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Chair

The Honourable Larry Bagnell

Standing Committee on Procedure and House Affairs

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• (1100)

[English]

The Chair (Hon. Larry Bagnell (Yukon, Lib.)): Good morning. Welcome to the 148th meeting of the Standing Committee on Procedure and House Affairs.

I want to welcome the Conservative whip, Mr. Strahl, and Don Rusnak and Karine Trudel from the NDP, to the most exciting committee on the Hill. I'm sure you'll all enjoy yourselves.

I want to let the committee members know that you'll soon be getting two pieces of information that I've asked for some more research on. One is the number of members who normally attend the dual chambers in Australia and Great Britain, and the second is on when the exact legislation was passed that gave the authority for the parliamentary precinct to Public Works, related to things we've been discussing.

Pursuant to Standing Order 108(3)(a)(iii), we are pleased to be joined by Charles Robert, Clerk of the House of Commons, to brief us on progress on the initiative to modernize the Standing Orders. As you remember, on February 27, 2018, he mentioned that this process was starting. These aren't substantive changes, but an effort at reorganization so that the Standing Orders are clear. It's hard for people to find things. It's that kind of work. You got some documents yesterday from the committee clerk.

The bells will sound shortly, so hopefully we can get through his opening statement soon.

Maybe I should just mention while we're still here what I propose for the meetings when we come back after April. The estimates have to be tabled this week. There are three panels of estimates that we would normally have. On the first panel would be the Clerk, the Speaker and PPS for the House of Commons estimates and the PPS estimates. On the second panel would be the Chief Electoral Officer for the elections estimates, and on the third would be the minister and/or the commissioner of debates for the debates estimates.

Does anyone have any problem with that schedule of having those panels for the estimates?

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC): I would like a little more specificity than “the minister and/or the commissioner of debates”—

The Chair: That's up to the committee. Do you want the—

Mr. Scott Reid: Can we get back to you on what we would prefer?

The Chair: Yes. You can get back to me.

Mr. Scott Reid: This shouldn't be a scheduling issue, unless one of the others has a scheduling issue of their own, but as to the actual breakdown, perhaps we can get back to you on what would be preferable from our perspective—

The Chair: On that third one, everyone can get back to me as to who you would like for the witnesses.

Hopefully we can get your opening statement in before the bells.

Maybe I can ask for the permission of committee members. Is it okay for a few minutes after the bells have started—because it's just upstairs—to get his opening statement finished? Is that okay?

Some hon. members: Agreed.

The Chair: That's great. Thank you.

Mr. Mark Strahl (Chilliwack—Hope, CPC): We'll stay for the statement.

The Chair: Okay. Thank you.

Mr. Clerk, you're on. Thank you very much for being here again.

Mr. Charles Robert (Clerk of the House of Commons): Thank you, Mr. Chair.

When I became the Clerk in 2017, one of my goals was to unify the administration as one entity serving the members. In terms of procedural services, one way to proactively support the needs of the members was to review the Standing Orders. From my reading, I found them overly complex and not really accessible to members and their staff.

As a consequence, I launched an internally driven project to improve the style and organization of the rules and to enhance their accessibility.

Specifically, my aim was to rewrite the Standing Orders in plain language, using consistent terminology and eliminating internal references, and to reorganize the Standing Orders to improve the navigation of the document by adding a comprehensive table of contents with matching marginal notes, and I proposed a new numbering scheme that acts as a memory device and organizes related procedures in discrete chapters. Finally, I wanted to do this without making any substantive changes to the rules. This was my commitment to you at this committee at my first appearance.

The project has involved two phases of activity.

Phase one was to rewrite and reorganize the Standing Orders with a view to improving the logical flow of the rules, disaggregating complex and lengthy rules into subsections to provide a step-by-step understanding of the procedure and, where possible, combining certain procedures to improve the conciseness of the document.

Phase two was to work with the legislative services to ensure that there are no discrepancies between the English and the French text. To do this, we have involved jurilinguists on the project; these are specialists who work in the Law Clerk's office. This will also improve the level of French in the Standing Orders.

● (1105)

[*Translation*]

I know that you have all received a bundle of documents to prepare for the meeting. Three documents are part of it. There is a general information note describing the genesis of the project, the principles applied in the review and the approach adopted to improve the style and organization of the Standing Orders. There is a proposed table of contents and the first seven corresponding chapters, which provide a basis for the work done in the House. There is an appendix that draws members' attention to inconsistencies between rules, divergence between rules and outdated usages or rules.

[*English*]

Where possible, we have suggested changes to improve the internal consistency of the rules and to improve the alignment of the rules with our practices.

There has been no attempt to introduce new concepts or to recommend substantive changes to the interpretation of any rule.

Let me take some time to walk you through some specific proposals that are designed to improve the accessibility of the document.

Let's begin with the table of contents. As compared with the existing version, the proposal of a comprehensive table of contents using marginal notes or subheadings will improve the ease of navigation of the document.

Another thing users will note is the writing style, using plain language and the active voice. We also placed a premium on concision, which improves the clarity of the text and the ease of comprehension.

The removal of internal references is a major improvement in understanding the operation of the rules. For expert proceduralists, this may not seem to be an obstacle, but for new members and new staff who possess limited procedural knowledge, internal references represent a barrier to understanding the rules and how they work together.

In this same vein, we have added notes and exceptions under rules to explain linkages to other rules, exceptions to the application of rules, and references to statutory and constitutional authorities.

By using consistent terminology, we hope to eliminate the use of redundant text where the application of a term is different.

