hon. Paul Harold Macklin (Northumberland—Quinte West, Lib.):** On a point of order, Mr. Chairman, with respect to Mr. Toews, I think it's very clear, as he's going forward, that he's trying to help us determine whether or not we should accept the 22 witnesses he has proposed. I believe, from the evidence I have seen before this committee, looking at other notices of motion, it doesn't appear at this point that there likely is a major dispute as to those 22 witnesses, assuming those are the witnesses that, if they were added, he would be satisfied would make the full complement of witnesses this committee should hear.

I believe that what we're really saying here is that it's just a question of timing that is before this committee to consider. So I would be willing to hear from other members of this committee to see if they agree with this point. But I think in terms of a point of order, it's unnecessary for him to continue and take up valuable time trying to guide us in selecting witnesses. If we are prepared to accept his witnesses as the balance of witnesses to be heard within this committee format, we should, in fact, simply be going forward and dealing with the issue of timing as to when they can be heard.

**The Chair:** I have a certain difficulty with your comments, Mr. Macklin, in the sense that I don't see how you can call this a point of order: Mr. Toews has the floor.

As you well know, Mr. Toews has...and we can give you the English quotation, but you'll find this in Marleau and Montpetit:

[Translation]

[...] committee members are free to discuss a matter for as long as they see fit.

[English]

So unless Mr. Toews wants to change his way of handling things, the floor is his, and he can continue, according to Marleau and Montpetit, as long as he thinks he has to continue talking, sir.

**Hon. Paul Harold Macklin:** I'm just asking you, Mr. Chairman, that maybe, having spent so much time dealing with one witness, if we're prepared to say that we would accept his 22 witnesses, wouldn't it be appropriate that the question be now put?

**Mr. Vic Toews:** On the same point of order, I am willing to discuss a proposal. If you want to adjourn the committee for a few moments, I can discuss any proposal that the minister, or the parliamentary secretary, would like to make.

But what I can see happening—and this is on the same point of order—is that there are 22 witnesses...and these are in addition to the 40 or so that were already proposed. That would be about 62 witnesses, not unusual for a parliamentary committee, not unusual at all.

In fact, your ruling, sir, just recently stated that in one legislative committee there were about 60 witnesses, and in another one there were 80-some witnesses.

So the request I'm making here is not unreasonable. What is unreasonable, and what the parliamentary secretary isn't telling you, of course, is the notices of closure that are being brought forward. Mr. Boudria has filed with this committee...and this is shutting down the debate in this committee.

But let me—

**The Chair:** Mr. Toews, may I please interrupt you.

• (1540)

**Hon. Don Boudria (Glengarry—Prescott—Russell, Lib.):** That's not a point of order.

**Mr. Vic Toews:** If mine is not a point of order, Mr. Boudria, then neither is Mr. Macklin's.

**The Chair:** Order.

I will not adjourn the committee for you to discuss this with Mr. Macklin, but I can suspend it for a few minutes.

**Mr. Vic Toews:** Suspend, yes.

**The Chair:** We can suspend for five minutes?

**Mr. Vic Toews:** That's fine.

**Hon. Paul Harold Macklin:** Sure.

**The Chair:** Fine.

• (1540)

(Pause)

• (1600)

**The Chair:** The meeting is back in business.

Who has a point of order?

[Translation]

Mr. Boudria on a point of order.

[English]

**Hon. Don Boudria:** On a point of order, Mr. Chair, first, I wish to advise that if the motion that I will now put to the committee, or seek to put by unanimous consent, carries, I will then withdraw the notice of motion under my name that I believe members have in front of them. Afterwards, if this carries, the other will become redundant.

I'd like to do that now, if I have unanimous consent.

**Some hon. members:** Agreed.

**Hon. Don Boudria:** I move that the committee agree to the following schedule of business: one, that the list of 22 names of witnesses submitted by Mr. Toews be accepted; two, that the list of names submitted by the subcommittee be accepted; three, that the date for ending the hearings on witnesses be concluded on June 14; four, that the clause-by-clause be terminated no later than June 15; and five, that the bill be reported to the House no later than June 16, 2005.

**The Chair:** Mr. Boudria, I have a point of clarification. When you're saying that your witnesses should be finished by the 14th, you're including the 14th?

**Hon. Don Boudria:** Yes, definitely.

I wish to seek unanimous consent to move the motion.

