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—
Chair

Mr. Gary Goodyear

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•(1105)

[English]

The Chair (Mr. Gary Goodyear (Cambridge, CPC)): Colleagues, we'll bring the meeting to order.

Thank you all for coming. It's good to see our witnesses back again this morning for some more discussions on other issues.

Colleagues, I want to go through a few things. This is going to be a paper-heavy meeting, so bear with me. There'll be lots of handouts as we go through. You have what is necessary for the first part of the meeting. As we go along, we will certainly hand out the papers that deal with the next order of business.

I want to remind colleagues that the first part of this meeting is being held in public as we deal with a couple of remaining issues.

There are two things we need to talk about at the end of the meeting. They have to do with the subcommittee's report on private members' business and some items of future business for the committee. I will watch the clock and leave some time to deal with that.

We welcome back the Clerk of the House, Audrey O'Brien, and her team.

Colleagues, this is in regard to our last meeting, where members asked for some information regarding the division bells issues and whether the Standing Orders needed to be changed. The committee agreed that they would, so we're here today to look at some of the wording that's been prepared for us. You have that information in front of you now.

In addition, our research staff here has prepared a paper on the options that are available to us regarding the issue of making in camera proceedings public.

We're going to deal with both of these issues at the same time, of course, since the clerk is here and is therefore available to answer any questions that might arise out of that issue as well.

I would like to remind members that at the end of the discussion we'll review whether there is an intention to adopt the Standing Orders, with the changes as worded, or whether we intend to change them slightly. Whatever the case may be, we will need the necessary motions so that the chair can proceed forward on that.

But you may not want to do that today. You may want to go back and discuss this with your respective parties. We can certainly respect that as well. However, if we're prepared to move forward,

then I will put forward the proper motions so that we can in fact report back to the House.

That ends my comments. I will now hand the floor over to the Clerk of the House.

Thank you for coming, Ms. O'Brien. Perhaps you would take a moment to introduce your guests for the record. Then we can start from there.

Ms. Audrey O'Brien (Clerk of the House of Commons, House of Commons): Thank you, Mr. Chair.

Today I have with me Marie-Andrée Lajoie—she appeared with me last week as well—

[Translation]

the clerk assistant, Committees Directorate, and Marc Bosc, deputy clerk of the House, in charge of procedural services.

[English]

As we had discussed last week, we have returned, first of all, with a document that we're tabling with you on rules and practices in other jurisdictions. This is with regard to dealing with in camera proceedings. We told you that we had sought out additional information, and there might be some slight revisions to the document we left with you that day.

In addition to that, there is a draft standing order, a new Standing Order 115(5), which we suggest would read as follows:

Notwithstanding Standing Orders 108(1)(a) and 113(5), and unless the committee decides to adjourn, the Chair of a standing, special, legislative, or joint committee shall suspend the meeting when the bells are sounded to call in the Members to a recorded division.

[Translation]

We wanted to make this as simple as possible. Reference is made to Standing Order 108(1)(a) which states that standing committees may sit when the House is sitting. Likewise, Standing Order 113(5) stipulates that legislative committees may sit when the House is sitting, and Standing Order 115 deals with committee meetings.

[English]

The Chair: Thank you.

Colleagues, we're just going to have a round of questions here. It won't be in any particular order, just whoever raises their hand.

Monsieur Guimond, please.

[Translation]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Thank you, Mr. Chairman.

Madam Clerk, before saying that this does not fully reflect the consensus that this table seemed to have reached, I would like you to clarify the second line of the amendment you are suggesting: "... unless the committee decides to adjourn...".

Would this be a unanimous or a majority decision by committees?

Ms. Audrey O'Brien: It would be a majority decision, as usual.

Mr. Michel Guimond: I thought we had agreed that this decision should be made unanimously as soon as someone objects to continuing to sit... Consequently, this is not very helpful. One or two parties could conspire together to pass a motion to continue to sit while votes are being held.

I thought that we had been clear and that we had said that if any member of the committee objected to continuing to sit when votes were being held, that committee would not sit. I don't understand.

•(1110)

Ms. Audrey O'Brien: Perhaps Marie-Andrée can explain what we're thinking.

Ms. Marie-Andrée Lajoie (Clerk Assistant, House of Commons): We attempted not to force committees to suspend their deliberations, if that was what everyone wanted, by adjourning. If the committee wants to adjourn, say at 5:30, as it habitually does, we didn't want the standing order to state specifically "suspend the meeting". We wanted the committee to still have the choice to simply adjourn in accordance with standard practice.

If the committee does not want to adjourn, the chair would simply suspend the meeting so that committee members can go to vote and then return and conclude the meeting one way or another. We did not want the standing orders to force all committees—I'm repeating myself—to suspend their deliberations, if they just wanted to adjourn. Is that clear?

Mr. Michel Guimond: I think I submitted a text in writing stating that when the 30-minute bells ring, committees should suspend after the first 15 minutes and the meeting should be resumed 30 minutes after the vote, if the committee—

Ms. Audrey O'Brien: I don't recall having received such a proposal. However, through you, Mr. Chairman, I know that there had been some suggestions with regard to the circumstances in which committees would resume their deliberations.

One of the factors guiding us in drafting the standing orders is in fact not being specific in order not to prescribe specific circumstances. Our experience has taught us that we cannot predict all the situations that may occur, particularly since this may tie the committee's hands in a way that we may not want to.

That said, naturally, we will respect the committee's recommendations and draft exactly what it wants.

[English]

The Chair: I have three people up: Mr. Preston, Madam Redman, and then Mr. Hill. However, I'm confused, and maybe you could help me as well.

We covered a lot of things in the last meeting, Monsieur Guimond. I don't remember the committee deciding by unanimous vote on this issue.

Hon. Jay Hill (Prince George—Peace River, CPC): Yes.

You're wrong.

The Chair: I am wrong? Then it's my mistake.

Mr. Michel Guimond: It was the NDP's concern. If the member of the NDP wants to go to the House for a vote and there's a vote of the majority, the member of the NDP has the choice to stay here and miss his vote. I think it was clear. Maybe I'm not bilingual enough, but—

The Chair: Madam Redman, please.

Hon. Karen Redman (Kitchener Centre, Lib.): In the effort of cooperation, the whips did meet and this did come up, so I have to be very candid: I can't remember if the wording was decided at this meeting or at the whips' meeting, because we were tasked with several issues.

Could I just suggest something? I don't mean to jump other speakers. The wording that I think reflects what the whips agreed to would be the same wording: "Notwithstanding Standing Orders 108 (1)(a) and 113(5)", and then I would delete that next phrase, "the Chair of a standing committee, special, legislative or joint committee shall suspend the meeting when the bells are sounded to call in the Members to a recorded division, unless there is unanimous consent of the members of the committee to continue to sit."

Again, I think maybe it's something that we whips talked about.

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): It was at the whips' meeting.

Hon. Karen Redman: I don't know how Michel feels, but that to me clarifies what our agreement was.

Hon. Lucienne Robillard: I support you, Mr. Chair.

The Chair: And I'm supporting Madam Robillard from here on in.

Some hon. members: Oh, oh!