These are examples of how we propose to improve the writing style of the Standing Orders. Now here are some examples of how we organized the document to improve its navigation.

We found that certain groupings in long chapters were not particularly helpful in finding what the reader is looking for. For example, we reorganized the chapter on financial procedures. We took the procedures dealing with the budget debate and put them in the special debates chapter. We took the ways and means procedures and grouped them with non-debatable motions in the chapter on motions. And we kept the remaining procedures dealing with the business of supply in the chapter named after business of supply.

In addition to adding an index to the document, we are also proposing to include a glossary of terms that we hope will improve the understanding of the Standing Orders.

[*Translation*]

We have completed the first phase of the project for all the chapters, with the exception of the one on private members' bills. We have realized that the framework considered in the Standing Orders to deal with private members bills is archaic and inapplicable. So we are proposing options on the best ways to modernize that chapter.

I would like to hear comments on all aspects of the project.

[*English*]

We very much appreciate your views on how to improve the accessibility of our Standing Orders and on ways to make them best suited for your purposes as members of Parliament.

Over the next few months I will continue to provide you with new chapters as they become available. It is my hope that an iterative dialogue will lead to a revised set of Standing Orders that you and your colleagues will find helpful in your work as parliamentarians.

I'm happy to take any questions you may have.

● (1110)

The Chair: Once it's all finished, my understanding is that this committee will review it in the next Parliament when we do the statutory review of the Standing Orders.

Mr. Charles Robert: There is a debate that you normally have early in the new Parliament where you can discuss this. If you feel this project has been useful, you can raise it. Because you have the authority under your own mandate, you can pursue this project further to determine whether you think it appropriate to adopt these changes either on a permanent or temporary basis, to see whether they help you understand the rules and practices of the House.

The Chair: Before we go to the list, does anyone want to ask a question about the scheduling we were just discussing?

We'll see how long people want to stay when the bells start ringing, but we'll start with Mr. Simms for seven minutes.

Mr. Scott Simms (Coast of Bays—Central—Notre Dame, Lib.): Thank you, Chair.

Mr. Clerk, it's been ages. How have you been?

For those who weren't here last time, he was just here.

Some hon. members: Oh, oh!

Mr. Scott Simms: First of all, I think this is a fantastic exercise that you're doing. I think that in most cases it's long overdue. I don't claim to be the smartest person around any table—God forbid I'd do that—but sometimes I read these rules and in my mind I find myself trying to read the language and it's literally like Cirque du Soleil up here, trying to go back and forth between this, that and the other thing. It's just not friendly at all to the average reader or to anybody who is not a—I believe you used the term “jurilinguist”.

What flags initially arose that have brought us to this point where you have a document that's ready to go and ready to be looked at?

The Chair: Just before you answer that, I want to find out from the committee how long into the bells they want to stay.

Mr. John Nater (Perth—Wellington, CPC): Let's let seven minutes go by, and then—

The Chair: We'll go about seven minutes and then we'll break. Okay. Then we'll come back.

Mr. Clerk.

Mr. Charles Robert: For me, in the attempt to be a proactive service to the members.... Whenever you read the Standing Orders and you see the word “pursuant”, you always think, “Okay, is this going to trip me up?” Then, this morning, I was just reviewing that again. I went to one “pursuant”—so I do check these—and it referred me to two other “pursuants”. I don't think that's particularly helpful. I think members are super-loaded with work. Any documents that you have to use that are critical to your work should not be a handicap to that effort. They should be written in a style that is easily accessible and understandable.

You should also be able to find it quickly. I was using the index this morning. I was looking for second reading; I was looking for a specific rule. I looked under bills—then went to public bills—no, I needed to go to government bills. So there is this jumping around that you sometimes have to do, which I think can be avoided. To the extent that we can either minimize that or even totally eliminate it, the Standing Orders will be less intimidating and more useful to you in trying to understand the practices that actually govern how you operate in the chamber or in committees.

Mr. Scott Simms: I've always been fascinated by your knowledge of the other jurisdictions. Have other jurisdictions undertaken this size of a project? I should say other countries, sorry.

Mr. Charles Robert: Well, the other chamber of this House has done this. That project actually began in 1998—I'm not particularly trying to wish this on myself here—and didn't end until 2012.

Mr. Scott Simms: Oh, my.

Mr. Charles Robert: It really depends on how the standing orders of other jurisdictions are written, whether there is a need to revamp them. Scotland, I know, does several editions of their standing orders virtually every year, and they're becoming quite complex. They may have to go back and change them, simply because they're always adjusting. That leads to a new edition.

• (1115)

Mr. Scott Simms: Well, they're new.

Mr. Charles Robert: They're new.

Mr. Scott Simms: I noticed that when I went to Scotland: a lot of their rules take the “best practices of”, but that's probably because of their newness. But I think it's far overdue for us.

You mentioned that one of the other things you want to do is clear up the writing to more of an active style of writing. Can you expand on that?

Mr. Charles Robert: The notion really is that it's easier to understand if you put something in the active voice as opposed to the passive voice. I remember once there was an exercise in the mid-eighties for the Standing Orders of the House of Commons and there was also some exercise in reviewing the rules of the Senate. The negative passive voice becomes a bit complex. It didn't really help to understand how the rules are meant to operate.

Mr. Scott Simms: The second part of that was that you referred to the index; that it would be immensely helpful.

