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# **Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Thursday, June 6, 2019**

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**Chair**

**The Honourable Larry Bagnell**



## Standing Committee on Procedure and House Affairs

Thursday, June 6, 2019

• (1100)

[English]

**The Chair (Hon. Larry Bagnell (Yukon, Lib.)):** Good morning.

Welcome to the 160th meeting of the Standing Committee on Procedure and House Affairs. This meeting is being held in public at the moment. The first order of business today is consideration of regulations respecting the non-attendance of members by reason of maternity or care for a newborn or newly adopted child.

We're pleased to be joined by Philippe Dufresne, the House law clerk and parliamentary counsel, and Robyn Daigle, director, members' HR services. Thank you both for being here.

Members will recall that our 48th report recommended that the Parliament of Canada Act be amended to provide members of Parliament with access to some form of pregnancy and parental leave. The legislation was subsequently amended to empower the House of Commons to make regulations. As you're aware, the Board of Internal Economy considered the matter last week and recommended that PROC consider a set of draft regulations that it unanimously endorsed.

I would note for the members that the draft regulations distributed in the morning have some slight differences from what we received from the board last week, and it's my understanding that the law clerk will explain the reasons for the changes.

With that I'll turn it over to you, Mr. Dufresne, for your opening remarks.

**Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel, House of Commons):** Thank you, Mr. Chair.

[Translation]

Mr. Chair and members of the committee, following last week's letter from the Board of Internal Economy, I am pleased to appear before you today with my colleague Robyn Daigle, director of Members' Human Resources Services, to discuss the potential regulations on non-attendance related to maternity and paternity.

You will likely be familiar with this issue because, as the chair mentioned, it comes from a recommendation the committee itself issued in one of its reports presented to the House earlier in this session.

[English]

Under the Parliament of Canada Act, a deduction of \$120 is to be made to the sessional allowance of a member for each day the

member does not attend a sitting of the House of Commons beyond 21 sitting days per session. Days in which a member is absent by reason of public or official business, illness or service in the armed forces are not computed as days of non-attendance and no deductions are made in such circumstances.

There is, however, no similar exemption if a member does not attend a sitting due to pregnancy or providing care for a newborn or a newly adopted child. Your committee considered this issue earlier in this session. In its 48th report entitled "Support for Members of Parliament with Young Children", this committee, after reviewing the relevant provisions respecting deductions for non-attendance, concluded and recommended as follows:

It is the Committee's view that a member should not be penalized monetarily for his or her absence from Parliament due to pregnancy and/or parental leave. Therefore, the Committee recommends

That the minister responsible for the Parliament of Canada Act consider introducing legislation to amend section 57(3) of the Parliament of Canada Act to add that pregnancy and parental leave be reckoned as a day of attendance of the member during a parliamentary session for the purposes of tabulating deductions for non-attendance from the sessional allowance of a member.

[Translation]

Following that committee recommendation, Bill C-74 was introduced in Parliament and passed. It amended the Parliament of Canada Act to authorize the two Houses of Parliament to make regulations regarding the attendance of their respective members and regarding amounts to be deducted from the sessional allowance for the parliamentarian missing meetings owing to their pregnancy or any parliamentarians missing meetings to take care of their new-born or newly adopted child.

Earlier this year, the Board of Internal Economy asked the House Administration to prepare a bill for its review. While preparing the proposal, the administration took into account the fact that members are not employees. Members hold public office and are not replaced when they are absent as would be, for example, an employee on parental leave. National emergencies or other important matters can always occur and force the member to return to the House or to take care of an issue in their riding.

So the issue before you is not a matter of leave in the strict sense. It is rather about whether absences related to maternity or paternity should be considered as less justified than those related to other motives such as illness, public or official business, or service in the armed forces.

The administration examined the rules in provincial and territorial legislative assemblies in Canada. We have also reviewed Great Britain's practice. That review helped us see that the majority of legislative assemblies allow members to miss sittings, without a financial deduction, by reason of maternity or paternity, over a definite or indefinite period of time.

• (1105)

[English]

The members of the Board of Internal Economy unanimously endorsed the following proposal in terms of potential regulation: first, that no deduction be made to the sessional allowance of a pregnant member who does not attend a sitting during the period of four weeks before the due date; second, that there be no deduction to the sessional allowance of a member providing care for his or her newborn child during the period of 12 months from the child's date of birth; and, third, that there be no deduction to the sessional allowance of a member providing care for a newly adopted child during the period of 12 months from the date the child is placed with the member for the purpose of adoption.

