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

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**EVIDENCE**

**Thursday, October 21, 2004**

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**Chair**

**Mr. David Chatters**

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

Thursday, October 21, 2004

• (0905)

[Translation]

**The Clerk of the Committee (M. Bernard G. Fournier):** Honourable members, my name is Bernard G. Fournier and I am the Clerk of the Committee. I see we have a quorum.

[English]

The first item of the order of the day is the election of a chair. I'm ready to receive motions to that effect.

**Mr. Derek Lee (Scarborough—Rouge River, Lib.):** I nominate David Chatters.

**The Clerk:** Are there any other motions? No.

Mr. Lee has moved that Mr. Chatters be elected chair of this committee. Is it the pleasure of the committee to adopt the said motion?

(Motion agreed to)

**The Clerk:** We now proceed to an election of vice-chairs. The first vice-chair of this committee is according to the special House order.

**Mr. David Chatters (Battle River, CPC):** I nominate Derek Lee as first vice-chair.

**The Clerk:** Mr. Chatters has nominated Derek Lee as vice-chair of this committee. Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

**The Clerk:** We now go to the nomination of the second vice-chair.

[Translation]

**M. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ):** I nominate Mr. Broadbent.

[English]

**The Clerk:** Mr. Laframboise has proposed that Mr. Broadbent be elected vice-chair of this committee. Is it the pleasure of the committee to adopt the motion?

(Motion agreed to)

**The Clerk:** I would now invite Mr. Chatters to take the chair of this committee.

**The Chair:** Thank you very much, ladies and gentlemen, for that vote of confidence.

We have a list of other matters that we need to deal with today, so we'll go right into that.

The first is the subcommittee on agenda and procedure, which is the steering committee, I guess. The question is whether we want to establish a steering committee or whether we want the whole committee to set the agenda

**Mr. Derek Lee:** Whether or not we choose to have the main committee or the subcommittee do homework on it, I think we should still be setting up the subcommittee, the striking committee. So I'll move that the chair, the two vice-chairs, and a representative of the Bloc Québécois do compose the subcommittee on agenda and procedure.

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

(Motion agreed to)

**The Chair:** Item number 2, the service of analysts from the Library of Parliament.

**Mr. Derek Lee:** I so move.

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

**The Chair:** Motions to receive and publish evidence in the absence of a quorum.

**Mr. Derek Lee:** I would like to ask the clerk a question. What do some of the other standing committees do for a reduced quorum for receiving evidence?

**The Clerk:** I've listened in to a few, but the numbers are not the same. Carmen has the health committee and in her committee yesterday they indicated three members present.

**Mr. Derek Lee:** That would be three members including one government member and one member of the opposition. So you have a government member and an opposition member.

• (0910)

**The Chair:** One government member and one opposition member.

**Hon. Ed Broadbent (Ottawa Centre, NDP):** Mr. Chairman, to be clear, the proposal is to have three altogether.

**The Chair:** Yes.

**Hon. Ed Broadbent:** Right. So there has to be at least one opposition and one government. That's what's intended.

**Mr. Derek Lee:** That's my sense of how things have run, and it's only for the receiving of evidence. It's not for dealing with motions. It's most appropriate when you have witnesses here and members get delayed and they don't show up. It allows the evidence to come in.

So I would move, using the form of the motion number three on our draft, that the chair be authorized to hold meetings and receive and publish evidence when a quorum is not present, provided at least three members are present, including one government member and one member of the opposition. That's three, one, and one.

**The Chair:** Is there any further discussion on the motion?

(Motion agreed to)

**The Chair:** On the second part of that, in the absence of a reduced quorum...

**Mr. Derek Lee:** It seems redundant to the first. If the chair is authorized to hold meetings and receive and publish evidence, you don't need the second motion.

**The Chair:** I guess we just put in "three" there as well.

**Mr. Derek Lee:** It's a 15-minute rule.

**A voice:** The only difference is the 15 minutes.

**The Chair:** Oh, okay.

**Mr. Derek Lee:** May I ask the clerk? This means the chair has to wait 15 minutes.

**The Clerk:** No, the purpose of that is if you have two members present, let's say, and one is on his way from the House, or whatever, it's 15 minutes. If the third member is still not in the room but we know he's on his way, this authorizes the chairman, after 15 minutes, to start the meeting without three members present.

**Mr. Derek Lee:** What if there are three members present?

**The Clerk:** He can start as soon as he has three members. If he has two members, or less than three, he can start after 15 minutes; otherwise, they leave.