Mr. Charles Robert: Well, when the project was actually done with the rules of the Senate, the index, which was originally 102 pages long, was reduced to 22 pages. The reason was that there was an integration of the marginal notes and the headers and subheaders that you find in the table of contents. That was used as a guide to create the index. As a result, it was simplified.

Mr. Scott Simms: I like that, too, because, being parliamentarians, we have other duties that take us to our constituencies and so on and so forth. I find that I'm able to catch up only if my flight is a longer flight and I can sit down with this stuff and try to absorb it. With the index, now I can do that in a much quicker fashion, so I strongly endorse that.

You mentioned the fall. I'd say, for committees as much as anything else, that the exercise of having an evening debate on Standing Orders, which usually follows shortly after the election, should come a little bit later to allow new members of Parliament to get more experience with the Standing Orders before making some substantial changes. Not everybody can be David Graham, for goodness sakes.

I think you're saying that's the place where the next one, following the next election, is—

Mr. Charles Robert: It's certainly an option for you.

Mr. Scott Simms: Obviously, it would be far more efficient if we chose that.

Mr. Charles Robert: Again, I'm here to be of help, but the decisions that you make are in fact your decisions.

Mr. Scott Simms: You're good. You'd be fantastic in a scrum. You know that, don't you?

Thank you, Clerk.

The Chair: Thank you, members.

We will break to go to vote and then come back.

• (1115)

(Pause)

• (1155)

The Chair: Welcome back to the 148th meeting.

We'll give the floor to Mr. Strahl for seven minutes.

Mr. Mark Strahl: Thank you, Mr. Chair, and thank you for the opportunity to participate today. I am here on behalf of my House leader, Candice Bergen, to discuss the matter before us today.

I think that my characterization of this initiative will not be the same as Mr. Simms', who called it fantastic. In fact, I think it's putting the cart before the horse here.

As you know, when you were hired to the position, we were in the midst of a prolonged multi-week/month debate and dispute about the Standing Orders about who should be bringing forward changes, in what manner they should be considered, and whether there should be consensus, etc.

I'll go back to your testimony in February 2018, when you told this committee, "The commitment that I had made is that there would be no change to the Standing Orders", and "understanding completely that no changes are being recommended through this exercise."

You gave us "absolute guarantee that no changes would be made", yet we have 70 changes here, which may meet Mr. Simms' description of being fantastic. I guess my primary question first of all is, on whose authority or initiative was this? Why did you take it upon yourself to change the Standing Orders? I would argue that is the purview of members of Parliament to decide if the Standing Orders need to be changed.

You referred many times to "we" throughout your presentation: "We decided. We did this." Who is "we", and who decided that this would be a good idea to pursue without having members of Parliament give you that charge?

• (1200)

Mr. Charles Robert: The initiative was my own. It was done with the idea—again, as I mentioned earlier—to be proactive in assisting the members.

The 70 changes you may be referring to are the ones in yellow highlights. We recognize that they represent changes, and that's why they are deliberately highlighted that way. We came across them when we were doing the revision.

In the end, nothing changes unless the members themselves want it to change. I'm here basically as a good-faith agent, trying to assist the members in giving them tools that I think are more readily accessible. I have no authority to do anything in any way that can be considered final. That rests entirely with this committee, and ultimately, with the House, because the Standing Orders belong to you.

Again, let me repeat: I am trying to be a good-faith agent, trying to give you tools that will help you do your job better.

Mr. Mark Strahl: With respect, Mr. Clerk, again, in your February 2018 testimony, you said, "in the meantime, through negotiations and shared information, [if] the House leaders recognize there might be some value in rewriting the Standing Orders...it seemed to me that this would be a worthwhile project."

Did you ever consult with the House leaders before embarking on this initiative?

Mr. Charles Robert: I consulted with their chiefs of staff.

Mr. Mark Strahl: Okay, well that's news to me.

Again, I think that this is a cart-before-the-horse thing. It might be that what you have produced is worthy of adoption or consideration, but the way in which it was put forward I think is very concerning to us.

Mr. Christopherson, who is not here today but is an eminent member of this committee, said at that same meeting, "You start talking Standing Orders, and I mean the House owns the orders, not the Clerk's department."

I again want to lay down that marker. I don't know what would now prevent a future clerk, or what prevents any part of the apparatus that serves members of Parliament, from embarking on similar good-faith initiatives. They may actually be done in good faith, but if they're not directed by members of this committee, members of the House, then I would argue that they are in fact counter to the very thing Mr. Christopherson stated, that this should be done on the request of the House.

Again, these are our Standing Orders. The Speaker constantly refers to the fact that he cannot act outside of these rules because he is a servant of the House.

I would ask, perhaps in another way, who else has been assisting with this? Have you been assisted through the government House leader's office or the Privy Council Office or the Speaker's office to undertake this initiative and to produce the document that we have in front of us?

Mr. Charles Robert: No one from any of those three you mentioned has directed any aspect of this project. Again, as I mentioned earlier, this was a good faith initiative on my own part. I would not have taken it this far had I not been in consultation with the chiefs of staff of the government House leader, the opposition House leader and the NDP House leader.

They understood what I was doing. No one told me, "No, don't go any further". The purpose is to provide assistance to the House. As Mr. Christopherson said, I fully recognize and realize that I have no authority to implement anything.

In the same way that we are now reviewing the members' orientation program for the period after the next election, we are trying to improve the service that we give to you. That was the only intent to this.

If you feel this is inadequate or inadvisable, it will be for you to tell me to stop, and I will stop.

