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# **Standing Committee on Access to Information, Privacy and Ethics**

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**EVIDENCE**

**Thursday, May 4, 2006**

—  
**Chair**

**Mr. Richard Rumas**

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## Standing Committee on Access to Information, Privacy and Ethics

Thursday, May 4, 2006

• (1535)

[English]

**The Clerk of the Committee (Mr. Richard Rumas):** Honourable members of the committee, I see a quorum.

We can now proceed to the election of the chair.

[Translation]

I am ready to receive motions to that effect.

[English]

Mr. Zed.

**Mr. Paul Zed (Saint John, Lib.):** Mr. Chairman, I would be happy to nominate Tom Wappel as a candidate for chair.

**The Clerk:** It has been moved by Mr. Zed that Mr. Wappel be elected as chair of the committee.

Are there any further motions?

Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

**The Clerk:** I declare the motion carried and Mr. Wappel duly elected chair of the committee.

The next process is the election of the two vice-chairs. The first vice-chair, according to the Standing Orders, is from the government party. The second vice-chair will be from one of the two opposition parties. We'll proceed.

I'm now prepared to receive motions for the first vice-chair.

**Mr. Bruce Stanton (Simcoe North, CPC):** Mr. Chairman, I nominate David Tilson.

**The Clerk:** It has been moved by Mr. Stanton that Mr. Tilson be elected as first vice-chair of the committee.

[Translation]

Are there any other nominations?

[English]

Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

**The Clerk:** I declare the motion carried and Mr. Tilson duly elected first vice-chair of the committee.

I am now prepared to receive motions for the second vice-chair. As I indicated, they will have to come from one of the other two opposition parties. I'm ready to receive motions.

[Translation]

**Mr. Jean-Yves Laforest (Saint-Maurice—Champlain, BQ):** I'd like to nominate Mr. Pat Martin.

**The Clerk:** Mr. Laforest moves that Pat Martin be elected second vice-chair of the committee.

[English]

Are there any further motions?

Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

**The Clerk:** I declare the motion carried and Pat Martin duly elected second vice-chair of the committee.

I now invite Mr. Wappel to take the chair.

Congratulations.

**The Chair (Mr. Tom Wappel (Scarborough Southwest, Lib.)):** Thank you, Mr. Clerk.

Thank you, Mr. Zed, for nominating me. Thank you, colleagues, for not putting up anybody to oppose me.

We have some routine motions, with your permission. I think they are in front of you, are they not? We'll start at the top, the subcommittee on agenda and procedure.

Would somebody be prepared to move that motion?

**Mr. Mike Wallace (Burlington, CPC):** I so move.

**The Chair:** Is there any discussion on that motion?

(Motion agreed to [See *Minutes of Proceedings*])

[Translation]

**The Chair:** Services of Analysts from the Library of Parliament.  
[English]

Is there anyone who would move that motion?

By the way, are there any questions on that motion?

Mr. Zed, you're going to move it? Okay, thank you.

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** On reduced quorum, this is to receive evidence but not to pass motions. There would be at least three members, including one member of the opposition.

Who will move that for me?

**Mr. Mike Wallace:** In the committee I was at this morning, where we have an opposition member as the chair—which we have here—they made an amendment, which I thought was appropriate, to include one member of the opposition and one member of the government.

**The Chair:** Okay. We don't actually have a motion, so if you wish to put a motion with those words....

**Mr. Mike Wallace:** I'm moving it with that change.

**The Chair:** So it would read, then, "...at least three members are present, including one member of the opposition and one member of the government".

Okay, that's the motion. Is there any discussion?

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** Thank you.

[*Translation*]

Questioning of witnesses.

[*English*]

Who would like to move that?

**Mr. David Tilson (Dufferin—Caledon, CPC):** Mr. Chairman, I would move that during the first round of questioning the witnesses, seven minutes be allocated to each party in the following order: Liberal, Bloc, NDP, Conservative, and that in subsequent rounds five minutes be allocated...how am I going to phrase this? It would be an opposition member first, which would be a Liberal, followed by a government member's question, followed by an opposition member—presumably the Bloc—followed by a government member's question, followed by a New Democratic Party question.