**An hon. member:** That's not what it says.

**Mr. Derek Lee:** And the chair can start a meeting if he has three members?

**The Chair:** With less than three I don't think we'd have a meeting.

**Mr. Derek Lee:** Okay. Whoever drafted this should—

**Mr. David Tilson (Dufferin—Caledon, CPC):** I have a question. How long do you have to wait?

To use your example, let's say there are two members. I'm wondering whether that's what this section means, that you have to wait—

**The Clerk:** I guess the practice has been that within 10 or 15 minutes the members say, "No, let's cancel this."

**Mr. David Tilson:** The way I read it, that's what this means, that if we have less than our three members, we waste 15 minutes, and if no one shows in 15 minutes, we're out of here.

**Hon. Ed Broadbent:** I agree it's redundant. I don't think we need it.

**Mr. Derek Lee:** Yes. My experience is that the chair makes a good decision after 10, 15, or 20 minutes as to what is going to happen. So can we pass on that then?

**The Chair:** Yes, sure.

I think it's a good idea to agree that we will wait 15 minutes, and if nobody shows we'll adjourn the meeting.

**A voice:** We don't need a motion.

**The Chair:** Okay.

On the time limits for witness statements and questions, again we had a suggestion. I don't know what the other committees are doing, but my suggestion is that the first round be seven minutes each, starting with the official opposition, the two other opposition parties, and then the Liberal Party; on the second round, five minutes with the Conservatives, the Bloc, and the Liberals; on the third round, five minutes with the Conservatives, the Liberals, and the NDP, in that order; and on the fourth round with the Conservatives and the Liberals.

I just throw that out there.

[Translation]

**Mr. Mario Laframboise:** Could you repeat once more the procedure to follow for the first round?

[English]

**The Chair:** The first round is seven minutes. Is that okay with everybody? Okay. And the order is Conservatives, Bloc, NDP, and the Liberals. That's my proposal.

● (0915)

**Hon. Ed Broadbent:** You're saying the Conservatives, the Bloc, and the NDP in the first round?

**A voice:** And then the Liberals.

**The Chair:** Yes, and in the second round it's five minutes, Conservative, Bloc, and Liberal; third round, five minutes, Conservative, Liberal, and NDP; and fourth round, five minutes, Conservative, and Liberal.

That's only a suggestion. I just throw it out there for discussion. If you want to work on that...

Go ahead, Ed.

**Hon. Ed Broadbent:** Mr. Chairman, although I've been around this institution for many years, it has been 30 years since I've been on a committee, so I'd appreciate the indulgence of some other people here.

I'm not querying to be difficult here. I'd just like you to explain, first of all, if you would—and I know we have a minority government—how you happen to arrive at these figures.

**The Chair:** We just looked at what some of the other committees that are already constituted are doing and we came up with that. As I say, it's just a suggestion.

Usually the questioning starts with the official opposition. That's pretty standard, but from there on we're just kind of going by what the other committees are doing.

**Hon. Ed Broadbent:** Would it be true to say that the proportions here, if you were to add up all the totals—I haven't calculated them yet—work out to roughly our proportion of representation in the House?

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** No.

**The Chair:** I don't know; I never really calculated that. I think it's pretty close, actually.

**Mr. Derek Lee:** Someone's done the math here. I've not seen this particular formula before.

**Hon. Ed Broadbent:** Is this something we could table and come back to later?

**Mr. Derek Lee:** We could, but I'm going to make a suggestion here. My experience is that after the first round, there's no need to be too religious about the sequencing. The chair wants to be fair between government and opposition. The first round overloads opposition. My colleague Marlene did point out that some committees have...

Let me put it this way: it was traditional to toggle through the opposition before you went, on the first round, to the government. The problem with this was that when we had four opposition parties, it took forever to get over to the government side. You had one, two, three, four, and five. So that wasn't working. Some committees then would recognize, on the first round, two opposition parties, then hit the government, then go back to the other two opposition parties.

In this Parliament we have one less opposition party, so that problem is not so egregious. We have three opposition parties. It's still a bit of a problem, because even though you have a seven-minute round, by the time his or her nibs finishes answering all the questions, you're usually at ten minutes. Usually it's an hour before a government member gets to open a mouth.

I'm going to suggest, and I think it worked on the committees that I was associated with in the last Parliament, that we hit two opposition parties, then hit the government member, then go back to the third opposition party for the first round. In the next round, the chair would be somewhat judicious in going back and forth between the members, with not five-minute rounds but three-minute rounds. If you do the math on this seven-minute/five-minute round, it's going to take you out beyond two hours. The average meeting is two hours. By the time you're finished with your witnesses, particularly if it's a panel, you just lose all your time.