• (1205)

Mr. Mark Strahl: You're saying that there are no employees of the Privy Council Office seconded to assist you on this project.

Mr. Charles Robert: The individual you are referring to is on an attachment to us from the Privy Council Office. He was engaged because he had 10 years of experience in the government House leader's office under both the Conservative government and the Liberal government. The intent was, okay, you're a practitioner. You had to use these Standing Orders day in, day out. You're perhaps well placed to give advice as to how they could be simplified and reorganized so that when members are using them every day, they will be able to access them more easily.

The Chair: Thank you.

Now, we'll go to Madam Trudel.

[*Translation*]

Ms. Karine Trudel (Jonquière, NDP): Thank you, Mr. Chair.

I know that I have big shoes to fill, those of Mr. Christopherson, who is absent today. So, I will try to do things properly and represent him well.

Mr. Robert, thank you very much for your presentation. For us, it is too soon to comment on the changes.

Mr. Charles Robert: Of course, this is presented to you as a draft. So you can decide whether you think it is acceptable or not. If other changes have to be made or a few provisions have to be restored in the current version, if that is what you prefer, it will be up to you to decide.

In fact, this proposal is there just to help you consider what you would like to do about the Standing Orders.

Ms. Karine Trudel: If I understand correctly, we have received nearly half the chapters. How long do you think it will take you to provide us with the rest of the amendments?

Mr. Charles Robert: It is now mid-April. So that may happen toward the end of June. You will have a more complete draft. It will depend on the jurilinguists' work schedule, as they are essentially the ones who ensure that the French and the English are fairly consistent.

Ms. Karine Trudel: Okay.

I would still like to know whether this will be for the next Parliament.

Mr. Charles Robert: It's up to you. It is brought to your attention, and that is all.

Ms. Karine Trudel: So members will have to decide whether to discuss this issue in the House of Commons to amend the Standing Orders.

Mr. Charles Robert: Exactly.

Ms. Karine Trudel: So that could happen during the next parliamentary session or the next Parliament.

Mr. Charles Robert: Or not.

Ms. Karine Trudel: Okay.

So, after it has been referred to committee, it will be debated in the House.

Mr. Charles Robert: You will decide what to do with this, in the end.

Ms. Karine Trudel: So we will decide on the provisions of the Standing Orders if our committee has to consider them and vote on them.

You say that you have consulted leaders' offices.

Mr. Charles Robert: In the beginning, I consulted leaders' offices. I provided them with a few drafts to find out whether they agreed with my objective and whether I have kept my word not to amend Standing Orders without letting you know.

Ms. Karine Trudel: Okay.

If we decide to amend the standing orders, will we need unanimous consent of the parties recognized in the House or will majority suffice?

Mr. Charles Robert: Once again, I assume that most members will prefer there to be consensus. In the past, adopting changes to the Standing Orders has sometimes been based on the consent of a majority. When, in the early 1970s, time limits were set for debates on bills, that was adopted by the majority. The opposition was opposed to that because it did not want time limitations to be imposed on it in debates at various stages of bills.

• (1210)

Ms. Karine Trudel: Thank you very much.

That's all for me.

[*English*]

The Chair: Just before I go to the next speaker, I will say that we have a special guest in the audience, Mr. Derek Lee, who was almost the dean of the House when he left in 2011 after 23 years. He was elected in 1988. He wrote a book called *The Power of Parliamentary Houses to Send for Persons, Papers & Records: A Sourcebook on the Law and Precedent of Parliamentary Subpoena Powers for Canadian and other Houses*.

The member for Victoria—Haliburton at the time in 1999 said that he fell asleep reading the title, but I told Derek that I thought that Scott Reid and Mr. Nater would be quite interested, as they're academics in this area.

Welcome, Mr. Lee. It's great to have you back on Parliament Hill.

Now we'll go to Mr. Bittle.

Mr. Chris Bittle (St. Catharines, Lib.): Thank you so much.

I'll be splitting my time with Mr. Graham.

There are just a couple of points that I would like to make. I apologize to our witness. There will be a question at the end, but I will make a couple of points.

It really is unbelievable that the Conservative opposition whip would come down and try to make this a partisan issue, not having been to this committee once and not having heard from the witness before, with a public servant who has had a good record in Parliament. He has brought forward no issues of substance—not one.

This is an issue that has been brought to our attention on a number of occasions, and the Conservatives did not raise their concerns. Yet for him to come down here and attempt to attack the credibility of a respected public servant is just on par with what we've seen from the Conservatives over the past many years.

Mr. Strahl has come here to pick a fight for reasons that we don't know. He has come with pieces of information. He has come explicitly at the behest of the House leader, but clearly has not spoken with the individuals who have been in communication with the witness. He's just come to pick a fight, and that's shameful.

This is a committee that runs into issues and has healthy debates, but it's a committee that works very well together. I know from the practice of law that there's a plain language movement to try to make things more accessible. You can really tell the difference between a judge's written decision now versus one that you read 20, 30 or 40 years ago, even at the highest levels. The issues haven't gotten simpler; it's about making the law more accessible to the public, making it more accessible to the clients.

Here's an objective to make our Standing Orders more accessible, not only to parliamentarians but also to the people of Canada. This is a complex issue, not necessarily one that can be undertaken by a single member of Parliament, and yet you come here to pick a fight. That's unbelievable.

Some hon. members: Oh, oh!

Mr. Chris Bittle: The Conservatives want to laugh about it, and I guess that's their right. Again, having not raised these concerns about it, they think this is funny. I guess this is on par with what they do and how they want to operate.