**The Chair:** Have you got that, first of all?

• (1540)

**Mr. David Tilson:** Yes.

**The Chair:** Okay.

I thought I saw Madame Lavallée's hand first, and then Mr. Zed.

Madame—oh, I'm sorry.

**Mr. David Tilson:** If I could finish up, in subsequent rounds, five minutes should be allocated to each member on each round.

**The Chair:** So we have the motion—

**Mr. David Tilson:** In the same way that I had it for the five-minute rounds.

**The Chair:** I think we have the gist of your motion.

Madame.

[*Translation*]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** I have two comments that I'd like to make.

First of all, in my opinion, it would make more sense to proceed in the same order during the second round of questioning, that is Liberals, Bloc members, New Democrats and then Conservatives.

Secondly, we need to find a way to address one particular problem. There is only one NDP member on the committee and yet,

that representative is allocated the same amount of time as the Bloc Québécois, which has two members. I don't know if another committee has found a way to deal with this problem, but I think we need to come up with a fairer approach.

[*English*]

**The Chair:** Merci.

Mr. Zed.

**Mr. Paul Zed:** In a similar vein, rather than doing it on a party basis, I'm wondering whether or not we should at least give each member an opportunity in the first round, which would give everyone an opportunity to speak, and then you might want to have some of the reverse on the second round. It strikes me that we might want to do something like that.

**The Chair:** Mr. Kenney.

[*Translation*]

**Mr. Jason Kenney (Calgary Southeast, CPC):** To respond to my Bloc colleague's comments, I would point out that this committee is unique in that it is chaired by an opposition member.

As a rule, when a committee is chaired by a government member, the Chair may from time to time ask questions as a government member. Mr. Tilson has suggested that the government be given at least one opportunity to ask questions during the second round in view of the fact that the chairman is an opposition member. The situation is different when the chairman is a member of the government party.

[*English*]

**The Chair:** Thank you for that.

Are there any other comments before I make some, and then ask for the wording of the motion to be read?

Mr. Kenney points out that this is a situation where the opposition chairs the committee, which is true. I chaired the fisheries committee for three years in the last two parliaments. I just wanted to bring to the attention of members, particularly new ones, that there is no hard and fast rule in any committee as to the order and length of questioning in each round; it really is a matter for each committee. Just because a motion is passed one day does not mean the question cannot be revisited in the future if the committee, in general, finds that the motion passed hasn't been working to the satisfaction of the committee, or at least to the majority of the committee.

Allow me to bring to your attention what we did in the fisheries committee—admittedly, Mr. Kenney, with me as the government member as chair. There, the Conservative Party began with a ten-minute round, the Bloc Québécois followed with a seven-minute round, and the NDP followed with a five-minute round. That, I think, deals somewhat with the two and one situation Madame Lavallée mentioned. The Liberals then came up at the end with ten minutes. In the following rounds it was five minutes each for the CPC, the Bloc, the NDP, and the Liberals.

That was a suggestion. It did recognize that the official opposition party should have a little bit more time than the other parties; it did recognize that the NDP was still on the committee, so they had a chance every round; it also gave the government party ten minutes on the first round and five minutes on each round. This committee had timeframes that Mr. Tilson has moved, so the past history of this committee would be what Mr. Tilson moved.

I simply bring those facts to the attention of members.

So far, we have a motion, which I'll ask the clerk to read out in full.

**The Clerk:** It reads:

That during the first round of questioning of witnesses seven minutes be allocated to each party in the following order: Liberal, Bloc Québécois, New Democratic Party, Conservative; and that in subsequent rounds 5 minutes be allocated to each Party on each round in the following order: Liberal, Conservative, Bloc Québécois, Conservative, New Democratic Party, Liberal, Conservative.