I'm going to make a proposal here. If it's not liked around the table, and you want to spend some more time on it, we can actually flip it up to the steering committee and sort it out later. I am going to suggest that we have seven-minute rounds—the official opposition, one other opposition party, then government, then the remaining opposition party. That's the first round. The second round would be three minutes, alternating between government and opposition parties until every member has had a round. In other words, if there are only two or three government members here, you don't keep coming back to government for a second round; you make sure everybody gets a round in.

That's my suggestion. If that isn't good for you, or you need more time to think about it, then we could defer unless someone has another, better formula.

• (0920)

**The Chair:** Marlene.

[Translation]

**Hon. Marlene Jennings:** That's exactly what I was about to suggest. We did in fact change the order of questioning for the

meetings of the Public Accounts Committee last winter and spring. Based on my experience and that of opposition members, people seemed to be fairly satisfied with this approach because everyone had an opportunity to ask questions. Each party was allotted more or less the same reasonable amount of time.

When we discussed an issue of interest to the media, we noticed that members of the press often left the room after 20 minutes. All parties therefore, had their turn in the media spotlight, so to speak.

**Mr. Mario Laframboise:** Thank you, Mr. Chairman.

Mr. Clerk, the motion moved by the Chair at the outset is consistent with the practices of most other committees. Correct?

[English]

**The Chair:** I wouldn't go so far as to say most of them, but some are.

[Translation]

**Mr. Mario Laframboise:** I support the motion and fail to see why we would amend it. Other committees have been struck. Ours is probably one of the last ones. Therefore, I see no reason why would should amend our procedures. I plan to vote in favour of the motion, Mr. Chairman.

[English]

**Mr. David Tilson:** I understand your issue of fairness, and it's a good argument. I'm wondering whether we should just table it to the subcommittee and have some discussion there about it. Nothing is happening here.

Contrary to over here, I have never been on a committee, so I don't see any rush about this thing and spending a lot of time debating it. Why don't we put it to the subcommittee?

**The Chair:** Let's finish the discussion on the proposal first, and then I'll ask you to make a motion to table it.

Go ahead, Ed.

**Hon. Ed Broadbent:** Certainly I can live with tabling it and having it go to the subcommittee to come back. The only counter-proposal I would make to my Liberal colleague's suggestion on the other side is that I understand the government side should be in earlier than the original proposal would allow for, but what concerns me won't surprise you. I can see that in the first round all the parties have seven minutes, but I accept the suggestion of the order, that the governing party should be ahead of our party, to put it frankly, in the first round. So if we had each party, we would come fourth with an opening seven-minute statement, and then we'd drop down to five minutes, and so on, and alternate back and forth, or whatever, after that. To me, that would seem workable. If my colleagues in the Bloc find that acceptable, I could find that acceptable.

But the Conservative Party made the suggestion of tabling it. If we want to table it, I'm quite happy to do that too.

**The Chair:** It would seem that we're very close to agreement here.

First, I would ask for a motion—Derek, if you want to make the motion—that the second, third, and fourth rounds be three minutes. We could clear that up right off the bat.

**Mr. Derek Lee:** I so move.

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

(Motion agreed to)

**The Chair:** Okay, then we'll go to the order. There again, if the NDP is willing to switch the order on that first round, I think we're there.

Do you want to make that motion, Ed?

**Hon. Ed Broadbent:** I will so move.

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

(Motion agreed to)

• (0925)

**The Chair:** We have the order. The only other thing we have to establish is how much time we want to give the witnesses. Traditionally, that is 10 minutes.

Marlene.

[*Translation*]

**Hon. Marlene Jennings:** It is customary for the committee, when hearing from only one or two witnesses, to allocate 10 minutes to each one of them. However, when five or even sometimes six witnesses were scheduled to testify, they were allocated only 5 minutes for their presentations. Otherwise, the first hour would have been devoted entirely to submissions. By adopting this approach, we barely managed to make it through the first round of questions. We tried very hard to ensure that witness submissions were no longer than 20 or 25 minutes in total.

[*English*]

**The Chair:** Okay. I certainly agree with you. I don't know if we need to write that in stone. I think that could be at the discretion of the chair. But let's start with that.

Derek.

**Mr. Derek Lee:** The easiest solution, if we want to use this motion, is to say that witnesses will be given no more than 10 minutes. That way the chair can say you're going to have six minutes, or four minutes if it's a panel, but no more than ten minutes. Then we have a template.

**The Chair:** If it's at all possible, I'd like to avoid those panels of six people. It's really hard to have a discussion. But if we do, we would try to cut it down so that the most important time is the questions.