This proposal is in line, in my view, with this committee's 48th report, presented in 2017, and with new section 59.1 of the Parliament of Canada Act.

I note that the proposal is not about a period where members will not attend at all to their parliamentary functions, but rather, as mentioned, members of Parliament are not replaced when absent. They are not in the same situation as employees and there will always be issues of either national or local importance that will warrant members and require members to attend either to Parliament or to their constituency. As such, the aim of the proposal is to make sure that no deduction is made to the sessional allowance of a member who misses a sitting of the House because the member is pregnant or providing care for his or her newborn or newly adopted child.

The document entitled "Draft Regulations", which has been circulated to the members of the committee, contains the legal text that, if adopted by the House, would implement what is proposed. I note that we've made small editorial changes since it was first sent to the members by the board. They do not affect the substance of the proposal. We also removed the coming into force provision, presuming that the committee and the House would want the regulations to come into force immediately upon their adoption, but if the will is otherwise, a different date could be inserted.

I also note that the letter from the Board Of Internal Economy to this committee indicated that the board was also supportive of having no deductions made for the period of four weeks before the due date for a member whose partner is pregnant. In so doing, the board recognized the important role that the non-pregnant partner plays in the weeks leading up to the due date.

[Translation]

That idea is certainly worth exploring. We have analyzed the provisions of the Parliament of Canada act to determine whether, in its current form, the act would make it possible to include those circumstances in the proposed regulations.

Following that analysis, I'm of the opinion that extending the application of the four-week non-deduction period to members whose spouse is pregnant would go beyond the wording of the new section 59.1 of the Parliament of Canada Act, which sets out situations where the House of Commons can make regulations. It states that non-attendance could apply to its members who are unable to attend a sitting of the House by reason of:

(a) being pregnant; or

(b) caring for a new-born or newly-adopted child ... or for a child placed with the member for the purpose of adoption.

[English]

The English version is similarly drafted and does not include the situation of a member whose partner is pregnant, and so I note that under the existing regime a member whose partner is pregnant could still be absent prior to the due date for some or all of the 21 sitting days without any deductions.

[Translation]

Under the circumstances, I am not suggesting that the committee recommend extending the application of the non-deduction period prior to the child's birth to members whose spouse is pregnant. The implementation of that suggestion would require an amendment to section 59.1 of the Parliament of Canada Act.

However, this is an important issue that is worthy of consideration. The committee could decide to explore this issue in the next session to find potential options. Those options could include legislative amendments or data analysis to clarify trends and measure the repercussions of the current rules on pregnant individuals' spouses.

• (1110)

[English]

Last, the board raised the issue of vote pairing for members who are absent from the chamber for family reasons. The committee may also wish to consider this as a topic for a subsequent report.

This will conclude my presentation, but we will of course be happy to answer any questions you may have.

**The Chair:** Thank you very much. That adds some great clarity.

I have two things for the committee. One, I want to deal with just the recommendation first and come to a conclusion as to whatever we're going to do with this. Two, I'm going to do open rounds so anyone can ask questions, because there may be different interests here.

Madam Moore.

[Translation]

**Ms. Christine Moore (Abitibi—Témiscamingue, NDP):** I would like to clarify certain aspects, to ensure that we understand the situation properly.

Let's use the example of a pregnant member whose riding is very far. If ever, as of the 28th week of pregnancy, it became very complicated for her, medically speaking, to get to Parliament, she would have to provide a medical certificate justifying her absence from the House, as far as I understand. Basically, the days in the period between the 28th week and the 36th week of pregnancy would be considered sick days. As of the 36th week, they would be considered pregnancy days.

In short, before the 36th week of pregnancy, a member's non-attendance must be justified through medical reasons that prevent her from coming to Parliament. In that case, the individual must provide a medical certificate.

**Mr. Philippe Dufresne:** Yes, that's right.

In its current form, the Parliament of Canada Act already accepts absences due to illness. In any circumstances where medical or illness reasons can be established, be it related to pregnancy or not, members can miss sittings.

The idea behind the committee's recommendation is that the period leading up to the birth be included even without a medical certificate.

**Ms. Christine Moore:** Great.

I want to clarify something else.

During those days of non-attendance, the member remains responsible for all the administrative aspects—so anything that cannot be delegated to employees. The member continues to fulfil their duties, such as by approving their employees' various absences and their office's spending. The whole administrative component related to the management of the member's office remains the member's responsibility, correct?

**Mr. Philippe Dufresne:** That's correct.

In fact, the member also maintains their responsibilities toward their constituents. That is why, in the context of the rules defined here, we think that the situation of members cannot really be compared with that of employees on parental leave. Even the expression “parental leave”, in my opinion, is not the best expression to be used in this case. Members are in a different situation; they are not truly on leave in every respect.