My question, Mr. Robert, is this: When was the first time you brought the notion of the plain language changes to the Standing Orders? When was the first time you brought it before this committee?

Mr. Charles Robert: I can't recall precisely. I'm not sure if I mentioned it in the hearing I first had after my certificate of nomination was given to the government. If it was not on that occasion, it would have been at the very next appearance I had before the procedure and House affairs committee.

Mr. Chris Bittle: Did you hear any concerns from any of the chiefs of staff to the House leaders when you presented your plan to them or updated them on any progress you were making on the issue?

Mr. Charles Robert: One of them expressed some.... He didn't express concerns, but raised questions to make sure that if this were to go forward, there really would be no substantive changes to the rules and that the commitment that I was making was, in fact, being upheld.

Mr. Chris Bittle: Are there any substantive changes to the rules?

Mr. Charles Robert: As explained in the documents that were circulated, if you go to the annex, the final document that was given to you, there are a series of changes that are in yellow. I think they're also yellow in this text. They are things we have discovered.

For example, we suggested that you delete the dinner hour, because you don't observe one anymore. We suggested that you recognize the holiday in May as the Victoria Day holiday, as opposed to the day for celebrating the birthday of the sovereign. Things of that sort were also suggested. There may be some that are more substantive.

There is one that is more substantive, which deals with royal assent by written declaration when the House is sitting. It's something that's been overlooked.

It's been put in, but we discovered these sorts of changes during the course of the rewrite. We wanted to make sure that the commitment was respected, so we deliberately highlighted them.

●(1215)

Mr. Chris Bittle: Thank you.

I'll turn it over to Mr. Graham with the comment that changing the name of the holiday and not changing the fact that we observe the holiday does not seem to be a substantive change worthy of questioning the credibility of a public servant about.

I'll give the rest of my time to Mr. Graham.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): How much time do I have left?

The Chair: You have two minutes.

Mr. David de Burgh Graham: I'll use them wisely.

I appreciate Chris's point, but I'm going to go back into the substance of it.

You mentioned the members' orientation program, back at the beginning. When we had the members' orientation in 2015, we had this wonderful meeting in room 237-C, where everybody was invited and they said, "Let's go to the chamber." I'm just going to propose that you use the bells to call the new members in. Put that on the record somewhere, so that it actually happens.

Have clerks proposed changes like this in the past?

Mr. Charles Robert: I was part of an effort to do that when I was in the Senate.

Mr. David de Burgh Graham: How did it go?

Mr. Charles Robert: As I said, it took 14 years.

Mr. David de Burgh Graham: Did it happen?

Mr. Charles Robert: It did happen. In fact, the experience that we had was that.... It was an initiative that was proposed initially by a Speaker. When his term ended, the project was continued and eventually the rules committee decided that yes, this was probably something worthwhile. They became actively involved in doing it. What mattered and what encouraged them to actually undertake this was that a working draft had been prepared for them.

This is not fun work. It is actually challenging to try to do this. It's not something that even in 1984-85, when the McGrath committee was sitting.... It's not a fun thing for the members themselves to work on revising the Standing Orders. It's more manageable when you have something to work with and you can review and decide that you don't like something so you change the language, or it's not good enough, or you don't think it belongs here or it should belong elsewhere.

If there's any value in trying to update the Standing Orders, you really have to be working with a model that you can accept, reject, change, or whatever you'd like to do.

The Chair: Thank you, Mr. Graham.

Before we go on, I see we have another guest, Mr. Paul Szabo. By the time he left the House, he was sort of like Kevin Lamoureux; he had spoken over 2,000 times—more than anyone else.

Welcome back, Paul.

We'll go now to Mr. Nater for five minutes.

Mr. John Nater: Thank you Mr. Chair and thank you Mr. Clerk.

Speaking of the McGrath committee, it was a matter that I studied fairly intensively when I was at grad school. I happen to be close personal friends with the chief of staff to the McGrath committee. I'm sure he would have some fascinating comments on this process.

I want to start by asking you about your original appointment. Was this rewrite of the Standing Orders ever discussed during the appointment process?

Mr. Charles Robert: I can't recall that it was.

Mr. John Nater: Secondly, I want to talk about the consultations you've had with the chiefs of staff to the House leaders of the recognized party. Would you be able to provide us with any documentation of those consultations with the chiefs of staff?

Mr. Charles Robert: I could probably give you the dates of the meetings, because I normally note them. I could probably try to recall some of the conversations. That would be about it.

Mr. John Nater: We would appreciate that.

I want to follow up a little bit. You mentioned the first time the concept of the rewrite of the Standing Orders was mentioned in this committee. I just want to point out that it was in response to a question from our side about rumours that we had heard about the secondment of a PCO official to your group to work on that.

The first response in this committee was actually in response to our questions on the secondment.

I'd be curious to know how much staff time has been used on this project thus far.

• (1220)

Mr. Charles Robert: I would have to do a calculation to find out. I am sure there are several people who have been involved. We began perhaps a year ago last January to undertake this project.

Mr. John Nater: Who have been the key people working on this project? Is it the seconded officer from PCO?

Mr. Charles Robert: The seconded officer is in charge of the project, at my request.

Mr. John Nater: Who else has been involved?

Mr. Charles Robert: There have been several senior procedural clerks in the table research branch. Then, as I mentioned earlier, there are several jurilinguists who are involved in the Law Clerk's branch.

