



HOUSE OF COMMONS  
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CANADA

# **Standing Committee on Justice and Human Rights**

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**EVIDENCE**

**Tuesday, June 21, 2011**

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## Standing Committee on Justice and Human Rights

Tuesday, June 21, 2011

• (0850)

[English]

**The Clerk of the Committee (Mr. Jean-François Pagé):** Honourable members of the committee,

[Translation]

I see a quorum.

[English]

I must inform members that the clerk of the committee can only receive motions for the election of the chair.

[Translation]

The clerk cannot receive other types of motions and cannot entertain points of order or participate in debate.

[English]

We can now proceed to the election of the chair.

Pursuant to Standing Order 106(2), the chair must be a member of the government party. I am ready to receive motions for the chair.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Mr. Clerk, I move that Dave MacKenzie be elected chair of this committee.

**The Clerk:** It has been moved that Dave MacKenzie be elected chair of the committee.

[Translation]

Are there any further motions?

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

[English]

(Motion agreed to)

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

**Some hon. members:** Hear, hear!

**The Chair:** Before inviting Mr. MacKenzie to take the chair, if the committee wishes we will now proceed to the election of the vice-chairs.

[Translation]

Pursuant to Standing Order 106(2), the first vice-chair must be a member of the official opposition.

[English]

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

**Mr. Brian Jean:** I move that Joe Comartin be elected first vice-chair.

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

[Translation]

Are there any further motions?

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

(Motion agreed to)

[English]

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

[Translation]

**Some hon. members:** Hear, hear!

**The Clerk:** Pursuant to Standing Order 106(2), the second vice-chair must be a member of an opposition party other than the official opposition.

[English]

I am now prepared to receive motions for the second vice-chair.

Mr. Hsu.

**Mr. Ted Hsu (Kingston and the Islands, Lib.):** I would like to nominate the Honourable Irwin Cotler.

**The Clerk:** It has been moved by Mr. Hsu that Mr. Cotler be elected *in absentia* as second vice-chair of the committee.

[Translation]

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

(Motion agreed to)

[English]

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

[Translation]

**Some hon. members:** Hear, hear!

**The clerk:** I now invite Mr. MacKenzie to take the chair.

• (0855)

[English]

**The Chair (Mr. Dave MacKenzie (Oxford)):** This being the first meeting of the justice committee for the 41st Parliament, I want to thank you for the honour of serving as your chair. I look forward to working with everyone.

I think in the 41st Parliament the committees will function in a different manner from what they did in the 40th Parliament. Certainly I look forward to that, and I think Canadians look forward to the change in the tone of the committees.

The very first order of business is the routine motions, the business of the committee.

Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, in following up with what you mentioned, I have a motion in relation to routine motions to be adopted before discussion. I was wondering if I could make that motion now, if that would be appropriate.

**The Chair:** Certainly.

**Mr. Brian Jean:** I have four changes, Mr. Chair, to the proposals for the routine motions, which people should have in front of them.

This is further in the interest of fairness and democracy. Since each of us received a clear mandate from the people of Canada, in each constituency, I think it would be reasonable to suggest that each member should have the same amount of time to ask witnesses questions before anybody has a second turn.

In the spirit of that, what I've first of all suggested for the subcommittee on agenda and procedure is that it be amended as follows: that the subcommittee on agenda and procedure be composed of five members, including the chair, the two vice-chairs, and both parliamentary secretaries.

The reason I have suggested that instead of a Conservative Party member is that I think both parliamentary secretaries, since they have good communication with the department and the minister's office, will better facilitate communication between the membership and the steering committee, and therefore generally we'll have a more focused agenda. That would be the first change I would suggest.

The second change would be on page 2: that in camera meetings be transcribed, and that the transcription be kept with the clerk of the committee for later consultation by members of the committee.

It says "members of Parliament", but clearly in camera meetings should be kept confidential, and this means it would not be.

Yes, Mr. Chair.

**The Chair:** The document that was placed before us says exactly what you're suggesting.

**Mr. Brian Jean:** That's great. I have a draft from yesterday, but I just wanted to mention that. Thank you.

The second is under rounds of questioning: that the witnesses from any organization shall be allowed up to—so that would be inserted—10 minutes to make their opening statement; during the questioning of witnesses, there shall be allocated five minutes for the first round of questioning; and thereafter five minutes shall be

allocated to each questioner in the second and subsequent rounds of questioning.