What is proposed is to specify that, in some cases, it will not be possible to attend sittings of the House. At that point, the absence should not be treated more harshly than non-attendance for other reasons.

**Ms. Christine Moore:** Ultimately, a member with a critic role can be called by their party to provide advice on positions to take, for example, while a nurse on maternity leave would not be called at home to be asked whether a patient should be given a particular medication.

**Mr. Philippe Dufresne:** Exactly.

In theory, an employee on parental leave is replaced by someone else, or it is expected that the individual will not be available to do the work. In the case of a member, the situation would be different.

**Ms. Christine Moore:** Concerning the 12-month period, that is left to the member's discretion. There is no obligation to take

12 months of leave. A member can make a judgment call and decide to be present for two months because an important issue for them is under consideration, and then decide to take a month to be with their child.

The parliamentary calendar is often made up of three-week blocks of sitting, after which members can return to their riding for a week. The member could elect not to return to the House during the week in the middle of that block, to avoid having to make a round trip over the weekend. In general, members make a round trip in less than 48 hours, to make the trip less difficult. So a member could choose to spend the middle week in their riding, to avoid round trips over a weekend. That would be possible to do over a 12-month period.

• (1115)

**Mr. Philippe Dufresne:** That's right. During the 12-month period following the birth of a child, the adoption of a child or the placement of a child for the purpose of adoption, the member's absences will not be counted. If there are no absences, it does not apply, of course. That does not mean the member cannot or must not be in the House. When they decide not to attend for those reasons, those reasons are good ones in the House's view.

**Ms. Christine Moore:** I have one last question. It's about financial penalties. Basically, that amendment shelters members from financial penalties.

Often, all the \$120 deductions for every day of sitting that will be missed are added up. We tell ourselves that it may not be a very large amount, but Parliament could decide at any time to increase that amount. For example, it could decide that, from now on, there will be a \$500 deduction per day of non-attendance. In that case, the estimated cost of absences for maternity reasons would no longer be the same at all.

Do you know when the \$120 amount was last indexed or changed?

**Mr. Philippe Dufresne:** The \$120 amount has always remained at \$120. That amount has not been modified. However, the House can modify it. The act states that the House can, through regulations similar to the ones proposed here, decide to increase it. That is a possibility.

**Ms. Christine Moore:** So, to your knowledge, the \$120 amount has never been increased.

**Mr. Philippe Dufresne:** No.

**Ms. Christine Moore:** Okay.

**Mr. Philippe Dufresne:** Allow me to now answer your underlying question.

Indeed, the deduction may not be a very high amount, at the end of the day. Even if all the days of non-attendance over a period of time were not justified, the percentage of the session allowance received by the member would remain high. It is important to understand that this is not leave. A member's situation would be different from an employee's situation in those circumstances.

As it has been mentioned at the Board of Internal Economy, beyond the simple issue of the financial amount, there is also this willingness to recognize that the reason invoked is legitimate and that the deduction should not apply.

**Ms. Christine Moore:** Thank you very much. That answers my questions.

[*English*]

**The Chair:** Thank you.

Mr. Nater.

**Mr. John Nater (Perth—Wellington, CPC):** Thank you, Mr. Chair.

Thank you to our witnesses. I appreciate the clarity with which you've presented this, particularly the reasoning around the four weeks for the partner of a person who's giving birth.

I want to follow up a little bit on the thinking that went into preparing this specific proposal. I know that some provincial legislatures have a maternity and parental leave provision. Others leave it to the discretion of the speaker of the legislature. I'd be curious to know why the recommendation came for this versus leaving it to the discretion of a speaker or presiding officer.

**Mr. Philippe Dufresne:** The way the legislation is drafted, it really talks about covering those circumstances, the pregnancy situation and the caring for a child. The question became what period do you use. As you say, some legislatures will make no deductions at all, probably in line with the thinking that there are differences for members, who never cease to be members during the session and who continue to have pressures and obligations. Others have said that it's with leave of the speaker, with leave of the assembly. Others use such categories as extraordinary family or personal circumstances or situations. Some have no deductions but they have an ethics code where there's an expectation that you attend assiduously and if you do not, you need to justify that.

It was really an attempt to see, in looking at all of this, what makes sense in terms of the practice out there. The 12 months and the four weeks prior were proposed. It could have been something different, but that was something that we felt was reasonable in the circumstances.