Mr. John Nater: Another question I have has to do with the annotated Standing Orders. Would it not have been simpler to create a new draft of the annotated Standing Orders, to explain the Standing Orders, rather than going about a rewrite of the Standing Orders themselves?

Mr. Charles Robert: The annotated Standing Orders went through a second edition a few years ago, but the purpose wouldn't have changed the text of the Standing Orders, and that really was the driver of the project. The annotated Standing Orders would have perhaps simply given you a more up-to-date account of how the Standing Orders have been used.

The objective, really, was to change the text—again, to make it more accessible. The intent is visible, I think, when you compare the

current table of contents with the proposed table of contents. In the current table of contents, it's virtually a blank page. In the revised Standing Orders' table of contents, it's an analytical content that actually helps you to identify the precise rule—and subsection, in some cases—that you might want to consult. That, again, is a proactive initiative on my part to be of assistance to the House, and to all members.

Mr. John Nater: You mentioned something about recognizing the names of the holidays we celebrate—changing it to Victoria Day, from “a day fixed for the celebration of the birth of the sovereign”. This was raised during the previous Parliament, and there was not a consensus among the recognized parties to make that change at that time. Therefore, even with something that seems relatively simple or innocuous, there are reasons that certain parties may have, whether it's for the dinner-hour concept or the date. That's one of the reasons I think it's essential—as we've always talked about—that there be consensus when dealing with the Standing Order changes.

I wanted to get another point in, though. How much time do I have, Mr. Chair?

The Chair: You have just over a minute.

Mr. John Nater: With any changes that have been proposed, or that may be proposed in future iterations.... Just last year, we celebrated the release of the third *House of Commons Procedure and Practice* edition, by Bosc and Gagnon. I'm curious to know whether anything in this will require a rewrite of that almost brand-new book.

Mr. Charles Robert: We can provide you with a comparative table. If you decide to accept these Standing Orders, we can provide you with a concordance that would allow you to track back to the Standing Orders that were previously numbered in a different way. That was done in the House and the Senate when we were going through a transition period, so that members would not find it too difficult to access the information.

Mr. John Nater: I have one final comment to make for the record. If we are going ahead with any kind of changes to the Standing Orders, I still fundamentally believe that, no matter how relatively small they are, they should be done by and led by parliamentarians, whether it's in the way that McGrath did so, or the way we did in the previous Parliament. That's the direction that should be taken. It should be parliamentarian-led, and not otherwise.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Nater.

Now we'll go back to Mr. Graham.

Mr. David de Burgh Graham: Is it a 14-year process to fix the Standing Orders in the Senate? Is it 12 or 14 years?

Mr. Charles Robert: It's 14 years.

Mr. David de Burgh Graham: That's what I thought you said.

I've been around here a long time, but not 14 years yet.

At any time in that process, did it become a partisan issue in the Senate?

Mr. Charles Robert: No.

Mr. David de Burgh Graham: When we pass a report and present it to the House, we always adopt a motion. I forget exactly how it's phrased. The last motion to be passed is that we give permission to the committee clerk and the analyst to make corrections, as necessary. Do you have the wording handy, by any chance?

The Clerk of the Committee (Mr. Andrew Lauzon): I don't have it offhand. I can find it for you, but it's essentially that the clerk, analyst and chair be authorized to make any necessary editorial changes.

Mr. David de Burgh Graham: Would any of these changes qualify, were we to send you the Standing Orders?

Mr. Charles Robert: No, these would not count that way.

Mr. David de Burgh Graham: When you changed Standing Order 71 to replace a typo that's existed for I don't know how long—

Mr. Charles Robert: A typo is an editorial change. This goes far beyond that.

• (1225)

Mr. David de Burgh Graham: We began studying this issue under Standing Order 51 on October 6, 2016, or thereabouts. When looking at this, did you review any of the speeches made in that debate, or is this a case of your looking objectively at the Standing Orders and saying, this is an issue that we should flag and discuss?

Mr. Charles Robert: It was basically an objective attempt to provide a service to the members.

Mr. David de Burgh Graham: As has been clarified before, there's nothing that you can do without our approval, regardless.

Mr. Charles Robert: Of course.

Mr. David de Burgh Graham: Of course. Okay.

I don't have a lot more questions on this subject, but one question would be on Standing Order 31. Is that still going to be Standing Order 31, because that's a big thing here?

Mr. Charles Robert: There's a numbering convention that has been proposed for your consideration. If you want to keep to the consecutive numbering pattern, that, again, is a decision you can take.

Mr. David de Burgh Graham: That's all I've got for the moment, but if we're still going, I might come back to you.

Thank you, Clerk.

The Clerk: The text of the motion you referred to is that “the chair, clerk and analyst be authorized to make such grammatical and editorial changes as may be necessary without changing the substance of the report.”

The Chair: Now we'll go to Mr. Reid for five minutes.

Mr. Scott Reid: Thank you very much.

I am a long-time member of this committee, and in the past we've dealt, in some cases quite extensively, with suggested changes to the Standing Orders. The tendency has been for us to engage in a significant amount of discussion without necessarily producing a large amount of substantive change, because we haven't come to consensus.

We went quite far in the last Parliament, and I think those discussions were in camera, so have you had access to those?

Mr. Charles Robert: No.

Mr. Scott Reid: You have not. Okay.

Do our rules—I should know this and I don't, but there's no one better to ask than you—permit you, as the Clerk, to have access to in camera meetings of committees?

Mr. Charles Robert: I can't answer that with any sort of certainty, but I would doubt it, and I wouldn't try.