The Chair: In seriousness, it is my recollection that the wording was simply to give and clarify the authority for the chair to suspend a meeting for division bells. As to the conversation on unanimity—which is quite acceptable, because now here we are in the main committee—I don't recall that being applied to this particular wording. However, it's on the floor and it makes sense to me.

The next person up for discussion is Mr. Preston.

•(1115)

Mr. Joe Preston (Elgin—Middlesex—London, CPC): I love what Ms. Redman just said. That clears up what my question was going to be about.

As for an option before the fact, I'd rather have the option after the fact, the way you've put it. I'll stop at that point.

The Chair: Thank you.

Madam Redman, did you have anything further to say? The floor is yours.

Hon. Karen Redman: Thank you very much.

That's what I was going to say. I'm happy to give the clerk the wording. I would invite any other whips who were at that meeting to speak if that doesn't reflect what they recall.

The Chair: Mr. Hill, you have the floor.

Hon. Jay Hill: That's perfectly acceptable, and I thought that was the intent at the previous procedure and House affairs committee meeting as well. I can check the blues and see.

[*Translation*]

The Chair: Mr. Godin.

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Chairman.

I don't know what the intention was, but it's true that this was discussed at the whips' meeting. I think that the suggestion was that if a party wanted to go and vote, the meeting would not be adjourned but rather suspended. This gives everybody the opportunity, if everyone agrees to remain...

All votes should be equally important, but if there is a vote that the four political parties consider less important and they want to continue to sit because the witnesses have a flight to catch at a specific time and the four political parties feel that it is preferable to continue the meeting, this gives the committee an option: it may stay or go, but at least a party can say that the vote is important and that it's going to vote, and everyone leaves.

[*English*]

The Chair: That's my understanding at this point, and I'm getting a lot of nods around the table.

I don't want to put a kink in this, but I do want to raise three issues so it's on the record that we did at least think about them. The motion before us does not cover quorum calls.

Madam O'Brien.

Ms. Audrey O'Brien: No. I know there were discussions about potentially only having this suspension motion activated if it was a deferred vote that was scheduled and not an unscheduled vote, for example, where this member be now heard or that kind of thing.

Again, the problem when you start trying to draft something like that is that you're getting into levels of detail that have not traditionally been part of the rules. I think this makes it clear that if there is unanimous consent, where someone were to find out that it's a quorum call or where it's that this member be now heard, the committee might decide they don't want to go in for that vote and they're going to continue to sit. I think that gets to the stage you want it to be at.

The Chair: Thank you for putting that on the record for us.

Monsieur Guimond and then Madame Redman.

[*Translation*]

Mr. Michel Guimond: I think I spoke to this issue. I hope that it wasn't during the whips' meeting, where the majority of people were not in attendance, including the clerk. The wording of Standing

Order 115(5), which is going to be rewritten, refers to the first division bells sending members to a vote. However, a quorum call is not a vote. Not all committees will suspend. As I understand it, it's only when there is a vote.

As long as the magic number... It will be up to other members and the whips to round up other members not sitting on the committee. I understand that committees will not stop their deliberations when there is a quorum call. We are talking about votes.

Ms. Audrey O'Brien: Yes, you are correct. We are confusing the two: quorum calls and motions seeking, for example, that a member be now heard. It is not the same thing.

If there is a quorum call, it is not a vote, and this would not apply.

[*English*]

The Chair: Thank you.

Madam Redman, would you like to comment?

Hon. Karen Redman: I took this to be that whenever the bells started ringing and there were a succession of quorum calls or whatever, it would again be up to the committee's discretion. I like the wording I suggested. I think it's very clean and very simple. Committees are the masters of their own destiny. If unanimously they want to stay and work through that vote, that's their prerogative.

• (1120)

The Chair: Thank you, colleagues. It looks like our discussion on this motion has ended.

I'll ask our clerk to read the motion as we have now deemed it to be worded.

Please go ahead.

Mr. James Latimer (Committee Clerk, House of Commons):

115(5) Notwithstanding Standing Orders 108(1)(a) and 113(5), the Chair of a standing, special, legislative or joint committee shall suspend the meeting when the bells are sounded to call in the Members to a recorded division, unless there is unanimous consent of the committee members to continue to sit.

The Chair: It looks like everybody is happy with that, so I'm going to call the question. Is it agreed that the committee adopt this report?

Some hon. members: Agreed.

The Chair: Is it agreed that the chair, clerk, and researchers be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report?

Madame Robillard, do you have a question?

[*Translation*]

Hon. Lucienne Robillard: Mr. Chairman, perhaps we should look at the French version. Sometimes, the French version is a problem when we compared it to the English version. Right, Michel?

Ms. Audrey O'Brien: Mr. Chairman, I asked my assistant to go and prepare a revised document with both the French and the English versions, so that you can look at the text in both languages.

[*English*]

The Chair: We will suspend this part of the procedure then and get back to that in a few moments. Thank you.

That's a bit out of order in some respects, but I'm sure you can tolerate that.

I'd like to move to the issue of in camera now.

Colleagues, in front of you there is an options and issues document. This is dealing with the in camera proceedings.

While you're looking at that, I want to be very clear that there are two issues before this committee. So that we're not confused, we're dealing with the deliberate releasing of in camera information and under what circumstances a committee would choose to make public in camera proceedings.

This is not to be confused with another motion before this committee to deal with sanctions for leaked information from in camera meetings. That, colleagues, is a separate event. We are not dealing with that today.

What we're dealing with today, then, is under what circumstances should, would, and could a committee make in camera information public. The paper in front of you summarizes the issues and indicates some of the precedents that have been set when this has occurred in the past. These were discussed at the last meeting as well.

I'll encourage colleagues to have a look at that, if you haven't already, and then we can begin that discussion immediately.

I see colleagues are still reading a little bit there, but we're going to have to come to some agreement as to how to proceed.

It would be my suggestion that we look at the options, of which there are three, and then there are questions regarding some of those options. But ultimately, colleagues, there are three things that this committee could choose to do.

Option number one suggests that we amend the Standing Orders and prohibit the publication of any document, in any in camera meeting, by anybody, in any circumstance. That would require that the transcripts be destroyed, the tapes be destroyed, and so on and so forth.

I'm only going to throw my opinion out to begin the discussion. I initially thought this is the way it should be. That would have been my opinion in the first place, because if it's in camera, it's in camera.

However, in reviewing the history through the House and the precedents that have been set, there are seemingly reasonable times when this particular option doesn't work. Whether it's with the permission of witnesses, after the fact, and so on, there are ways that a committee or this House could move forward in doing the right thing in making in camera....

So I'm proposing that option number one is probably not going to work. And now I have my discussion going.

Mr. Hill, please.

• (1125)

Hon. Jay Hill: It's really maybe in the form of a point of order. I notice that our colleague from the NDP has been called away from the meeting. After our last discussion on this last topic, I'll have to be a little bit gun-shy on this, but if I recall correctly, at the last meeting Monsieur Godin was adamant that option one is what he believes in

fervently and passionately, and he expressed that, if I recall, he was unwilling to consider another option.