Therefore, it would be equally split among all members, since we all received an equal mandate from the people of Canada.

And then finally, in relation to speaking order, the motion is that the order of questions for the first round of questioning shall be as follows: NDP, Conservative, Liberal, Conservative. Questioning during the second round shall alternate between the government members and opposition members in the following fashion: NDP, Conservative, NDP, Conservative, NDP, Conservative, Conservative, based on the principle that each committee member should have a full opportunity to question the witnesses; and if time permits, further rounds shall repeat the pattern of the first two at the discretion of the chair.

Obviously, this would give the Liberals an opportunity to have an additional round, since they have a single member. But it would certainly, to my mind, fulfill our mandate in a proper democracy of having each member properly represent his or her constituency.

**The Chair:** Mr. Comartin.

**Mr. Joe Comartin (Windsor—Tecumseh, NDP):** I think this was the intent of Mr. Jean's motion. But with regard to the in camera transcripts and accessibility to them—and we're going to run into this in this committee fairly soon—I'm thinking, in particular, of the study on organized crime that was under way by the committee in the last Parliament. Some of the meetings were held in camera because some of the witnesses were concerned about their own personal safety. I just want it to be clear that the members of this committee now, as opposed to only the members of the committee in the last Parliament, are included in this, so that it's not restricted to the committee members at the time the transcript was taken. And I think Mr. Jean would agree with this.

• (0900)

**Mr. Brian Jean:** That's certainly reasonable.

**Mr. Joe Comartin:** The only other point I will make with regard to the change in the rotation is that in fact that was the way the committee functioned for at least the last three years. The justice committee functioned with that kind of rotation—that is, with everyone getting a chance—although we did have seven minutes for the first round. I don't have a problem changing that.

**The Chair:** Mr. Hsu.

**Mr. Ted Hsu:** Thank you, Mr. Chair.

I'd like to ask for clarification with regard to the in camera meeting transcripts. I am here today substituting for Mr. Cotler. If this were an in camera meeting, I should have the ability to look at the transcripts since I was actually the person attending the meeting. So I would suggest expanding that to include not only members of the committee but members of the committee and also the actual members of Parliament who attended the in camera meeting. How would that be?

**Mr. Brian Jean:** I think you are a member of the committee because you are substituting. So for that particular committee, my understanding is that you would have access to the transcripts because you were the member at the committee. It would be logical in that sense because obviously you would want to check that.

**Mr. Ted Hsu:** And Mr. Cotler would still be able to—

**Mr. Brian Jean:** As a full committee member, he would.

**Mr. Ted Hsu:** Is that correct?

**The Chair:** That's correct.

**Mr. Brian Jean:** Certainly our discussion would identify that as our understanding.

**Mr. Ted Hsu:** Okay.

**The Chair:** Mr. Comartin.

**Mr. Joe Comartin:** I'd like to point out something for our new members. It's been the position of the NDP that the parliamentary secretary should not be on the steering committee. The idea behind that position—and it's been our position for the better part of 10 years—is that we want, as much as possible, the parliamentary committees to be independent of the government, so we can do our work without direction from cabinet in particular. I don't have a problem with the composition in terms of the five members. But we've always been opposed to that part of it, so that part of it I would want as a separate motion.

**The Chair:** We will go through these separately anyway.

**Mr. Joe Comartin:** Thank you.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** I just want to identify for Mr. Comartin, if I may.... I understand that this has been the position for some. With respect, sir, I've only been here seven years, but in the five years that I was the PS at transport committee, it was very effective. The steering committee still has the ability to steer, and obviously the committee as a whole has to endorse anything the steering committee decides.

In this particular case, we have more members here, as you can see, so ultimately I think what we're looking for is cooperation among all members, and we're looking to make sure that the flow of communication between the parliamentary secretaries and the ministers and then the ministers to the parliamentary secretaries is clear enough so that we can move forward productively.

In the transport committee we passed 15 bills, 10 of which became law in five years. We were very productive and we worked in a cooperative manner. Quite frankly, it worked much more effectively than the environment committee, which I sat on before and which was not productive, and I think that was a clear indication as to why.