Mr. Scott Reid: Okay, but it might be relevant on a go-forward basis for some of that material to be made available. It might require a motion of this committee so that—

The Chair: We could do that, if we want.

Mr. Scott Reid: Yes, let's stop and make sure that I'm not speaking through my hat when I say this about the materials, but maybe we could ask our clerk or our analysts to go back and take a peek at what was discussed in the last Parliament.

There was some discussion to give some idea of where the areas of consensus existed and didn't exist, so that's a thought. Many people are unfamiliar with it, because we had a substantial turnover in this committee after the 2015 election.

I want to deal with a couple of issues that are of concern to me. The book whose title always changes based on its most recent two authors.... Currently it's Gagnon and Bosc. Before that it was—

Mr. Charles Robert: O'Brien and Bosc.

Mr. Scott Reid: O'Brien and Bosc. I'm muddled up. Anyway, it's gone through a number of names. That book gets updated from time to time, and the moment it comes out, it starts falling out of date.

Would this project that you're working on cause the next iteration of that—which of course you'll be intimately involved in, as there's no other way of doing it—to be moved back, or do you think that the

Mr. Charles Robert: Well, it depends. If this committee and the House decide to accept the proposal that is before you, it might lead to a rush to review for a new edition.

We could do what the Australians do, which is basically update the book every six months online and publish it every two years.

Mr. Scott Reid: Has that been a successful experiment, in your impression?

Mr. Charles Robert: Certainly in keeping the book up to date, it would be very helpful. The *House of Representatives Practice* manual is now in its seventh edition, and it came out originally about 20 years ago.

Odgers', which is for the Senate of the Australian Commonwealth Parliament, is in its 14th or 15th edition. Erskine May, which has been published since 1844, is soon to have its 25th edition.

What will happen, though, with the next edition of the *House of Commons Procedure and Practice* is, again, that in a more proactive attempt to be of help, there will be a section in the book on what members need to know under each chapter, because when I was reading and studying the book—and I don't mean this as a criticism; please be clear about that—I found out that in the chapter on oral questions—and I've become notorious for this because I just don't let it go—the fact that you're limited to 35 seconds is buried in footnote 41.

An hon. member: Right.

Mr. Charles Robert: You will not find it in the text of the chapter, yet it seems to me that it is something of importance for you as a member, and it's been in footnote 41 for all three editions.

An hon. member: Right.

Mr. Charles Robert: It's based on an understanding that is observed, but it has not been part of our actual practices; it has not been formalized, but the House leaders have made an agreement that this is how it would happen, and it has been observed faithfully since.

In terms of trying to inform members, it seems to me that it's healthy to know that.

•(1230)

Mr. Scott Reid: It's a very good example.

Am I out of time or do I have a little bit more?

The Chair: You have 45 seconds.

Mr. Scott Reid: I wouldn't mind returning to this subject a bit later, perhaps in a future round.

I do want to say with regard to the annotated Standing Orders that very few members use it, but it's actually an enormously useful book. My own feeling is that it doesn't get updated as often as it should, number one. I have a concern that I actually think that book should be updated first. That is just to say that I would not want our Standing Orders changed in any meaningful way, particularly with regard to changes in where things are placed and ordered, without having an annotated Standing Orders come out at the same time.

Otherwise we are effectively without that tool until such time as it comes out. I suspect that all you would say in response is that you agree with me, but I should ask: do you agree with that?

Mr. Charles Robert: No, it's a good point.

It's something that we would consider, but again, that will depend on what happens with respect to how you want to deal with the Standing Orders. I'm perfectly happy to withdraw. I did not intend this to be a provocative gesture.

Again, as I mentioned earlier, this indeed is a good faith effort. If it leads to controversy, then that is the exact opposite of what I intended.

Mr. Scott Reid: I very much appreciate that.

Thank you.

The Chair: Now I'll do what we often do in this committee, which is to informally go to anyone who wants to ask a question or make a comment.

Mr. David de Burgh Graham: I, for one, do see it as an objective effort. I appreciate it. I just wanted to say that on the record.

The Chair: Thank you.

You want to go again?

Sure.

Mr. Scott Reid: If we're back to me, now I get to ask the thing I was going to ask before I ran out of time.

With regard to the volume that is currently O'Brien and Bosc, it would make numerous references to—

Mr. Charles Robert: Forgive me, but it's Bosc and Gagnon.

Mr. Scott Reid: I'm sorry—I meant Bosc and Gagnon. It was O'Brien and Bosc, right?

Mr. Charles Robert: Yes.

Mr. Scott Reid: Okay.

It's the same problem I have—

Mr. Charles Robert: It's better keeping it just Erskine May no matter who the editor is.

Mr. Scott Reid: You know what—you're 100% right about that. This is the better practice. It's a best practice.

I feel the same way about law firms, by the way, and their changing names.

What I want to ask is this, with regard to that volume: it makes reference to the Standing Orders such as they are. Of course they change. There is a problem. I don't know how to resolve this. If the Standing Orders are renumbered in some sense, then it will be difficult to make those references. That volume will be less useful until it's updated.

Mr. Charles Robert: It will be unless you access it online. I think there's a way to track or trace the changes so that with hyperlinks—I'm not a computer wizard of any kind, but I think there are ways through the online version of the manual to incorporate the changes that would identify the new standing order relative to the old standing order.

Mr. Scott Reid: Right.

I think we would want to have something that would meet with the satisfaction of all before we tried anything that involved renumbering, for exactly that reason.

I can't think of an area that is more clearly something that needs to have widespread consensus before you change it.