For the purposes of our whole discussion today and whether we could convince him to consider other options, it would be necessary that he be here, I would assume. That's why I want to raise that as a concern, Mr. Chair.

The Chair: I have two opportunities in front of me. I have two options on that.

I believe you're correct, Mr. Hill. I recall the NDP raising great concerns, seemingly to draw the line in the sand on this issue.

We could proceed. We have a majority here with the witnesses. We certainly have a quorum.

The other option, which seems to make more sense, out of fairness, is to defer this discussion. My concern with that is that we have our expert witnesses before us today.

Perhaps we can have a discussion and defer a decision, but I'm open for committee members right now. Let's take two minutes to make a decision as to how we wish to proceed.

Mr. Lukiwski, and then Mr. Owen.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you.

I don't know if I can give any helpful suggestions here. I think we should continue the discussion. I don't know about voting on something. I agree with Jay that we should perhaps wait until Yvon comes back, just so that the NDP is represented at this. If we're going to make any decision, it seems to be only fair that they take part in any decision by vote.

My only comment is that I'm kind of caught betwixt and between, Chair. Like you, originally—and I think I mentioned this on the record at the last meeting—I generally agreed with Monsieur Godin on the fact that in camera means in camera and no exceptions. However—and I think I also mentioned this—what precipitated this discussion was the incident where Mr. Guité, at an in camera meeting, supplied testimony that was later contradicted in public at the Gomery commission, and the Gomery commission wanted to subpoena the in camera testimony and all that sort of stuff.

Exceptions like that will occur, and I'm not sure how to deal with that. On general principle and general practices, I would still argue the fact that in camera means in camera, but there is always going to be an exception from time to time, perhaps.

I think Mr. Owen and I both made a comment on this, about the number of in camera proceedings that take place and that there should be some caution exhibited by chairs before they allow in camera discussions from witnesses to be agreed to.

So I'm not sure how we come to a solution on this. I just think in the particular case of Mr. Guité's testimony, where his in camera testimony clearly contradicted the testimony he gave in public, and not being able to square the circle on that, there doesn't seem to be any fairness or justice. That case is the one exception that I think should be noted.

The Chair: Thank you.

Mr. Owen, did you have your hand up, sir?

Hon. Stephen Owen (Vancouver Quadra, Lib.): I did. Do you want me to address the substantive aspect of it or just the question of whether we proceed at all without Mr. Godin?

The Chair: I'm happy for both opinions. I'm sort of getting the sense that we can't proceed much further.

However, I would like, since our witnesses are here, to perhaps have them give us their opinion on this issue, and then we can defer it at that point. That way, the opinions expressed by our experts would be in the minutes, and we can make sure that Monsieur Godin has that there. We can certainly call the witnesses back, but I'm leaning towards moving to your comment, then asking our witnesses to make comment, and then deferring it.

• (1130)

Hon. Stephen Owen: Thank you. I would agree with Mr. Lukiwski that as a matter of principle—and the practice that we follow—in camera meetings be kept to the absolute minimum, given that they should be treated as an exception to our parliamentary practice of openness and transparency.

In looking at the options, I think option two makes a lot of sense, but the ideas presented in option three are a pretty good list of guidelines as to where we might want to make otherwise confidential matters public. I think it's important that when a witness comes before us with an expectation of confidentiality, a warning be given to that witness who is giving evidence in camera that there could be situations in which confidentiality will be broken. These might include perjury, contrary evidence, some overriding public interest, or whatever. I find that the paper provides a pretty sensible list of the sorts of situations we might want to override.

In terms of how you actually effect that override or that disclosure, I would think if we had such a useful list, then a particular situation could be measured against the list, and a majority vote of the committee might suffice. I'd be very interested in the clerk's and other officials' recommendation or opinion as to whether it would be appropriate to then provide that the House always be in a position, if called upon, to override the decision of the committee.

It just seems to me that it would be a sensible hierarchy to respect.

The Chair: Madam Redman—I did catch your hand up—please go ahead, before we move to our witnesses.

Hon. Karen Redman: Thank you, Mr. Chair.

I would be very interested to hear from the witnesses, and as you pointed out, Yvon can read the blues. I don't disagree with the options. I'd like time to take this away and mull it over, because I haven't had time to study this. But it just seems to me that as much as it's in camera and we can subpoena witnesses and they can be under oath, I think we would all acknowledge that this is not a court, so it would seem to me—and I hope this is dovetailing with what Mr. Owen said—that the only reason to release this would be some compelling public good or some way to avert a public disaster. It would have to be a fairly high bar in order to do this, and I'd be interested to hear historically what we have done in the House.

The Chair: Okay.

I will open the floor to our witnesses to offer comments on the issue.

Madam O'Brien.

Ms. Audrey O'Brien: Thank you, Mr. Chair. I think the criteria to which committees have held themselves in terms of allowing in camera discussions to become public have been quite high. The decision has always rested with the committee in question by majority vote, as far as I know, and we don't have a list of the instances where that took place, but we could certainly provide it to the committee for the next meeting.

I think the question—as Mr. Owen describes it, the most important decision to be taken by the committee—is when to go in camera. If that does not become a common practice, if that in itself is seen as an extraordinary measure, then everything that happens in camera is treated with the seriousness this committee would like it to have. I think there's a lot to be said for the whole question of the expectations of people who testify in camera, and if they are forewarned that under certain extraordinary circumstances their testimony might be made public, then I think that gives them fair warning. These types of criteria that come under the third option, in the paper that you have before you, I think give quite a range of possibilities that are, again, within those *force majeure* situations.

So I think it really is pretty well covered, but I agree with Mr. Owen that the main question becomes, when do you go in camera and for what reason? I think once that decision is made, and wisely made, you've got yourself on the right road.

With regard to whether or not the House should have an ability to override a decision of a committee, even if the committee were guided by this quite high bar that is set by these principles, that's a safeguard that you could always build in, and we could think about mechanisms for so doing, because the House does not traditionally reach into a committee to interfere in how it's organizing its affairs.

But I notice, for example, there's practice in the United Kingdom—and we could find out more details about this—that says on occasion the House has ordered unreported evidence to be laid before it. That's the other side of the coin.

• (1135)

The Chair: Thank you, colleagues. We obviously have our member back from the NDP.

I'm going to sway to the will of the committee, but it was my intention to summarize where we are right now and then defer this.

Which way would the committee like to go?

I'm sorry, Monsieur Godin, are you able to stay or are you called away again?

Okay. The committee has, with great respect to you, sir, asked that we defer this discussion because you weren't able to be here. Shall I summarize for the member and bring the member up-to-date?

Monsieur Godin, we are discussing the issue of publishing in camera information. We're being very specific today on the deliberate release of in camera information. The committee would make a decision based on whatever circumstances this committee decides and then release the information that was discussed at an in camera meeting. We are not dealing with the leaking of in camera without the authority of the committee.

That is a motion before this committee, but we are discussing that at some point in the future. Today we're talking about under what circumstances, if any, would in camera proceedings be released and made public. At this point, there has been some discussion around the table, which I suppose I could summarize in that the first concern is that chairs and committees have to have some education and perhaps guidelines when a committee meeting would be held in camera, and that should be very restricted—available but not openly used. That's the first thing I'm hearing.