My suggestion, Mr. Comartin—and I know how it has worked in the past—is that it hasn't been effective, to be blunt, because the communication is not there. Those on the steering committees have to go back to the parliamentary secretaries to find out, for instance, about ministers' attendance or where the ministers want us to go. Let's face facts: we are the Conservative members on this committee and we are going to be pushing the agenda forward for the government.

I do not agree with that. My motion stands as it is. Bluntly, I think we will be much more effective. Frankly, we want to be cooperative, and I think this is the way to do it: with good communication.

**Mr. Joe Comartin:** In response, structurally the more effective way to do it would be to have the chair act as that conduit to the department and to the minister. That's certainly the way it works in England, and it's much more effective than allowing the direct control by the minister through the form of the parliamentary secretaries. But I know the government's position: it has been that forever and that will be the result. But it's not the right one.

**The Chair:** Mr. Hsu, did you have a question?

**Mr. Ted Hsu:** I just wanted a clarification. Is there a quorum for the steering committee? Is it five people or three?

**Mr. Brian Jean:** I think it identifies as three...I'll have to put on my glasses and do some fast reading. If you look at paragraph 2 under "Subcommittee on Agenda and Procedure", it says that the quorum of the subcommittee shall consist of at least three members.

**The Chair:** Yes.

**Mr. Brian Jean:** If you would like, I have no difficulty—

**Mr. Ted Hsu:** The second paragraph?

**The Chair:** I'm sorry. That's not on your sheet—

**Mr. Brian Jean:** I apologize for not working off the clerk's sheet, Mr. Hsu. I think that's a very good point, and actually, I would also identify another, if I may. I would also identify that I think it would be appropriate to say that the quorum of the subcommittee shall consist of at least three members, including one member of the opposition.

**Mr. Ted Hsu:** Okay. That was my—

**Mr. Brian Jean:** I have no difficulty with that. I think that would be reasonable in the circumstances.

● (0905)

**The Chair:** When we go through this, we'll add that.

Mr. Woodworth, did you have a question?

**Mr. Stephen Woodworth (Kitchener Centre, CPC):** Thank you.

I just wanted to respond to Mr. Comartin's point about whether the chair should be the conduit from the government. Quite frankly, from a structural point of view, I don't think that would be particularly wise, in that the chair, in every committee I've attended—at least when the chairs have been Conservative members—to some degree has stood a little bit above the fray and has tried to engage in that degree of impartiality required when mediating among a variety of MPs on a committee.

Quite frankly, I'm happy structurally with Mr. Jean's point that the parliamentary secretary should be doing that job on the subcommittee.

**The Chair:** Ms. May is sitting in. She would like to ask a question, but it does take the consent of the committee to allow her to ask a question. I would ask if we have that consent.

**An hon. member:** Yes.

**Mr. Brian Jean:** I have no difficulty with that.

**The Chair:** Okay.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** That was in fact my question, Mr. Chair. I recognize that I'm here as an observer at the committee. I just wanted to ask for permission and for your guidance. If it's at your discretion whether I speak, and by consent of the committee, if we've gone through a number of rounds with witnesses, I just wanted to ask...if I have a question, I'll indicate and see if you'll be willing to let me ask a question of witnesses at that time.

Thank you.

**The Chair:** The clerk tells me that we have to ask that question each time.

**Ms. Elizabeth May:** Okay. That gives me guidance.

**The Chair:** Can we maybe speed this along now if we go through this paragraph by paragraph? Next is services of analysts from the Library of Parliament.

Can you please work off the clerk's sheet?

All in favour of having the services of the analysts?

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

**The Chair:** Would the analysts like to join us?

Next is the subcommittee on agenda and procedure.

Mr. Jean, this is the one where I think you were...?

**Mr. Brian Jean:** Actually, for reduced quorum under the subcommittee on agenda and procedure, I'm just making sure it's that the chair be authorized to hold meetings to receive evidence and to have.... That is not the proper one?

I would move that it also include, as I think Mr. Hsu has suggested, that the quorum of the subcommittee shall consist of at least three members, including one member of the opposition. I think that's reasonable, if that's agreeable to all.