Mr. Charles Robert: As for the difference between the annotated Standing Orders and the manual and the reason the manual tends to receive more attention, to be facetious, is because it's a bigger book.

The other thing is that the purpose behind the updates is to track the precedents, which simply continue to grow and grow through different rulings.

•(1235)

Mr. Scott Reid: Right.

I just wanted to get that other point on the record.

Thank you, Mr. Chair, for the indulgence.

The Chair: Okay.

Is there anyone else?

Mr. David de Burgh Graham: I'd like to make some comments.

The Chair: It would be better if you asked questions.

Mr. David de Burgh Graham: Okay.

I do have one that's come up. It's sort of tangential to the actual discussion, but you brought up *House of Commons Procedure and Practice*. How do we break the vicious cycle in *Procedure and Practice*? There are a lot of things in there, but my favourite example is about wearing a tie in the House. *Procedure and Practice* says that you have to wear modern business dress, which today is considered to include a tie, in the House. If somebody gets up without his tie on, the Speaker says, "You can't speak because you don't have a tie on", because the book says so. The book says so because the Speaker says so.

How do we break the vicious cycle?

Mr. Charles Robert: You present a report to the House from the procedure and House affairs committee saying that this is a ridiculous practice that we want to abandon.

The Chair: Mr. Graham, you may remember that we tried that and we didn't get agreement.

Mr. David de Burgh Graham: I know. The point is only that it's a vicious cycle; it's not that particular example itself.

Mr. Scott Reid: May I?

I agree with that. The Speaker refers to the book.

Mr. David de Burgh Graham: Right, but the book refers to the Speaker.

Mr. Scott Reid: I know, but the book is merely a compilation of previous Speakers' rulings. It's not that the book gets an independent authority, unless the book accidentally contains an error and therefore is being cited based on an erroneous assumption of about what was said by previous Speakers. I mean, the idea that ties are a part of modern business dress for men is something that may be a declining convention. That would be the argument presented by a number of our colleagues—including, for example, Mr. Housefather—and they might well be right. We have seen an evolution. The best evolution I can think of, or demonstration of this, is our attitude towards having your head covered in the House. At one time, that was not permitted. Then the moment came when a member who had gone through chemotherapy rose to speak with a head covering. There was universal recognition at that moment that something was changing when the Speaker recognized that individual.

So there is a way of doing it. I would suggest that if you can get widespread consensus informally and then have the Speaker recognize somebody and nobody comments on it, you are effectively demonstrating a change. But it requires a widespread consensus.

Alternatively, one can simply get a standing order change that actually defines this. A statute always trumps an understanding.

Mr. David de Burgh Graham: Things like this aren't in the statute. They are by convention.

Mr. Scott Reid: That's my point: Conventions are always trumped by statute.

Mr. David de Burgh Graham: Right.

To what degree is the Speaker bound by previous Speakers' rulings?

Mr. Charles Robert: They certainly have weight and have to be taken into account. If there's a distinction to be made, the circumstances have to be sufficient to allow a certain leeway for the Speaker to deviate. Differences in distinctions matter.

Mr. David de Burgh Graham: Right.

If we want to look at your suggestions in more depth—and I submit that we should, or at least look at them, because I think we have a responsibility to do that—what is the process? Would we look at them the way we do clause-by-clause, discussing them one at a time, or would this have to be taken as one change and you couldn't break it in little pieces easily?

Mr. Charles Robert: If you're talking about the initiative to rewrite the rules, with your permission I would continue to do it. It leads to somewhere or to nowhere, however, depending on what you think about it.

Mr. David de Burgh Graham: My point is that you have 70-odd changes suggested so far.

Mr. Charles Robert: Those are just the yellow ones that I brought to your attention. I don't give myself the freedom to make it part of a simple rewrite. I think it's a bit more than that. As Mr. Nater pointed out, and he's perfectly right, if there are reasons that the choice was made to keep it the way it is, then it should be kept the way it is.

Mr. David de Burgh Graham: Are a lot of the changes consequential, or can most of them stand on their own?

Mr. Charles Robert: I think some of the changes are just basically observations. If a practice has fallen into disuse, then is it really good, in an update or rewrite, to keep it? If you want to keep it, keep it. Again, all of this is your choice. I'm only trying to be helpful. I'm not trying to interfere.

Mr. David de Burgh Graham: Okay.

I have a last quick note. If we were to renumber the Standing Orders—I think several numbers were skipped over the years—we'd call that "renumeration". Everyone calls giving money "renumeration", but it's totally backwards. It's a pet peeve of mine, because "renumeration" is getting money and "renumeration" is renumbering a system.

Finally we have the correct use of "renumeration", so thank you for that.

•(1240)

The Chair: Mr. Clerk, if this procedure were to proceed—I think Ms. Trudel asked this question—when would you have a full proposal related to it for this government or this committee to look at?

Mr. Charles Robert: If you wanted to have a full text of the Standing Orders in this revised format, I think it could be prepared for the end of June.

The Chair: When we're not sitting.

Mr. Charles Robert: Well, again, not that it's my business, but I didn't see this being a realistic prospect for adoption. I think it was just basically put forward for you to consider.

The Chair: Okay.

Are there any other questions for the Clerk?

Thank you very much for all of your efforts. The staff have gone to so much effort to make our job easier. Stay tuned.

Is there anything else from the committee before we adjourn?

That's a big smile, Ms. Trudel. You're ready to adjourn? Okay.

We're adjourned.

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