The second thing is there are times when in camera information might need to be released to the public, and it is then the committee's desire, if that's the way we're going to go, that we should have a list that is as inclusive as possible, yet allows some flexibility for the committee to make its own decision, based on a majority vote.

Colleagues, have I summarized the discussions of the last 15 minutes well?

A voice: Yes.

The Chair: All right. I will open the floor to Mr. Godin now.

Mr. Godin, please.

[*Translation*]

Mr. Yvon Godin: Under what circumstances would such a decision be made? I missed 15 minutes of the meeting. Perhaps you spoke about it then.

I have always believed that in camera means in camera. I don't know whether we've already discussed cases involving documents. Documents can be on anything. In such cases, if we want to make the matter public, the meeting should not be held in camera. The decision may be made to hold an in camera meeting and then later the majority may vote to make a document public. We need to protect ourselves.

For example, the majority might decide to vote to make a Bloc Québécois document public, although it was tabled in an in camera meeting. In that case, the Bloc Québécois felt safe in the knowledge that the meeting was being held in camera to present the document. I know that hockey is everyone's least favourite subject, but I find that we are skating on very thin ice when it comes to in camera meetings, unless all the parties agree, as well as any witnesses present. This decision must be made unanimously by all individuals who attended the in camera meeting. That is all I am prepared to support. I cannot imagine breaking the confidentiality of an in camera meeting, whether we're talking about documents, witnesses or anything else.

I gave an example where the majority might seek to undermine a party that, for example, decided to talk about a particular subject during the in camera meeting. To put the shoe on the other foot, the majority, including the Bloc Québécois, the NDP, and the Conservatives, could just as easily turn against the Liberals. If the

three opposition parties ganged up on the Conservatives, it would be the same thing. I have a great deal of respect for the principle of in camera meetings. In camera means in camera.

• (1140)

[*English*]

The Chair: Thank you.

Madam Picard.

[*Translation*]

Ms. Pauline Picard (Drummond, BQ): I agree with Mr. Godin that in camera means in camera. We could have serious problems if comments or confidences exchanged during an in camera meeting were disclosed and this turned against us. No one would dare say anything any more. We wouldn't have any more witnesses, since they would always feel the sword of Damocles hanging over their heads. Witnesses, as well as ourselves, must have the assurance that in camera means in camera.

For one reason or another, an individual may believe that a fact is sufficiently serious to require disclosure at any cost. The expression speaks for itself: we are talking about comments made behind closed doors. This principle must be respected. There shouldn't even be anyone here other than ourselves. Our in camera deliberations should be really just amongst ourselves.

An exception was made with regard to Mr. Guité. In such cases, when we realize that a serious mistake has been made and we wonder whom to turn to for advice or permission to publish in camera material, I think we need to adopt a procedure based on unanimity. In order to make in camera meetings public, we must ensure that a deliberate choice is made and that someone supports us, be it with regard to a document, a witness or ourselves. As Yvon said, we must also protect ourselves.

[*English*]

The Chair: Okay. I just want to make sure, Monsieur Godin, that you were supplied with the paper that reads "Options"?

There was a suggestion by Madam Redman that perhaps we should defer this regardless, so that all folks can have a look at it and we can bring it back to another meeting. We can continue the discussion on it, but it may be well served to have some reflective time as we read through the options and some of the information before us, and then have a healthy discussion on it again.

Madam Redman, please.

Hon. Karen Redman: Can we just hear from the witnesses? About Stephen Owen's point about narrowing the scope of when subjects actually are in camera, I'd be interested to know, number one, what the current criteria and practice are, and would it be the Standing Orders, and how would we go about narrowing that, because it seems to me that's an eminently sensible way to help police this?

Ms. Audrey O'Brien: Right now, the decision to go in camera is a decision taken by individual committees. There are really no general criteria. The most frequent use of in camera proceedings is when committees are either discussing their future business or where they're studying draft reports, which usually doesn't involve witnesses; it's usually at the stage where they're discussing this among themselves and with their research and clerk staff.

The business of hearing witnesses in camera is not all that frequently done. More recently, we've had a spate of in camera hearings with witnesses before the public accounts committee, and I can recall, as I think I mentioned the last time I was here, meetings the Standing Committee on Justice was holding in penitentiaries across the country when they were doing a study of correctional facilities. But that was really in a very specific kind of situation. As I say, there are no criteria, per se, that are specified.

Were the committee to decide to adopt certain criteria, for example, as I see here in section 3, with regard to the eventual release, the criteria where something might be released, realizing that this is not the decision you've made but it's one of the options you've been talking about, then conceivably that might be adopted in a report by the committee and then presented to the House and concurred in by the House. I don't think it would have to be enshrined in Standing Orders for it to have weight.

•(1145)

The Chair: Colleagues, I just want to make sure again, that you have this paper dated April 17, that reads, "Release of Transcripts of *In Camera* Committee Meetings". They all look the same from this distance, but if you have this, if you don't raise your hands, on page 2 at the bottom we do list....

Obviously, the clerk is fully correct. The Senate does have a number of criteria they use to hold in camera meetings. That information is there, again, and it suggests to me that we might want to defer this and give colleagues a chance to digest all of this information and come back and continue what is clearly going to be a healthy conversation.

Madame Redman, please, and then Monsieur Godin.

Hon. Karen Redman: Thank you, Mr. Chair. I have just one other point. I think somebody else raised it at a previous meeting.

Were a witness to be called before any committee and say they would only come if it were in camera, the committee would always have the option of subpoenaing that person and having them come. They may give non-answers, but it would never be an option for a witness not to appear. We could always compel them, could we not?

The Chair: Monsieur Godin.

[*Translation*]

Mr. Yvon Godin: Thank you, Mr. Chairman.

Exactly. The committee makes its own decisions, and it assumes the consequences for such a mistake. If the committee prefers to meet in camera because an individual will only appear in camera... Here, we're talking about "considering draft reports or hearing substantive information". If the committee decides to meet in camera, that decision has been made. However, it doesn't have to do so. I agree with Ms. Redman about this. In that case, the

committee need only subpoena the witness to appear before it. The witness's comments will then be made public. I think that people want to change the Standing Orders when we don't need to. The Standing Orders are clear on this matter: in camera means in camera. I will not change my position.

Committees must be very careful when deciding to meet in camera. If a committee decides that it has made a mistake, it will learn from that mistake, that's all. I think that this is what happened in this case. If we want the public to know something, we don't unnecessarily meet in camera. There is another way of proceeding. Mr. Guité could have appeared again before the committee, and the members of that committee could have asked him questions, without saying that he had said something else during a previous committee meeting. He was tried by a court in Canada. I don't think that we are here to do the job of the Federal Court or the Provincial Court.

[*English*]

The Chair: Order. Thank you.

I'm not cutting you off, Monsieur Godin; I'm just trying to get members to quiet down a little bit so I can hear you.