• (1120)

**Mr. John Nater:** I think you're right. I think that is reasonable. It leaves the discretion and the responsibility and accountability to members themselves. I think that makes sense. It would be interesting to hear from some of the provinces to see their reasoning, but perhaps that's a discussion for another day.

I just want to clarify something about section 59.1, because I was listening through translation. The reasoning for not including the four weeks for the member whose partner is having the baby is that it would be ultra vires of that section of the act. It wouldn't be possible to implement that provision based on the amendment to the Parliament of Canada Act that was passed through last year's budget implementation legislation.

**Mr. Philippe Dufresne:** The act states:

members who are unable to attend a sitting of that House by reason of  
(a) being pregnant;

With that language, in both English and French versions, in my mind it's specific to those circumstances. PROC's recommendation was also similarly in that vein. Again, that's something that may

warrant consideration as a policy matter. That would certainly be open to the committee to do.

**Mr. John Nater:** That's something that would have to be done basically through an amendment to the Parliament of Canada Act, to permit that.

**Mr. Philippe Dufresne:** To include that as part of the reasons, it would, in my view, require such a change.

**Mr. John Nater:** I appreciate that clarity as well.

You mentioned briefly the coming into force date. Is it your recommendation that we would proceed with that in the first sitting of the next Parliament?

**Mr. Philippe Dufresne:** It could be the first sitting of the next Parliament. In the current form, it would enter into force immediately once adopted by the House. Assuming that the House would continue to sit in this session, after that, it would apply immediately.

**Mr. John Nater:** I'm curious more generally about some of the statistics of members' absences.

Are there anonymized records kept of dates missed for medical reasons and public functions, and also for the "other" category that we see when we check off the boxes? Are those records kept? Are there statistics you'd be able to share with us based on that?

**Mr. Philippe Dufresne:** I don't believe there are statistics that we would be able to share.

I don't know if my colleague would want to add to that in terms of the—

**Ms. Robyn Daigle (Director, Members' HR Services, House of Commons):** I am not aware of any statistics either, except that they're kept and they're sent to HRS. If it were to be above 21 days, then deductions would be made.

**Mr. John Nater:** Are you aware of any members having exceeded the 21 days during this Parliament?

**Ms. Robyn Daigle:** Not recently, that I am aware of.

**Mr. John Nater:** I appreciate that.

I think we generally know when members have missed days for reasons of pregnancy and having given birth. It's less clear when the member's partner has given birth. I am assuming we also don't have statistics on the partners of...

**Ms. Robyn Daigle:** The only stats we would have is what's included and provided to us in the monthly attendance form, and that's absolutely it.

**Mr. John Nater:** I know that, for example, I missed five days when our third child was born, and four days when our first child was born, but they both had the good common sense to be born on break weeks, which helped lessen those days.

I appreciate that.

I think that's all I have at this point, Chair, in terms of questions.

**The Chair:** Madam Moore.

[*Translation*]

**Ms. Christine Moore:** I would just like to clarify something about retroactivity of sorts.

Let's take the example of a new member with a six-month-old child at the time of election. Could they choose to have a lighter schedule over the first six months of their term?

If these regulations were implemented now, since there are not many sitting days left, I would be surprised if people decided to opt for that kind of a schedule. However, once the regulations have been implemented, any members with a child under the age of 12 months could decide to miss sittings on certain days for reason of parenthood.

**Mr. Philippe Dufresne:** Even if the regulations came into force as soon as the House made them, they define the period in question as the period that starts on the day of the child's birth or the day when the child is placed with the member for the purpose of adoption, depending on the case, and ends 12 months later. If, at the time of the regulations coming into force, the child has already been born, that 12-month period would have already begun and would continue. The 12-month period would not begin on the date the regulations are made.

• (1125)

**Ms. Christine Moore:** That's right. Essentially, that means that, if I had an 11-month-old child when the regulations went into force, I would have another month to benefit from that measure.

**Mr. Philippe Dufresne:** Yes.

**Ms. Christine Moore:** Thank you.

[English]

**The Chair:** Ms. Sahota.

**Ms. Ruby Sahota (Brampton North, Lib.):** My first question is, how did this issue land in the lap of the House administration and then the Board of Internal Economy? What prompted this issue to be explored?

**Mr. Philippe Dufresne:** In the initial PROC report—this was prior to the amendment of the act—there was a recommendation that if this happened, the House administration could be consulted on that. Then more recently there was an express request made in PROC for the House administration to look into this. I believe this was raised by the government House leader, and as a result of that request made at the board, we came forward with those proposals.