**Mr. Vic Toews:** Perhaps I can address that on a point of order.

**The Chair:** Yes.

**Mr. Vic Toews:** Thank you, Mr. Chair. I appreciate your patience. You're more than patient with some of us.

We've had this discussion during the period of time that the committee was suspended and I think that it reflects, generally speaking, our agreement. I recognize that there's an element of good faith there. I don't want the witnesses to be now rushed through, prior to the 14th, as early as possible, but I would hope that there will be a reasonable tempo and a reasonable pace of hearing these witnesses. I think the primary concern of the parliamentary secretary, Mr. Macklin, is that clause-by-clause occurs on the 15th. I know there will be some amendments put forward, but I don't anticipate that taking longer than a day. Therefore, in light of the motion made and the goodwill and good faith expressed by the parliamentary secretary, I'm prepared to accept that motion.

**The Chair:** Before we proceed on this, I assume that somebody has looked at the mathematical side of this new motion. It would now mean that we would have how many witnesses? It's something like 63, minus the six we've already heard, which is 57. If we continue in the same formula as we have in the evening of four witnesses per two hours of meeting, it means that starting tomorrow, until June 14 inclusive, we would need something like 15 or 16 meetings.

You've agreed to all of that. That means that between now and June 14 inclusive, we would need meetings on Mondays, Tuesdays, Wednesdays, and Thursdays in the afternoon and in the evening. Today would be excluded because we have no witnesses. We'd agreed to hold back on witnesses. We would try to get two slates of witnesses as of tomorrow and go ahead.

**An hon. member:** Fine.

**The Chair:** Does the hon. member have unanimous consent?

Yes, Mr. Reid.

•(1605)

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** I notice the first date, the 14th, we refer to specifically. For the other dates, we say “no later than”, but am I correct in assuming that it will in fact be reported on June 16 and no earlier, or am I misunderstanding that?

**Hon. Don Boudria:** May I clarify that, Mr. Chair?

It doesn't say “no later than”. That was my original wording, but it was changed by negotiation to say “concluded on”, so it's not “no later than”. We had “no later than” before and amended it pursuant to Mr. Toews' request, because he wanted to be assured that we didn't pack in the witnesses and take advantage of that or something. So we agreed, for greater clarity, to say “on June 14”.

**Mr. Scott Reid:** So there's no danger we're going to find ourselves doing any of the clause-by-clause prior to the 15th?

**Hon. Don Boudria:** No.

**Mr. Vic Toews:** We could do that by unanimous consent, go to clause-by-clause earlier than the 15th, but the witness aspect of the hearing will conclude on the 14th. If there's unanimous consent, if we've heard all the witnesses prior to that time, we could go to clause-by-clause sooner than that.

**The Chair:** May I make a comment on this, gentlemen and ladies? We are assuming that all of the witnesses on the original subcommittee report, plus your additional list of 22, will accept our offer to be witnesses.

**An hon. member:** They'll be invited.

**The Chair:** They will be invited. If some of them decline the offer or the invitation, it might very well be—as you've just mentioned, Mr. Toews—that hearing of the witnesses will be concluded prior to

the 14th. It could be on the 12th; it could be on the 13th. As soon as the witnesses are done, we would then go onto—

**Mr. Vic Toews:** No, we would wait until the 15th to go, so it's actually the witness portion—

**The Chair:** That would go up to the 14th, inclusive.

**Mr. Vic Toews:** Yes.

My concern, Mr. Chair—and perhaps it's unfounded—is that as soon as I give up the floor there'll be a rush to pack in 20 witnesses a day for three days, and we wouldn't want to see something like that occur.

**The Chair:** We wouldn't.

**Some hon. members:** Oh, oh!

**Mr. Vic Toews:** No, we wouldn't, so therefore the witness portion of the hearing will be concluded on June 14.

**Mr. Garry Breitkreuz (Yorkton—Melville, CPC):** If some don't show, you just have fewer sessions or fewer per session.

**Mr. Vic Toews:** That's right. Then on the 15th we will proceed to clause-by-clause, and on the 16th we will report back to the House.

**The Chair:** Okay, thank you.

Is that what has been agreed by all?

**Some hon. members:** Agreed.

**The Chair:** Mr. Reid, does that answer your question?

**Mr. Scott Reid:** That answers my question.

**The Chair:** The committee will adjourn for today. We will endeavour to reach witnesses and make sure we have slates of witnesses as soon as possible.

[*Translation*]

Thank you for your cooperation.

The meeting is adjourned.





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