[*Translation*]

Mr. Yvon Godin: I think that people want to change the Standing Orders because of one case. We don't need to do that. The committee need only act judiciously. It should not unnecessarily hear from witnesses or hold meetings in camera if it intends to make that meeting public. I don't like sneaky games being played under the table. We should be honest with our witnesses and everyone else. If we don't like what's happening, then we shall suffer the consequences. It's as simple as that.

[*English*]

The Chair: Mr. Lukiwski, one final comment.

Mr. Tom Lukiwski: Thanks, Chair.

I was just going to underscore your suggestion that perhaps we defer the discussion and come back after members of this committee, perhaps in consultation with other members within our caucuses, have a chance to take a look at this. I think Mr. Godin and others have made very good points here. And I just reiterate, again, my position. I believe that in camera discussions should be in camera. But I agree with Mr. Owen that we restrict the use of in camera.

Maybe there are some suggestions, as a general guideline, rather than hard and fast rules as to what constitutes an in camera session. But I think it needs a little bit more examination, so I would suggest that we defer the discussion for now.

The Chair: I'm going to look around the room at committee members on that suggestion that we defer this to another time and continue the debate and discussion on it.

Am I seeing a lot of yeses that it's the way we want to go? I'm not seeing a lot of yeses, and as the chair, I'd like to see a few more physical interactions. Thank you very much.

Colleagues, as always—and I know we have a very committed group here—have a deep read of both documents that are before you and give it some thought. Discuss it with your members. This is obviously a very important matter, and I wouldn't want to do the job half right.

Let's come back and have a very healthy discussion on this and pound it out until we get the job done, whatever that may be. So we will defer that to another meeting.

Colleagues should be in receipt of the revised motion for the suspension of committee meetings for votes in the House. The draft standing order is before you in French and English. Would members please have a read of that? And I will have our clerk read it to you.

Madam O'Brien, please.

• (1150)

Ms. Audrey O'Brien: Mr. Chair, if I might, I'll just point out that I think this goes a long way to doing what the committee wants done. I should point out, however, that all it does is give the chair the duty to suspend if there isn't unanimous consent to continue sitting. One can envisage a situation where the committee might unanimously want to adjourn rather than suspend and come back after the vote. So you could add to that, if you want, "continue to sit or to adjourn".

The Chair: Go ahead, Mr. Guimond.

[*Translation*]

Mr. Michel Guimond: I do not agree with this addition, for the simple reason that we can do anything with unanimous consent. We have even already unanimously voted to take a trip on the green bus to Sparks Street, as ridiculous as that sounds.

If committee chairs want to try this in a specific case, they ask for unanimous consent, and if everybody agrees, the committee adjourns. We cannot foresee everything that might happen.

Ms. Audrey O'Brien: I understand exactly what you're saying, Mr. Chairman. As a precaution, you have added unanimous consent to continue to sit. I was simply commenting that you may want to include the words "to adjourn". However, if that is not what the committee wants, it is not my place to tell it what to do.

Mr. Yvon Godin: With regard to unanimous consent, the committee is master of its own proceedings. If there is a vote, and a political party is filibustering, we simply want to suspend the meeting and then come back after the vote. We don't want to mix the two. We are only suspending. Adjournment happens automatically. Meetings can be adjourned at any time, if everyone agrees. I've never seen a committee, with unanimous consent... Unless the government whip tells us to continue to sit. Otherwise I don't think it would happen. Right, Jay?

[*English*]

Hon. Jay Hill: It's just a typo, unless I'm going cross-eyed in my old age. At the end, the part we added was, "unless there is unanimous consent of the members of". I think it should read "of the committee to continue to sit".

The Chair: That's a good catch; I agree.

For us to table it, I am going to ask for the authority to make such grammatical changes without changing the context. I think we can cover that.

Is everybody, for the most part...?

I'm seeing nods around the table that this is now the acceptable wordsmithing of this motion. I will call the question.

Colleagues, is it agreed then that the motion...that the committee adopt the report?

Some hon. members: Agreed.

• (1155)

The Chair: Is it agreed that the chair, clerk, and researchers be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report?

Some hon. members: Agreed.

The Chair: Is it also agreed that the chair present the report to the House?

Some hon. members: Agreed.

Mr. Michel Guimond: Right now.

Some hon. members: Oh, oh!

The Chair: I'm going to say "agreed", because we're on the record, but I want to know, do I now have the authority to suspend the meeting to go present this report right now—

Some hon. members: No.

The Chair: —on the orders of Monsieur Guimond, who I respect deeply, and whose recommendation I would absolutely want to follow?

Thank you, colleagues. That takes care of the first item of business.

The second item of business, regarding in camera proceedings, we are going to defer to another meeting, with the chair's encouragement to all members to spend some time reading those documents and giving it some deep thought.

Now, before we go in camera, I will thank the witnesses for being here.

We appreciate your work very much. I'm sure we'll be inviting you back. We certainly thank you for being here today. You're now dismissed.

Before going in camera, I believe we can deal with the second item of business, which is the tabling of the report on private members' business. We don't need to be in camera for that.

Is that agreed?

Some hon. members: Agreed.

The Chair: All right.

I'm going to give the floor to Mr. Preston to table those reports....

Mr. Szabo, your hand is up. You have something to add?

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Chairman, there is the possibility that in the discussion of the private members' subcommittee report, matters related to the Standing Orders will arise. I'm wondering if our witnesses might be helpful there.

The Chair: I am seeing some nods, certainly from those folks who have read the report.

Are witnesses available to stay for a few minutes?

Okay. We certainly appreciate that. Thank you very much for that unscheduled request.

Thank you, Mr. Szabo; that's a good suggestion.

We are ready now, Mr. Preston, if you would like to table the reports.

By the way, colleagues, I'm not sure we need to deal with these reports. It's simply the tabling of the reports.

But let's see how this goes, Mr. Preston.

Mr. Joe Preston: With your permission, Mr. Chair, I will table the second and third reports of the Subcommittee on Private Members' Business on non-votability of those items.

I also have a return to this committee of the report from the subcommittee on the criteria for non-votability and the substitution of bills when that arises.

So for your perusal, I table all of those.

The Chair: Thank you very much.

Any comments?

At this point, Mr. Preston, we have two reports in front of us. There are actually three—

Mr. Joe Preston: Yes, three reports.

The Chair: —but with your permission, I'd like to deal with the first two, which deal with private members' business being deemed non-votable.

Colleagues, I'm going to accept as tabled the second report and the third report of the subcommittee. I'm going to accept these reports and suggest to members that we simply put these aside until such time as we hear that either of these members wish to appeal this to our committee.

That makes sense to me. There's not much point in dealing with this unless these members feel the need that we should.

Seeing no objection to that, these reports are accepted. We'll put them on the agenda if and when we hear from the members involved.

Any comments?

Madam Redman, please.

Hon. Karen Redman: Thank you.

So we're dealing with... Maybe I'm looking at the wrong two reports, having just received these, but the one that was on top, that deals with the criteria for non-votable—

The Chair: We're going to that one right now.

Hon. Karen Redman: Okay. I don't want that one tabled.

The Chair: You're way ahead of us, and we appreciate that very much.