• (1545)

**The Chair:** Mr. Tilson, is that a correct statement of your motion?

**Mr. David Tilson:** What I intended to say, if that is what I said, was not to each member, but to each caucus or each party on the subsequent rounds. It wouldn't be to each member. That wasn't the intent of the motion.

**The Clerk:** Do you want me to read it again?

**The Chair:** Would you please read it again, Mr. Clerk?

**The Clerk:** It reads:

That during the first round of questioning of witnesses seven minutes be allocated to each party in the following order: Liberal, Bloc Québécois, New Democratic Party, Conservative; and that in subsequent rounds 5 minutes be allocated to each Party on each round in the following order: Liberal, Conservative, Bloc Québécois, Conservative, New Democratic Party, Liberal, Conservative.

**The Chair:** Those are the terms of the motion. If there are no amendments, are there any questions?

Mr. Martin.

**Mr. Pat Martin (Winnipeg Centre, NDP):** The only thing I would add, in the interest of fairness, is that I think the second round would be incomplete if you didn't have one more Conservative at the end of it. So we would have Liberal, Conservative, Bloc, Conservative, NDP, Conservative, and the round would be complete.

**The Chair:** Yes.

Mr. Tilson, that's a friendly suggestion. Do you want to include that in your motion?

**Mr. David Tilson:** Sure.

Thank you.

**The Chair:** So it would be Liberal, Conservative, Bloc, Conservative, NDP, Conservative, and then back to Liberal, Conservative, etc.

Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée:** I want to press my point, because I'd like to see a fairer approach taken. Earlier, you suggested that during the first round, ten minutes be allocated to the Liberal Party, seven minutes to the Bloc Québécois, five minutes to the NDP and ten

minutes to the Conservative Party. In my opinion, if all parties were allocated the same amount of time during the second round, it would be fairer for everyone.

**The Chair:** Yes.

**Mrs. Carole Lavallée:** That would correspond to the number of members from each party. The amount of time allocated would depend on whether the member represented the government party, the official opposition, the second opposition party or the third opposition party.

I'm adamant about this. I'm curious to hear more about your objections, aside from the fact that you have many members.

[*English*]

**The Chair:** Allow me to say that one of the reasons the committee did that for the first round only was because it determined that 10 minutes of questioning in each round really ended up not giving every member who came an opportunity to ask questions over a two-hour period. And that's why, in order to move questioning along and give every opportunity for every member who came to the committee to ask a question or two, it went to five minutes each in subsequent rounds. The first round in that committee was deemed to reflect, more or less, the election results and the number of members sitting. But I can't do anything other than accept the motion and put the question, unless any member has an amendment to the motion.

**An hon. member:** Is the first round seven minutes?

**The Chair:** That's the motion, yes.

If there are no amendments to the motion, the motion is as Mr. Tilson moved it with the friendly suggestion.

I will call the question.

(Motion agreed to)

**The Chair:** Now we go to the witness statement motion. Ten minutes? Again, there is no hard and fast rule there. That was what the committee did last time. Ten minutes is for opening remarks.

Who would like to move that?

**An hon. member:** I so move.

**The Chair:** Thank you.

Is there any discussion on that motion?

Mr. Martin.

**Mr. Pat Martin:** Mr. Chair, the only thing I would like to know is whether there is any limit for witnesses. Are you interested in having a limit for one group of witnesses? If you're contemplating two-hour meetings, do we want to set some kind of outside limit? One group of witnesses shall be entertained for no longer than one hour, unless there's a motion to add to it.

**The Chair:** I think, Mr. Martin, that's probably best done on an ad hoc basis as we know which witnesses are coming, and either in full committee or in the steering committee we can make a recommendation. I agree with you. If we have 10 minutes apiece and 12 witnesses, we'll have no questions. So that could be done, depending on the subject matter and how many witnesses we schedule.