**The Chair:** Did that also include the first part of that paragraph?

**Mr. Brian Jean:** Absolutely. I wasn't trying to eliminate anything; it's just an addition.

Thank you, Mr. Chair.

**The Chair:** All in favour?

Mr. Woodworth.

**Mr. Stephen Woodworth:** Mr. Chair, we have two proposals regarding the subcommittee. One is that the composition shall be five, including the two parliamentary secretaries. The other is that the quorum will be three. Are we voting on both of these together?

**The Chair:** We're voting on both of them together.

**Mr. Stephen Woodworth:** Thank you very much.

**Mr. Brian Jean:** Mr. Chair, if I may—and I apologize, but Mr. Woodworth had a very good point there—I just want to make sure that the original amendment that I put in there is...because we're working off this sheet.

**The Chair:** That's right.

All in favour?

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

**The Chair:** The reduced quorum deals with this committee as a whole. There may be a need from time to time to hold meetings with a reduced quorum.

All in favour?

**Mr. Brian Jean:** I apologize. I know you've called the question. With regard to the reduced quorum we have "at least three...members are present, including one member of the opposition". I would suggest that there should be four members present, including one member from the opposition. I think that would be a better reduced quorum myself.

**The Chair:** I think this particular clause has been carried in most other committees. It's a rare occasion when perhaps the committee might be called to attend somewhere or on short notice.

● (0910)

**Mr. Brian Jean:** I understand, Mr. Chair. We have 12 members, so three showing up for a meeting kind of makes me nervous in relation to justice, but it's just to receive evidence, so I'm fine either way.

**The Chair:** Those in favour as it's printed?

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

**The Chair:** Next is on distribution of documents.

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

**The Chair:** Next is on the important one, working meals.

Mr. Comartin would like better meals.

**Mr. Joe Comartin:** Can we have a standing vote on this so I can record my opposition?

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

**The Chair:** On witnesses' expenses?

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

**The Chair:** On staff at in camera meetings?

Mr. Jean.

**Mr. Brian Jean:** Mr. Chair, I do notice that there is a difference between this one and what I recognize as being the preference of most parties. So instead of "representing the Party Leadership in the House", it would be "as well as one person from a House officer".

Instead of identifying the party, it would be someone from each party from the House. It identifies who the person is. I don't think anybody wants someone from any political party here. I think we want somebody from the party on the Hill, so "House officer" would be more appropriate.

**Mr. Joe Comartin:** I'm okay with that.

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

**The Chair:** On in camera meeting transcripts?

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

**The Chair:** On private members' bills?

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

**The Chair:** On notice of motions?

Mr. Woodworth.

**Mr. Stephen Woodworth:** There is a question around when motions are received by the "close of business". Because the notice time is fairly short, 48 hours, I'd like to propose that we add to the end of that paragraph a statement as follows: Completed motions that are received by close of business shall be distributed to members the same day.

**The Chair:** The clerk is suggesting that it would be doable but maybe it needs a time in there. They need some time for turnaround.

**Mr. Stephen Woodworth:** Well, I'm not sure how we would define "close of business".

**Mr. Brian Jean:** Before 4 o'clock? Before 5 o'clock?

What time does the clerk go home?

**The Clerk:** I'm always here.

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

**Mr. Brian Jean:** Before 7 o'clock?

**An hon. member:** Noon?

**Mr. Stephen Woodworth:** I'm okay with fixing a specific time other than "close of business", but we should....

**The Chair:** The clerk says 5 o'clock is fine.

**An hon. member:** Agreed.

**Mr. Stephen Woodworth:** All right: that completed motions that are received by 5 o'clock shall be distributed to members the same day.

**The Chair:** All those in favour?

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

**The Chair:** Next is the questioning of witnesses.

**Mr. Brian Jean:** We discussed that. I made my motion at the beginning of the meeting. The NDP have indicated that they are not in favour, but I would ask that we call the question.

I think they have also indicated that they understand that it will go through with this. I think it's a more fair and more democratic system of dealing with it.

**The Chair:** I think I heard Mr. Comartin say that he was in favour of it.

**Mr. Brian Jean:** I have the wording if the clerk needs it.

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

**The Chair:** Thank you very much. That's the end of the motions.

The meeting is adjourned.

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