Let's move to that report, then. Before us now, from Mr. Preston, we have a third report. This is the report, I believe, we had tabled the last time on the criteria. We've discussed this at a previous meeting and sent it back to the committee.

Mr. Preston, I'm going to let you introduce it.

Mr. Joe Preston: I'll give it another try.

We were originally charged by the Speaker to come up with a way of preventing the conflict that arose between Monsieur Nadeau's bill and Madame Bell's bill when they collided after the fact. We couldn't deem them non-votable because until they had both been voted on in the House they couldn't be deemed non-votable. We've now tried to put together criteria that could allow bills to be made non-votable at the subcommittee as we're refreshing the order of precedence. So the first part of this report is that the committee can determine items non-votable at the subcommittee meetings, the non-votable pieces.

The second part of this report is about changes to the standing order, on how we could then reconcile or come up with a way of making it so that someone didn't lose their opportunity to have a private member's bill if their item was deemed non-votable.

I have to thank both the clerk and deputy clerk, and Madame Picard had some very good input at the last meeting to try to change some of these things to address some of what was talked about at this committee. So I'll leave it at that and try to answer the questions, and with the extra witnesses here today, perhaps we can say we might have accomplished this.

• (1200)

The Chair: Do our witnesses have copies of this? Thank you.

Thank you, Mr. Preston.

Are there any comments at this time? I'm not seeing any comments.

I saw Madame Redman's hand go up first. So I'm going to go to Madame Redman, Madame Picard, and then Monsieur Godin.

Madame Redman, please.

Hon. Karen Redman: Thank you.

I'm perusing this yet again. I guess I still have concern about the third bullet. I think I expressed this the last time, whereas one is preceding them in order of precedence. I don't know if it's more fair to let people read through the report before we start discussing it.

I don't know the line in the sand or how you decide which hurdle you go over, but I do know that if I have a private member's bill and I can persuade members of my own caucus or members of another party to trade it up, then I would feel disadvantaged to be precluded from putting that motion forward and having that opportunity to cross the threshold, whatever we decide it is, merely by the fact that there's something else in the order of precedence.

Mr. Joe Preston: I've found a solution.

The Chair: Okay. Let's let Madame Redman finish so we can have the full comment.

Hon. Karen Redman: I'm all yours for solutions, if there is one. But that's my concern with this bullet.

Mr. Joe Preston: The order of precedence is determined by lottery, so there's an equal chance for all as to how the order of precedence is determined. The vote on non-votability, if there is such a term, occurs before such time as a trade could possibly take place. So if you're worrying about being able to trade into a position, that can't happen until after the non-votability is determined.

Hon. Karen Redman: But the non-votability is determined by the order on the precedence paper—

Mr. Joe Preston: Yes, as we refresh the order of precedence.

Hon. Karen Redman: —which doesn't necessarily mean that the bills would come to the House in that order. It has been decided somewhere else that my motion is now non-votable, even though I could trade it up and get it to the House before something that was sitting there on the order paper.

The Chair: Maybe I can throw in—and I'm sure I'm just as confused—that it seems to me that once it's on the order paper, it then would be deemed non-votable. It could not be traded up at that point. That bill would be done. It's deemed non-votable.

Mr. Paul Szabo: [*Inaudible—Editor*]...a determination from PHA.

The Chair: Right. So it's deemed non-votable.

Mr. Paul Szabo: It's frozen in its slot. Should it rise to the top but still not be resolved at PHA, it automatically drops to the bottom of the list and will keep until it's ultimately reported by PHA.

Mr. Joe Preston: That's my thought. The solution does work.

The Chair: That's exactly what I was thinking.

Madame Redman, I'm looking over to our expert witnesses, too, and I think we're all in agreement now that this solves Madame Redman's problem.

Madame Redman, could you explain again for our witnesses your concern, and then we'll see if we can get the solution to be correct? Then we're going to go to our next speakers. I want to delay the topic because we have other people who have concerns.

Hon. Karen Redman: I'm sorry I'm not seeing the solution, but I know Paul Szabo is very cognizant of how private members' bills work.

I also know that if my name is drawn and I put my motion or my bill forward and say that this is the one I want to have, and there's something else on the order paper.... Are you saying it has to be deemed votable or non-votable before it ever reaches the light of day in the House? Why couldn't I trade it up to somebody higher on the order of precedence?

Ms. Audrey O'Brien: First of all, you put it on the order paper, and it is on the list of private members' items, which is sort of ad infinitum. It's only when they come out in the lottery or in the replenishment of the order of precedence that they actually become a tradable item. You can't take it from the netherworld and bring it into the order of precedence. Once it's on the order of precedence, it becomes the purview of Mr. Preston and his colleagues on the subcommittee to decide on its votability. Nothing happens to it until that report on votability or non-votability is complete.

●(1205)

Hon. Karen Redman: My understanding is that currently, at that juncture, this criterion does not exist. For instance, pick Kelowna. If I have a Kelowna private member's bill and there's something similar to it, would it automatically now be voted non-votable, or would it depend upon whose bill got discussed first in the House? At that point in time, whoever was lower on the precedence in the order paper would then be deemed non-votable because they would be too similar.

Ms. Audrey O'Brien: That's right. If you have two similar items and you have an item that has, by good fortune and trading and what have you, come up and been judged votable and is now proceeding, but you have a very similar or substantially the same item coming behind, then that will be non-votable.

Hon. Karen Redman: But it would be later in the process. My point would be, if we get to the House and I'm number 15 and somebody else is number 8, and I'm able through good luck or persuasion or whatever to get mine to go up to number 6, I'm still deemed votable at this juncture without this change, am I not, until it has received an hour of debate and worked its way through the system?

Ms. Audrey O'Brien: No—

Mr. Paul Szabo: It really is Standing Order 86(4), which deals with items as they come forward—and that's even before they get onto the notice paper: if there are two items that are substantially the same, the one that was introduced later is no longer eligible and is returned to the member and doesn't ever appear on the notice paper.

Ms. Redman is talking about a situation where the items have passed that hurdle. Then the subcommittee comes up with a decision that says that maybe these are so substantially the same as to be identical; then they talk about votability.

So one issue is whether or not they can appear on the notice paper. The other issue is the votability. That's the route coming through Mr. Preston's committee and for which there is a report.

The Chair: Let me just interject, too, that I think Madame Redman is talking about that timeframe when, if somebody is sharp enough, when they're moved up off the no man's land onto the order paper—out of the lottery, and they're there—they might be able to recognize that their bill actually does resemble somebody else's and make a flip in that day or two before Mr. Preston's committee has a ruling.

Mr. Joe Preston: That's not possible.

The Chair: Now we have the thing clarified, and our clerks are saying it's not possible.

Mr. Paul Szabo: They can't move, not until we get a report from the procedure and House affairs committee.

Mr. Joe Preston: Right. We do the report before that's possible.

The Chair: So, then, if two were deemed to be similar and one were to be ruled not votable, it's the one that's further down the list.

Mr. Paul Szabo: Exactly.

Ms. Audrey O'Brien: And that has been picked by the lottery.

The Chair: I'm convinced that this solves the problem.

Madam Redman, how are you?

Hon. Karen Redman: Maybe I'm being obtuse on this, but my understanding is that the Speaker had asked for direction.