It was always understood that ultimately it's the House that makes those decisions in terms of regulations. The idea was that this would be presented to the board to seek the board members' views, but ultimately it would come here, which would be the body to then ultimately refer it to the House.

**Ms. Ruby Sahota:** Have any members in the past faced challenges and approached the House administration about this issue?

**Mr. Philippe Dufresne:** I wouldn't have that information.

**Ms. Robyn Daigle:** Yes, I am aware of cases where difficulties have been expressed, similar to where we have sometimes been engaged with helping accommodate members who are trying to be in the workplace and who might have some difficulty. We might put measures in place for them to assist them.

**Ms. Ruby Sahota:** Can you elaborate a little more without revealing who the members are? From your experience or from

documented records—you can go back decades, if you like—what have some of the challenges been for them?

**Ms. Robyn Daigle:** I think it's similar to a lot of the stuff that's already been studied in PROC over the last couple of years in making it a more family-friendly environment for the members. We know—it's very public—that some MPs are new mothers and fathers.

Some concerns have been expressed that there are no maternity provisions for some of these individuals. Sometimes measures are put in place to assist them if they need to travel. Sometimes regulations are in place when they need to travel on airplanes or if they have more than one child.

**Ms. Ruby Sahota:** You stated that parental leave perhaps was not the best terminology for this but it was in line with what had been used in the past. Can you explain why you think leave wouldn't be the best terminology and if there's a way perhaps that we can rephrase it?

**Mr. Philippe Dufresne:** Certainly in the proposed regulation we are talking about maternity and parental arrangements and we're talking about justified absences from a House sitting. My point was that it's not the same type of leave that you would see an employee take, where the employee is not performing the functions of the job during that leave. That really is to answer questions about comparing this to the leave an employee takes, the length of leave and the benefits for employees who are on maternity leave, parental leave and so on. Does the member's so-called parental leave from this type of regime compare favourably or not?

My point is it's difficult and perhaps not the best way to compare those two things, because the member, unlike the employee, always continues to be a member. What we're talking about here is not the member being on leave from his or her role as a member, but it's the member having a justifiable reason for being absent from the chamber for a certain period of time. The member continues to be the member and continues to have all the functions.

• (1130)

**Ms. Ruby Sahota:** Okay. The draft regulation referred to “paternity and parental arrangements” in the title.

Where does the term “leave” come from anyway?

**Mr. Philippe Dufresne:** I'm mentioning the fact that sometimes we talk about this in the sense of parental leave.

I believe in some of the previous reports the word “leave” might have been used as well as the justification. When we looked at this and the board looked at this it's not seen as a leave situation but more as the justifiable circumstances where a member would be absent from the chamber.

**Ms. Ruby Sahota:** I believe you mentioned that exceptions are also made to this 21-day requirement for armed forces sick leave and public or official arrangements. Have any other exceptions ever been made on a per case basis, and if so, what were those exceptions?

**Mr. Philippe Dufresne:** We have the listed exceptions in the act. They are the three that I've highlighted. The other one I did not mention is if the House has been adjourned that day. There's no concern about not having been there. That, to me, is one that is perhaps implicit. The three that are considered justifiable reasons are illness, public or official business, service in the armed forces. The question became while illness might cover some absences, certainly for the pregnant member during the pregnancy and perhaps after the birth as well, but there's a gap. If you only justify it when you consider it to be illness, that does not provide the full recognition and the full protection for parents and pregnant members.

**Ms. Ruby Sahota:** What kind of circumstances are the public and official engagements, for example?

**Mr. Philippe Dufresne:** That's not defined. It would be raised by the member looking at their circumstances. There's certainly an understanding that members do many things outside the chamber that are part of their public or official business, such as attending events, following up on matters outside the chamber. It's a largely defined category.

**Ms. Ruby Sahota:** A member could be working in their riding and this exception would apply to them. They would not have to appear for 21 days if they can justify there's something relevant that they're doing there.

**Mr. Philippe Dufresne:** It would be for the member to say that they were absent and this was public or official business, that they were following up on matters in their constituency.

There is, obviously, an expectation that members will try to organize their affairs so as to be able to be in the House. That's really part of the role of members, to balance those two things: the obligations in the constituency and the obligations in the House.

The act recognizes there will be times when the members cannot be in the House and it's going to be because they're engaged in other public or official business.

**Ms. Ruby Sahota:** As a comment at the end, I see this perhaps—I mean, we haven't seen it come into effect yet, but maybe Christine can speak from her experience—being used for flexibility and not in its entirety, from day one until the end of the 12th month. It might be that issues and circumstances arise from time to time in that first year of having a baby. Perhaps one month it would be difficult, or perhaps something happens in the fourth month and you were fine and able to come prior to that.