Do you want to make a motion on that, Derek?

**Mr. Derek Lee:** I move that witnesses be given no more than 10 minutes to make their opening statement, and so on.

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

(Motion agreed to)

**The Chair:** That was good. Next is payment of witness travel and living expenses.

Is there any discussion on that?

**Mr. Derek Lee:** As drafted, I so move.

**The Chair:** Is there agreement on that?

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

**The Chair:** Distribution of documents with translation: again, this one always provokes a fair bit of discussion, and we'll certainly have that. Traditionally, in my time we've always accepted documents in either official language, but they can't be distributed until they're translated into both official languages, and then they're distributed by the clerk of the committee.

[*Translation*]

**Mr. Mario Laframboise:** I concur with this motion, except that I would tack on the following: "and that no witness document be distributed without the authorization of the Clerk". This would ensure that no one does an end run around the rules and tables documents anyway. The Clerk's authorization would be required before any documents could be tabled.

[*English*]

**The Chair:** That's certainly fine with me.

Mr. Lee, please go ahead.

**Mr. Derek Lee:** While I respect the intent of the motion, which is to impose a regime that disallows anything other than two-language document submission, I'm thinking of it from the perspective of the witnesses, each of whom is fully entitled in law and in our practice to do whatever the heck they want in one language. So if a witness comes to our meeting and wishes to show me or one of my colleagues or give to me a document that is in one language, I cannot stop him, nor can the chair, nor can a rule of the committee.

This is what Monsieur Laframboise is trying to accomplish. He's trying to prevent individuals from personally handing out documents in one language. While I respect the intent to ensure that we operate in two languages at the committee level, I think it would infringe on the absolute Constitution-based right of our witnesses to have freedom of expression and to communicate with members. Our compromise in the House over the past 10 or 20 years has been a motion that says we will not allow our clerk to officially distribute any one-language document unless the other language is also there. So we have a two-language policy for distribution of documents officially by the clerk.

• (0930)

**The Chair:** I would extend that to members of the committee; that members of the committee wouldn't distribute documents in one language. I've seen cases where they go around the end by simply giving the documents to a member of the committee, with the member of the committee distributing them. I wouldn't want to see that done.

**Mr. Derek Lee:** All right. I'm prepared to accept that members of the committee should not distribute...

Well, does this mean if I have a copy of a letter from a minister I cannot distribute it to my colleagues if it's in one language? I don't know. I'd be careful about putting rules in here that...

I wouldn't mind if this rule were to say that members should, in their dealings, respect the two-language policy, but I wouldn't want to have a rule that prevented me from giving to my colleague across the way a letter from the President of the United States simply because it was in one language only.

**An hon. member:** And it would be.

**Mr. Derek Lee:** Or if I wanted to show a copy of a cheque that had been photocopied, that's in one language only here, and suddenly it's—

**The Chair:** I'm not sure you're talking here about distributing documents, but go ahead.

**Mr. Derek Lee:** You have to be careful when you're making rules.

[Translation]

**Mr. Mario Laframboise:** The objective is not to prevent someone from submitting a document to Mr. Lee. I don't have a problem with that happening. However, I wouldn't want to hear a witness say that he left a unilingual document for the committee, without going through the Clerk. If I refuse to accept such a document, I don't want anyone telling me that it was fact tabled. When a document is formally tabled to the committee, it must be in both languages. I don't have a problem with a witness handing over a document directly to Mr. Lee. Nor do I have a problem with colleagues exchanging material. However, I'm not interested in having a witness inform me that he tabled a document when in fact he only left it on the table. If a document is to be officially tabled, the witness must go through the Clerk. One can't simply say: "I'm tabling a document". If a witness hands you a document, it's not the same as saying "I have a document and I'm going to pass it around". I want this distinction to be made very clear.

[English]

**The Chair:** Marlene.

[Translation]

**Hon. Marlene Jennings:** I understand your position very well, Mr. Laframboise. Given that committees and parliamentarians expect documents to be in both official languages, we could amend the wording of the motion respecting the distribution of documents with translation, to have it stipulate that as long as a document is not translated or available in both official languages, it cannot be officially tabled to the committee. A witness can arrive with a unilingual French or English document in hand and give a copy to the Clerk. However, until such time as the document has been translated into the other official language, it cannot be formally tabled. The witness would then not be able to claim that his document has been officially tabled, because it was not available in both languages.

The committee would simply not deem the document to have been formally tabled until such time as it was available in both official languages.