You reach a point in time where you have the two bills before the House. One has been debated, and you have to go back to the other person and say, "Your name is still here. Do you have another bill you want to discuss?"

I'll ask one more time. The proposed amendment before us moves that process closer to the beginning, and without this, I think it's a fairer system, granted that you have to be drawn and you have to be on the order paper. But currently, determining whether or not a bill is non-votable comes later in the process. So you can have two substantially or roughly similar bills on the order of precedence, and it's not until...I don't know whether it's the first hour of debate or the third hour of debate that you then go back to the person with the second bill and say, "I'm sorry; it is non-votable at this point."

•(1210)

Ms. Audrey O'Brien: That was the problem the Speaker wanted the committee to address. I think this proposal does solve that. That is to say, it's not a first-hour thing, and then you jump up and you're ahead, and so forth and so on. As soon as you see the light of day on the order of precedence, there has to be a decision on votability.

Hon. Karen Redman: I am clear on this, and I think this solves something for the Speaker. I feel this disadvantages members, so I don't support it.

The Chair: Thank you.

I'm going to come back to you, I'm sorry.

I have our analyst. Did you want to add something very quickly?

Mr. James Robertson (Committee Researcher): I'd like to clarify.

The background was, of course, that the two items went forward—Mr. Nadeau's and Ms. Bell's. The criteria say that a matter must have been voted on for a criterion 3 to apply. At the time they were put on the order of precedence—it was at the beginning of the session—neither had been voted on. Neither one could be ruled out of order on the criteria.

The subcommittee saw the two items and said they were identical, but they had no grounds on which to rule either one out of order. The result was that both went forward as votable. As Madam Redman says, either one could have come to a vote first, but whichever one came to a vote first, the second one would have been ruled out of order. As Mr. Lee rose on a point of order, the Speaker took it upon himself to allow an opportunity for the committee to work out a

solution, but that would not necessarily be the same solution in all cases.

In another case, the second person might well have had one or two hours of debate, their item would be ruled out of order, and that person would be left with no remedy. That was why the Speaker suggested the procedure and House affairs committee and the Subcommittee on Private Members' business try to solve the situation so he didn't have to become involved. That was what led to this particular solution.

Mr. Joe Preston: Surely the Speaker could have just ruled it out of order and it's gone. He's looking for a remedy for the situation, so we don't have to rule somebody's private member's business out of order and then not have any other choice.

Mr. James Robertson: The other concern that was expressed by the members of the subcommittee was that if a member had two hours of debate on motion one, if it was ruled out of order and they were given a chance to substitute another item, they would end up getting more than one opportunity to have an item debated in private members' business. You could have an item debated for an hour or two, and then because somebody else's issue has been voted on, you get to substitute at that point. You bring forward another bill or motion and you get another one or two hours, which would allow that member greater opportunity than other members are given.

The Chair: All right. Let's continue. A little bit further discussion, and then we'll see where we're going.

Madame Picard, did you have anything further, please?

[*Translation*]

Ms. Pauline Picard: I want to clarify the change with regard to items declared non-votable.

The proposal sought to allow a member who already had an item on the *Order Paper* to keep, when that item is determined to be non-votable, the item's priority in the order of precedence. So, if the item has been found non-votable because a similar bill has already been tabled or because the matter has already been debated in the House, that member will have, if he or she already has other items on the *Order Paper*—some members table a number of items—five days to decide which item will be debated or whether they want to appeal the committee's decision before the House.

Should the non-votable item be the only one in the member's name, nothing changes. If members decide to bring forward another item, they will have 20 days to prepare it and then it will move to the bottom of the order of precedence. We felt that this was fairer.

Given what happened with Ms. Bell, we realized that there was a problem. Consequently, to resolve this problem, I think that the committee members and their research staff were unanimous in saying that this was the way to proceed. We felt that it was fairer for the members and it was the best solution so as not to penalize them.

[*English*]

The Chair: Thank you very much.

Monsieur Godin, you're next.

Colleagues, I will note we are circulating another document. Again, I apologize for all the paperwork today, and bear with us on this. The document in front of you looks more like a flow chart on how things proceed as a result of a member submitting a private member's bill. Please have a look at that as we continue this discussion.

Monsieur Godin.

• (1215)

[*Translation*]

Mr. Yvon Godin: Thank you, Mr. Chairman.

I don't know whether we have forgotten something. Mr. Szabo may be able to tell us how he manages to have two bills in his name in the House of Commons and one in the Senate.

Correct me if I'm wrong, but we can sponsor a bill in the Senate, and that bill gets priority ahead of a private member's bill. If the same member can sponsor three bills in the House of Commons, would it not be preferable to give priority to private member's bills rather than to a Senate bill? Right now, a member may have three or four bills in his or her name.

[*English*]

The Chair: Monsieur Godin, I'm going to interject, if I may. I see that as being truthful, but it might be a matter for another discussion.

[*Translation*]

Mr. Yvon Godin: I don't have a problem with that. However, I think that this matter deserves further attention.

[*English*]

The Chair: I don't see this as being connected. You are correct, but I think it's outside our discussion on how we deal with private members' bills that are deemed non-votable. Perhaps we'll want to talk about that at some point, but although you are correct—and I see other colleagues agreeing with me—it's not germane to this discussion.

Mr. Yvon Godin: So it's, you're correct but you're not correct.

The Chair: No, you are correct; it's just timing. You're correct, but not today.

May I have any other comments on this, or are we ready to call the question? I can appreciate that some members are not in agreement, but it appears that some are. If there are no other comments on this issue, then I want to call the question on this report.

Is it agreed that the committee adopt this report?

Some hon. members: Agreed.

The Chair: Is it agreed that the chair, clerk, and researchers be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report?

Some hon. members: Agreed.

The Chair: It's unanimous.

Colleagues, is it agreed that the chair present the report to the House?

Some hon. members: Agreed.

The Chair: Thank you very much.

Mr. Szabo, did you have a comment?

Mr. Paul Szabo: Yes, Mr. Chairman.

As you may know, there is an item in the private members' subcommittee report on motion M-322, standing in the name of the leader of the official opposition. The argument raised, I believe, is *prima facie*. There is not going to be an appeal of that item with regard to their decision to make it non-votable.

I'm prepared to concede that, simply because if we go through the full process, this item may in fact have to wait until the fall before it ever gets dealt with, because it's frozen in the list. So I would ask the committee's approval to adopt the decision of the subcommittee on M-322 and simply report to the House in your report that the item has been agreed to be non-votable.

• (1220)

The Chair: Thank you.

I'm being advised, Mr. Szabo, that I can take your opinion on this. It is not what would be my preferred case, which is to hear from the original member, but I will accept your view. You are therefore putting a motion forward to adopt the third report that deals with M-322.

There is a point of order.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): Mr. Chairman, I'm having trouble finding this. Is this being reported separately from the one on Bill C-415? Is that correct?

The Chair: Correct. We are taking them both separately.

Mr. Scott Reid: Okay. I'll ask to have that. Thank you.

The Chair: Can we have a motion before the floor? Do I need a seconder?