I'm sure we can learn a lot from Christine Moore, and there are other members who have had children as they've been serving.

Thank you for answering those questions.

**The Chair:** Thank you.

We'll go to Madam Moore and then Mr. Graham.

[*Translation*]

**Ms. Christine Moore:** I can answer some of Ms. Sahota's questions.

You were wondering under what circumstances we may be talking about public or official business. I could tell you about a fairly plausible case. If a member becomes president of an international parliamentary association—for example, the Canadian NATO

Parliamentary Association or the OSCE Parliamentary Assembly—we can assume they will often miss sittings because they will have to travel. Having known some presidents of international parliamentary associations, I know that the position leads to many absences. I also know that some members have been approached to seek candidacy with an international association, but they decided not to do it. In any case, if a member holds an internationally recognized position that takes up a lot of their time, that could be one of the plausible reasons for which they will not often be present in Parliament. That is an example of public or official business that would explain why a member is not present.

I can now explain to you how we came to these regulations.

While I was a member, I had three children, so three pregnancies. When I started working on this issue, I knew that, until the Parliament of Canada Act was amended, we could not move on to the next step, that of regulations.

The Standing Committee on Procedure and House Affairs first met on this issue and then produced a report containing that recommendation. The measure was then included in the budget. Once the Budget Implementation Act received royal assent and, consequently, the Parliament of Canada Act was amended, I provided draft regulations to the NDP House leader, who was then Ms. Brosseau. She was in charge of getting the regulations adopted. In fact, it was up to House leaders Ms. Bergen, Ms. Chagger and Ms. Brosseau to begin the discussion on the regulations.

Once I returned after giving birth, I came back to the issue to figure out why the regulations had not yet been adopted. I also tried to get this file on the agenda. So I know that other discussions were held among the House leaders of various parties to put it back on the agenda before the parliamentary session ends, so that a new Parliament would not have to finish the work on this.

That is what has happened concerning the regulations.

• (1135)

[*English*]

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** To build on Ruby's first question, BOIE makes changes all the time to all kinds of things, and in my four years on this committee, they've never come to procedure and House affairs.

Why this one? Do we have to take an action for this to happen?

**Mr. Philippe Dufresne:** Yes, you do. The act talks about the House making a regulation by rule or order, and so the power really lies with the House.

What is being asked of this committee is to report to the House with a recommendation that the House could consider. It's not something that BOIE would have the authority to do, given the way it is set out in the Parliament of Canada Act.

**Mr. David de Burgh Graham:** Okay, but BOIE changes things all the time, and there's nothing else they've done that would ever have had to come through PROC. I'm just surprised by that.



**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** I'm guessing that the regulations they've done are not regulations under the Parliament of Canada Act. They must have been regulations under some other governing authority.

**Mr. David de Burgh Graham:** Under the book.... Whatever the book's called. Yes.

**Mr. Scott Reid:** If I understand correctly, the way it works is that normally a regulation is made by the Governor in Council on the recommendation of a minister, but in this case it's made by the Governor in Council on the recommendation of the House.

Is that how it works?

**Mr. Philippe Dufresne:** This is a bit of a unique situation. This is really regulation made by the House on the authority in the Parliament of Canada Act, but in the exercise of its privileges in order to govern the presence of its members in the House.

**Mr. Scott Reid:** The Governor in Council has no role in this at all.

**Mr. Philippe Dufresne:** In my view, the Governor in Council does not have a role in this, because it would be looking at the manner in which the House is organizing and accepting the presence of its members in its proceedings. It's really at the heart of the proceedings of the House and the conduct of the proceedings in the House.

It's an unusual type of situation, but it is not something that the board would do by adopting one of its bylaws. It is something that the House would do. It could have been raised by the House, by a member, but in this circumstance, given PROC's role in studying this in the past, the board felt it was appropriate that PROC would be given the opportunity to look at this and report back.

• (1140)

**The Chair:** That's enough—

**Mr. Scott Reid:** I have just one tiny little thing.

**The Chair:** Okay.

**Mr. Scott Reid:** We have to send a report to the House with the expectation that nothing will happen unless the House concurs in that report.

**Mr. Philippe Dufresne:** That's correct.

**Mr. Scott Reid:** Okay. Thank you.

Sorry about that, Mr. Chair.

**The Chair:** It's okay.

You still have the floor, Mr. Graham.

**Mr. David de Burgh Graham:** Scott, I want to let you know that last week I briefly chaired the natural resources committee, and the Simms method is now in the wild.