My practice would be to not over-schedule witnesses, so members would have an opportunity to ask the appropriate number of questions. I would suggest that we not try to get that specific in this general motion. This motion is just to deal with opening remarks by the witnesses.

Any other questions? All in favour of the motion?

(Motion agreed to)

• (1550)

**The Chair:** The next item is witness expenses.

**Mr. Mike Wallace:** I move the item.

**The Chair:** Thank you.

Any questions?

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** The next item is distribution of documents. Who would move that, please?

**Mr. Paul Zed:** I so move.

**The Chair:** Mr. Zed, thank you.

Any discussion?

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** The next item is notices of motion. This is in case anyone wants to bring a notice of motion. Please be aware that in the last committee, members needed to give 48 hours' formal notice to bring a notice of motion before the committee, and that's what is here.

Mr. Martin, do you have a question? We don't have a motion for this.

**Mr. Pat Martin:** If I could speak to this, I would like to recommend that the 48-hour notice be dropped to 24 hours. This is my preference. It varies from committee to committee, but if you have something really compelling that you want to bring to the committee—say you meet on Tuesdays and Thursdays, and on Wednesday you have something really earth-shattering that you want dealt with, it really can't be dealt with until the following Tuesday, with the 48-hour rule.

So I prefer 24 hours, and I would like to move that it be the rule for this committee.

**The Chair:** Before we go to Mr. Kenney, I'll ask our clerk to comment on what you just said, Mr. Martin.

**The Clerk:** Normally, Mr. Martin, if you were to give us a notice of motion on Tuesday afternoon it would appear on Thursday's agenda. We don't literally say it has to be 48 hours. It's basically two overnights, or two sleeps.

It is just like in the House. Since the committee meets every other day, on Tuesdays and Thursdays, there's never a problem with that.

**Mr. Pat Martin:** Well, Mr. Clerk, the example I used was Wednesday. If your thought or vision, as it were, came to you on Wednesday, it's frustrating to have to wait for the whole weekend to pass. The next Tuesday is the first time you can raise it in the committee.

Some committees do have 24 hours.

**The Chair:** Mr. Martin, you've formally moved that notice of motion with the substitution of 24 hours for 48 hours. Is that correct?

**Mr. Pat Martin:** That's correct.

**The Chair:** Mr. Kenney, do you have a comment?

**Mr. Jason Kenney:** As a point of information, am I correct in understanding that by order of the House, this committee cannot sit when the special legislative committee on Bill C-2 is sitting?

**The Chair:** Mr. Kenney, we're in the midst of a motion on notices of motion. I'd be happy to deal with that question—

**Mr. Jason Kenney:** Sorry, I meant to ask that when this matter is dispensed with.

**The Chair:** Okay. I'll keep that in mind.

There is a motion before us that's exactly as written in front of you, except 48 hours is changed to 24 hours.

Yes, sir.

**Mr. Mike Wallace:** Are there any issues from the clerk's perspective on translation if it's a 24-hour turnaround?

**The Clerk:** Normally that's not a problem. In most cases we've seen, the member who's giving notice of motion has already provided us with the motion in both official languages. If not, a two-page motion can be translated very quickly.

**The Chair:** Thank you.

(Motion agreed to)

**The Chair:** Mr. Clerk, can you respond to Mr. Kenney?

**The Clerk:** What Mr. Kenney is bringing up is the issue raised in Standing Order 115, that when a legislative committee is sitting on a certain subject matter—in this case it's Bill C-2, the bill on accountability—any other committee that has similar subjects that it is mandated to deal with shall step down, in the sense that they shall not sit at the same time.

How you interpret that is up for discussion with members. If we take the strict interpretation, this committee cannot meet when Mr. Tilson's committee is sitting. We can find an alternate time for this committee to sit when Mr. Tilson's committee is not sitting, but that would be jumping out of our block that is agreed to by the whips of the various parties, and it could cause us to be bumped out of any room we may book.