Mr. James Robertson: No, you don't.

The Chair: We accepted the report, but we have a motion now to accept the report that this is deemed non-votable. There will be no appeal on Bill C-322.

Mr. Scott Reid: What is the normal process, Mr. Chairman?

The Chair: That I report it to the House now.

Mr. Scott Reid: No, but how does what Mr. Szabo is proposing differ from the normal process?

The Chair: We're simply going to concur with the report. What I had said at the beginning of the meeting, Mr. Reid, was that we would take these reports and set them aside until we hear whether or not an appeal would be made.

Further on in the meeting, Mr. Szabo has made it clear to us that having spoken to the member involved with motion 322, there will be no appeal. So I believe we can now bring it back and deal with it and table it in the House.

Mr. Scott Reid: May I comment on this?

The Chair: I'm open to comments. We have a motion on the floor.

Mr. Scott Reid: I genuinely mean no disrespect to the member, but I think we have to have some kind of written request or something from the member in question, rather than taking other.... And I'm sure that nothing has been done inappropriately here, but I think that is a reasonable thing to do, to expect that the relevant member make the presentation, either in person or by some kind of written submission or something, rather than simply making a decision based on what essentially is one member speaking on behalf of another.

The Chair: The chair's position is this. It would be my preference to have that done, Mr. Reid, although I am accepting the integrity of the member, and there is precedent for that. So I am comfortable with accepting the motion from a member, in good faith that he has spoken to the member in this case, and that the motion is fair. And I accept the motion.

James.

Mr. James Robertson: Just for information, under the Standing Orders, the sponsor has five sitting days after the deposit of this report to appear before this committee to appeal the decision. Once the report is tabled in the House, assuming that is a decision of this committee to table it more quickly than that, then there is the appeal mechanism in the Standing Orders for the secret ballot appeal, but the member can short-circuit that by giving written notice to the table that he or she does not intend to take advantage of that opportunity. So that would speed things up.

I think the intent of what Mr. Szabo is proposing is to get it into the House so this opportunity can arise sooner than might otherwise be the case.

Mr. Paul Szabo: I can confirm this, Mr. Chair. The idea is it would appear that trying to get the leader of the official opposition to appear and to go through the various motions...it will end up that he probably will bump his head at the top of the list and have to go down to the bottom without having spoken on his motion.

We have had this matter before the House and voted on before, as reported by the subcommittee. I think there can be some interesting arguments, but I much suspect that the decision of the committee will be sustained, in any event.

The Chair: Mr. Reid, please.

Mr. Scott Reid: We are very fortunate in having procedural experts sitting at the other end of the table, but my only concern on this matter...maybe it's not unusual to have one member speak for another, but it's certainly outside my practice, so if that's considered normal practice, then I have no reason to object to what Mr. Szabo is doing.

Could we ask if that is generally considered appropriate in circumstances like this?

The Chair: Would one of our witnesses respond to Mr. Reid? Is it appropriate for a member to speak on behalf of another member in this situation?

• (1225)

Ms. Audrey O'Brien: It's not unusual, when the member in question is the leader of a party, for there to be a spokesperson from that party who conveys his or her wishes in a setting such as this one. The committee and you as chair would obviously be free to feel

comfortable with that or not. But under the circumstances, and with the explanation given, I don't see any difficulty with that.

Mr. Scott Reid: I withdraw my objection.

The Chair: Okay. Thank you.

Then the chair repeats that the motion is accepted in good faith by the member, and we'll vote on the motion.

Is it the wish of the committee to adopt the report, which is the third report regarding private members' business with respect to motion M-322?

Some hon. members: Agreed.

The Chair: Is it agreed that the chair, clerk, and researchers be authorized to make such grammatical and editorial changes as may be necessary, without changing the substance of the report?

Some hon. members: Agreed.

The Chair: And finally, is it agreed that the chair present the report to the House?

Some hon. members: Agreed.

The Chair: Thank you. Colleagues, I think....

I'm sorry, Madame Picard, please.

[Translation]

Ms. Pauline Picard: Mr. Chairman, I simply want to remind you that when the Subcommittee on Private Members' Business hears motions or bills, it follows established criteria, which guide the members in their decisions as to whether such bills or motions are votable or not. We do not verify or make judgments on their substance. I want everybody to be clear on that. We determine whether an item is votable or non-votable based on established criteria.

Thank you.

[English]

The Chair: Thank you.

I believe we've done as much as we can in the public setting. We're going to discuss future business at this point, so I'm going to, again....

Mr. Reid, please.

Mr. Scott Reid: I'm sorry. Actually, there is an item I wanted to bring up. It essentially amounts to a notice of motion. I could do that either before or after we go...I gather you're planning on going in camera.

The Chair: My friend, if you want to do it in public, we're happy to do that right now.

Is it necessary that our witnesses be here?

Mr. Scott Reid: No, it isn't.

The Chair: Then I will thank our witnesses yet again for your kind indulgence and your ability to stay later to help the committee. You're dismissed at this point. Thank you.

Mr. Reid, please.

Mr. Scott Reid: Thank you.

I suspect that most members of the committee will be aware of the fact that on March 29 and again on April 17, and on a third occasion as well, I drew to the attention of the Speaker in the House a question of privilege relating to documents, which included, among other things, my personnel files from when I was staff on Parliament Hill and the personnel files of other people, and also correspondence files and so on, that had been retained and kept for over a year in the offices of the leader of the opposition.

I contended in my presentation that my privileges had been violated. I contended further than that: I also indicated that I thought the Criminal Code had been violated as well.

The Speaker ruled several days ago, on May 2, and in his ruling he indicated, and maybe, with your permission, I'll just quote:

Members are aware that parliamentary privilege is strictly limited in its application. With respect to individual members, privilege provides them with a guarantee of freedom of speech, freedom from arrest in civil actions, exemption from jury duty and from appearing as a witness, and freedom from obstruction, interference, intimidation and molestation.

On that basis he said that none of those privileges had been violated by the actions to which I'd referred.

However, he also went on to say in his ruling, and I quote again:

Perhaps the hon. member should bring his concerns on this matter to the attention of the Standing Committee on Procedure and House Affairs in respect of the proper handling of found documents pertaining to matters of parliamentary business and belonging to another member or to the caucus of another recognized party.

So my intention is to bring this matter forward in the form of a motion before the committee, and I would do so at our next meeting.

•(1230)

The Chair: Well, thank you very much, Mr. Reid. I look forward to the motion.

If we could just adjourn for less than....

Oh, I'm sorry. Madam Redman.

Hon. Karen Redman: Thank you very much.

I would just ask Scott Reid—I really appreciate the fact that you've given us notice of motion, because it's not required in this committee, as you know—will we be receiving that in writing beforehand?

Mr. Scott Reid: Yes. My intention, actually, was to try to get it in both official languages. That's my big concern.

The Chair: Thank you.

Is there anything further before we go in camera? We're going to go in camera for one minute, then we'll come back and discuss future business.

We do have a few minutes left, colleagues. This has been a very pressing meeting, but we can get through it. So I'm going to just suspend the meeting for one minute.

[Proceedings continue in camera]

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