**Mr. Scott Reid:** It's gone viral.

**Mr. David de Burgh Graham:** I've made it a precedent in other committees.

Thank you for that information. It's quite helpful.

On process, because I'm a processor, as you know, do we have a report ready to do something with?

**The Chair:** The report will be this: We report that we approve this; we recommend this to the House.

**Mr. David de Burgh Graham:** Well, then, I guess I will suggest that we do that.

**The Chair:** Ms. Sahota.

**Ms. Ruby Sahota:** I have one more question.

You had spoken about a comparison to other parliaments around the world.

Can you explain some of the research you've done?

**Mr. Philippe Dufresne:** Sure. We've considered the provincial legislatures.

Some of them will make no deductions to the allowance of members. In those cases, any absence does not result in a deduction. Others will have categories that are open-ended, like leave of the speaker, notice to the speaker, or extraordinary family circumstances or personal situations. Those could be covered. Some are explicit—maternity, parental—and some aren't.

In the U.K., there are no deductions, but they've put in place, on a pilot project, a system of proxy voting. They've also considered the impact on the House itself.

**Ms. Ruby Sahota:** Proxy voting is given to members who are on some kind of leave, and only under that circumstance.

**Mr. Philippe Dufresne:** It's a system in a temporary standing order that the U.K. House has put in place.

As indicated in the letter from PROC, this is something that this committee may wish to consider in a subsequent report.

**Ms. Ruby Sahota:** In your opinion, is this the simplest way of dealing with it, rather than providing for numerous other exceptions, family circumstances, and then...?

My gut would say that most people, if they're in a certain situation, could figure out a way to justify it within a certain category anyway, if we were to provide other categories.

**Mr. Philippe Dufresne:** Well, that's the proposal that was put to the board in an attempt to meet the intent of section 59.1 of the Parliament of Canada Act and also the recommendation from this committee. In my view, it's something that would achieve that objective.

**Ms. Robyn Daigle:** I might just add, too, that with the 21 days, presumably some of these other types of cases could be met with those 21 days that are already there.

**The Chair:** Thank you.

Mr. Reid, did you want to be on the list even though you don't have a bow tie on bow tie day?

**Voices:** Oh, oh!

**Mr. Scott Reid:** That would be a dangerous precedent.

I think the answer is that I was trying to respond to David.

**The Chair:** Okay.

**Mr. Scott Reid:** I think it's all being resolved and getting straightened out by our staff.

**The Chair:** I'm not sure why we don't have them sit at the table.

**Mr. Scott Reid:** That would make things much more efficient.

**The Chair:** Are there any other comments before we decide?

Okay. We'll vote on the report that members have been given.

Are you voting or commenting, Ms. Moore?

**Ms. Christine Moore:** I will talk afterwards. I'm in favour, but I will propose something else afterwards.

**The Chair:** Okay, we'll vote.

That's carried. This is a report to the House.

Christine.

**Ms. Christine Moore:** I don't know if we can have in our report that we should later consider modifying the Parliament of Canada Act to include a member whose partner is pregnant. We are not able to right now, but maybe we could consider it later, or maybe the minister responsible should consider that.

• (1145)

**The Chair:** For the four weeks before? You're talking about that clause.

**Ms. Christine Moore:** Yes.

**The Chair:** PROC could discuss that now or at another time. It's up to the members. They only have to be there 21 days, so you're talking about only nine days or something in a month that, in the rare circumstances where that would...

**Mr. Philippe Dufresne:** The 21 days is available to everyone for any reason, so it could be used for that.

**The Chair:** It wouldn't very often be a problem.

**Ms. Christine Moore:** Okay. That's good.

**The Chair:** Okay.

While you're here, on another thing which is related, in the message from BOIE, they also said that we might discuss at sometime in the future the proxy pairing or the pairing. I've asked the researcher to do a report, because since we turned that down, England has passed a provision on that. I asked the clerk to give us some information later on what England has done and what other people have done, for the committee's information.

Stephanie.

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** I don't think we actually voted, the three Conservatives here. I think we were sort of.... In addition to the questions Ms. Moore had on the extension for those with partners having children, I think we wanted to look at more information relative to that, so that perhaps we could consider this.

It is a consideration, as my colleague Mr. Nater said. It's generally somewhat apparent when we have an expectant mother, for most cases here, in the House, but for someone who has a partner who will be having a child, we can't always see that, and we can't anticipate that. These people certainly deserve to be recognized and accommodated as well. We think that deserves some consideration. Perhaps we could look further into that. I think we wanted to do that.