**The Chair:** Mr. Tilson.

**Mr. David Tilson:** As some of you know, Mr. Martin and I happen to have the honour of attending those meetings, and the Bill C-2 committee will be meeting on Tuesday afternoons, every Tuesday afternoon, along with a number of other afternoons. At this point, it has not been scheduled to meet Thursday afternoons, although it's possible. But there's no question, until the committee is finished its work with respect to the accountability legislation, we will be sitting Tuesday afternoons. So, quite frankly, I think it's an interesting point of order that Mr. Kenney has raised for you, Mr. Chairman.

As you know, the accountability legislation is dealing with all kinds of things. It's dealing with ethics; it's dealing with information. There will be money matters involved in this that would overlap into things. There are even privacy issues. The Privacy Commissioner may have some comments. So I don't see how this committee can possibly sit on Tuesday afternoons.

But the second point is whether it can meet at all. It might be worthwhile if the chairman could look at the standing order, unless he knows it by heart, and maybe he does.

I'm going to read it to you. Standing Order 115(1) says:

Notwithstanding Standing Order 108(1)(a), no standing or standing joint committee shall sit at the same time as a legislative committee on a bill emanating from or principally affecting the same department or agency.

So the first thing is, I don't see how we can possibly sit on Tuesday afternoon because the legislative committee will be sitting on that day. But the next question is, can they sit at all?

I suppose on a Thursday, for example, the Information Commissioner—we'll pick on him—could come to the legislative committee and talk about matters in Bill C-2 and then come to this particular committee in the afternoon, and the two committees could say something entirely different.

What I don't know is what the words "at the same time" mean, whether that's in a session or whether that's on a particular day. If it means in a session, then I think this committee is out of luck till after Bill C-2 is finished its work. If it's at the same time, the same hour, then I suppose they could sit on Thursday afternoons. That's assuming, out of the blue, and it may be possible—we could end up sitting on Thursday afternoons. At this point we're not.

Mr. Chairman, through you to the clerk, I've tried to give you some notice that this issue would be raised today, and I don't whether you've had an opportunity to look at the issue.

•(1555)

**The Chair:** I'll answer that. First of all, we haven't scheduled any meetings of this committee, since we're just having an organizational meeting.

Secondly, what I'd suggest we do is you and I sit down, as chairs of the two committees, and discuss the issue, get some advice from the whips, get some advice from some procedural people, and see if we can't come to a reasonable accommodation that doesn't require a ruling.

My initial reaction would be that the words "at the same time", given the following subparagraphs, which talk about time, indicate physical 24-hour calendar time. But I don't need to make a ruling on that, and I think it's best if the two chairs see if we can make some accommodation. It makes total sense for us not to be sitting at the same time as the committee on Bill C-2 because we'll lose two of our most valuable members, particularly a former acting chair, who has experience on this particular committee and the issues surrounding it, and Mr. Martin likewise. So I would do everything I could to make an appropriate accommodation. And I know that most members don't like to sit on Thursday afternoon anyway, for a variety of reasons, so we'll see what we can do.

Yes?

**Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC):** Mr. Chair, I'm new to this, so I want to just revisit it.

If we can go back to the notice of motions, the 24 hours—you may have answered my question—are we going to take, literally, 24 hours? If we go to one day, it's quite possible that a motion could be amended or we could have an amendment and nobody would have time to respond to it. So would that be a literal 24 hours, then?

**The Chair:** I'm more of a literalist than most. Because it would be 24 hours, I would take it literally, because we would need to have enough time to have the motion received, translated, and distributed so that members would have proper notice of it within 24 literal hours of the minute of the beginning of the meeting. That's how I would interpret it for a 24-hour motion.

In camera meetings transcripts—could we have someone move that routine motion?

Mr. Dhaliwal will move that.

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** Staff at in camera meetings—who would like to move that?

A question, Madame?

•(1600)

[*Translation*]

**Mrs. Carole Lavallée:** I saw one version of these routine motions about two weeks ago. It really wasn't clear. I reviewed them with the whip's office. We thought it might be clearer if the French version of the motion read as follows: "Que, à moins qu'il en soit ordonné autrement, chaque membre du Comité soit autorisé à être accompagné d'un membre du personnel de son parti aux séances à huis clos."

If memory serves me well, the previous version referred to the "personnel du député". The wording has been changed, but it's not really that much clearer. I'd like it to be clear that a member can be accompanied by someone other than a staff member at in camera meetings. I'd like that stipulation to be clarified.

[*English*]

**The Chair:** This is the motion that was in fact passed at the last committee—that doesn't mean it has to be passed at this committee—and it did specifically refer to a staff person of the member.

Madame, you wish to have it as a person of the party of the member. If you do, then you must move such a motion. Before you do, perhaps we could go to Mr. Dhaliwal, if he has a question.

**Mr. Sukh Dhaliwal (Newton—North Delta, Lib.):** I have a comment on this one.

When you say staff person, can that be a volunteer member as well?

**The Chair:** Yes.

The intent here is that it is a person who is under the control of the member who is a member of the committee.

We don't have a motion.

Mr. Wallace, go ahead, please.

**Mr. Mike Wallace:** Is that your interpretation of one staff member or one staff person?

**The Chair:** Yes.

**Mr. Mike Wallace:** All it says to me when I read this is “each committee member be allowed to be accompanied by one staff person at an in camera meeting”. It doesn't say it has to be my employee.

**The Chair:** The way I'm interpreting it is that it has to be a member of your staff. Because we haven't got a motion, we can make it as clear or as fuzzy as you want it to be.

**An hon. member:** This is pretty clear the way it is.

**An hon. member:** I think it's fine the way it is.

**The Chair:** Mr. Tilson, go ahead, please.

**Mr. David Tilson:** Quite frankly, I don't care, because I think the chairman indicated quite clearly that the person has to be under the control of that particular caucus person. Whether it's your own personal staff or your caucus staff person, I think the chair has adequately said that as long as that person has control over that staff person, then it's okay. That would be my concern. You could read this any way you want, but I don't care. If you want to make it clear, that's fine with me.

**The Chair:** Except Madame Lavallée wants to make it crystal clear and not leave it to the interpretation of the chair. If Madame wishes to move a motion, then I'm receptive.

**Mr. David Tilson:** Does that mean my personal staff person isn't a member of the caucus staff? You can work it both ways, can't you? [Translation]

**Mrs. Carole Lavallée:** I'm pleased that you don't have a problem with this. I simply wanted to clarify this point. I would prefer if the change was noted in writing. The objective here is to allow members to be accompanied by a caucus or party staff person.

[English]

**The Chair:** Mr. Dhaliwal, go ahead, please.

**Mr. Sukh Dhaliwal:** Mr. Chair, should we amend this to be “one person of their choice”?

**The Chair:** No, I think it would be better if we said “one staff person of the member or the member's party”.

Would somebody be prepared to move the following motion: That, unless otherwise ordered, each committee member be allowed to be accompanied by one staff person of the member or the member's party at an in camera meeting.

Who would like to move that?

• (1605)

**Mrs. Carole Lavallée:** I so move.

**The Chair:** Any questions?

(Motion agreed to)

**The Chair:** The last one on the sheet is “Working Meals”.

I'd love to move that myself, but who would like to move it?

**Mr. Sukh Dhaliwal:** I so move.

**The Chair:** Thank you.

Any questions? I don't want any questions on working meals.

(Motion agreed to [See *Minutes of Proceedings*])

**The Chair:** Does anyone else have any other routine motions? If not, then we'll adjourn to the call of the chair.

My first duty will be to discuss with Mr. Tilson the points he has raised, and we'll come to some resolution. Before I call the meeting of the committee, I'll call a meeting of the steering committee.

Thanks, everyone, for coming. The meeting is adjourned.









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