**The Chair:** Okay. We'll add it to a future agenda to discuss that, or do you want to discuss it—

**Mrs. Stephanie Kusie:** We were thinking that maybe we could even look at it further now. That might be a positive thing to do.

**Ms. Christine Moore:** It's possible to just add a line on the report that the minister should consider the question and maybe think about modifying the Parliament of Canada Act. Maybe we could refer that and ask the minister to consider it.

**Mrs. Stephanie Kusie:** I think it's a good consideration. Even further to the consideration, we could find out more information about those who have faced such a challenge before. There was an indication that some provincial legislatures have adopted different formats, one of the two models, and perhaps it might be worthwhile to take some time to evaluate those provincial legislatures as well.

**Ms. Christine Moore:** In the report, maybe we could add the different issues we want to go back to later. It will have to go back to proxy voting and to the question of the partner. In the report, maybe we could include what we refer to for a subsequent study.

**The Chair:** I don't think we're going to change the report. We've done the report, but we're going to take Stephanie's advice and look into this further. We'll get some research on it and have a discussion on it.

**Mrs. Stephanie Kusie:** Yes, I think we should.

**The Chair:** You don't want to necessarily discuss any—

**Mr. Chris Bittle (St. Catharines, Lib.):** I guess to tease it out a little bit, in terms of extending this and having.... My wife has given birth twice during this Parliament and to extend it beyond the 21 days, I'm looking for examples of it being necessary and whether there is a situation that exists where members need this time. I don't know if we're searching for a solution without a problem.

• (1150)

**The Chair:** Does Parliament ever sit more than 21 days in a row?

**Mr. David de Burgh Graham:** Twenty-one sitting days is already more than a month.

**Mr. John Nater:** I think Mr. Bittle said it may be a solution in search of a problem. I want to see, perhaps, if there is in fact a problem because it is something that BOIE recommended. I'd be curious to look into those reasons.

The example I use for myself is that I wouldn't have needed those provisions. I only missed four or five days both times. In both examples, neither was prior to birth. I can see where there would be a situation in which—especially for those members who are significant distances from Ottawa—the due date is close, and they want to be there for the birth. They may take a week or so off prior to the birth to ensure they are at home in the riding. I know that in the lead-up to the births of my two children who were born during this Parliament, I was well aware of the flight schedules for all hours of the day to ensure I could quickly get home if I needed to.

I think it's worthwhile to have a discussion at least as to whether this is an issue because BOIE did make that recommendation. I'd be curious to know where they're going with that and what the impetus was for that decision. I haven't read the blues or the notes from the BOIE meeting, so I can't see what their reasoning was for that, but I think it's worthwhile having a discussion at least.

**The Chair:** Mr. Graham, are you on the list? Madam Moore?

**Mr. David de Burgh Graham:** Yes I am, but I forget why.

**The Chair:** Madam Moore.

[*Translation*]

**Ms. Christine Moore:** Basically, here is the problem I am seeing regarding the 21 days.

Let's take the example of a member who lives very far from Ottawa and would have to travel for 24 hours to be present when his spouse gave birth. He could completely miss the birth. So it can be expected for them to want to remain with their spouse as of the 36th week of pregnancy.

If, by misfortune, the 36th week of pregnancy happened to fall within a House sitting period, the 21 days could be used to cover the period when the member is staying at home, but he will be left with no days for any other leave reasons. Let's take the case of a member who has already had to miss two weeks of sittings for other reasons that are not covered, such as to attend his father's or mother's funeral. If he wanted to take another leave to stay with his wife who is close to giving birth, the 21 days may not be enough.

It is more in that kind of a situation that this could happen. It may not have happened in the past, but it could happen.

[*English*]

**The Chair:** What if we left it up to the subcommittee on agenda to determine when and if this came back?

**Ms. Christine Moore:** Just on the proxy voting, maybe you should consider a meeting with technology services to figure out what could be used and what technology or which way we can do it. In terms of technical challenges, I think it could be interesting to have a meeting with technology services.

[*Translation*]

This could help the committee decide whether that option is reasonable and reliable from a security point of view. That could also be added to the agenda of a subsequent meeting.

[*English*]

**The Chair:** Mr. Bittle, I just suggested a possibility that we leave it up to the subcommittee on agenda—

**Mr. Chris Bittle:** Yes.

**The Chair:** —to bring those two items back, the proxy and the four weeks in advance.

**Mr. David de Burgh Graham:** We might defer it to PROC 43.

**The Chair:** Well, the subcommittee can decide that.

Okay, we're going to suspend for a few minutes to go in camera for the next items on the agenda.

[*Proceedings continue in camera*]

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