[English]

**The Chair:** We always seem to get bogged down in this, and in practical terms it never seems to be a problem when the committee starts to operate. I wouldn't want to suggest that our witnesses couldn't table a document in either official language, that it wouldn't be distributed until it was translated.

**Hon. Marlene Jennings:** There are two things.

First, Mr. Laframboise is saying he doesn't want a situation in which a witness hands a document to the clerk in only one of the two official languages and none of the members would have access to it because we adopt a rule saying there's no distribution if it's not

available in both official languages. At the same time, the witness is free to go public and say they tabled a document. In fact, none of the members have access because it's not in both official languages. I'm cognizant also of Mr. Lee's concern that we have a right, and the witness has a right, to hand out whatever documents they want, but those documents are not officially tabled until they're available in both languages. The only person authorized on behalf of the committee and the witness to distribute them is the clerk.

What I'm suggesting is two pronged. You would say no document is considered to be officially tabled before the committee until it is available in both languages. Then the second paragraph would say that the only person authorized to distribute officially tabled documents to members of the committee and others is the clerk.

• (0935)

**The Chair:** That's okay. Will you make that a motion?

**Hon. Marlene Jennings:** I just did. Don't ask me to repeat it; you'll have to look at the transcript.

**The Chair:** Ed.

**Hon. Ed Broadbent:** Mr. Chairman, I'm not a rules expert. I have many other faults, but that's not among them. I'm wondering if technically your wording is coherent with past practices of the House and committees, that is the technical term "table". I would have thought, perhaps in my naiveté and lack of expertise, that one could table a document in either official language, maybe if you had a witness, but what we were getting at is the distribution question. So it might be tabled in either language, but as I understand monsieur Laframboise

[Translation]

I concur fully. Officially, the Clerk cannot distribute a document if it is not in both official languages. That's standard procedure, as far as I'm concerned. I fail to see what the problem is.

[English]

**The Chair:** I think the key there was the term "officially tabled". So the witness who is allowed to table a document in either official language can't then go out and publicly present a document that hasn't been distributed in the committee.

**Hon. Ed Broadbent:** How can we prevent someone from doing that?

**Hon. Marlene Jennings:** We can't, and we're not going to. Mine doesn't prevent them. What I propose is simply a terminology whereby the witness can go out and say, I tabled this document before the committee. For the committee, though, it's not considered to be officially tabled until it's available in both languages.

**Hon. Ed Broadbent:** Okay.

**Hon. Marlene Jennings:** It's just that we've encountered it in the past that effectively witnesses have come and tabled a document in French only, or in many cases in English only. It's not distributed to the members, and therefore we don't even have the document in order to be able to question. Meanwhile, the media has the documents, and the next day, or that evening on the 6 o'clock news, they're quoting from it. And we don't have even a copy, because it was in one official language only.

So it's just a nuance in terms of the actual terminology.

**Hon. Ed Broadbent:** Your proposal won't change that sequence of events.

**Hon. Marlene Jennings:** No, it won't, but it will make this clear to the witnesses. They won't be able to claim that this is a document that's officially before the committee. Until it's actually available for distribution, we will not consider it officially before the committee. That's all.

Have I confused things more?

**The Chair:** Go ahead, David.

**Mr. David Tilson:** No, I'm glad that question was asked, because as a new guy, you worry about asking stupid questions.

**Hon. Marlene Jennings:** Never. There are no stupid questions, only stupid answers.

● (0940)

**Mr. David Tilson:** I'm trying to determine what the word "tabling" means. Just so I'm clear, this motion doesn't preclude the document from being distributed, in whatever language, amongst the committee members for the purposes of discussion.

**Hon. Marlene Jennings:** It does.

**The Chair:** Yes, it would. I think that's an important distinction.

**Mr. David Tilson:** Mr. Chair, through you, if someone comes with a document in one language, are you trying to tell us that we can't discuss that document until it's been translated? Is that what all this means?

**Hon. Marlene Jennings:** In practical terms, the motion adopted by every single committee since I've been here, in 1997, means that if a witness comes with a written document and it's in only one of the two official languages, that witness hands a copy to the clerk. The witness may have shown up with fifty copies, but the clerk is unable to distribute it to each member until it's been translated. Practically, what happens is that the members get up, go to the pile, and take a copy so that they can use it while they're questioning. But it's not officially distributed.

**Mr. David Tilson:** All right.

Again, I'd like to ask another stupid question.

**Hon. Marlene Jennings:** It's not stupid, sir.

**The Chair:** On that one, David, before you go further, just because they present it in only one official language doesn't prevent us from discussing the subject. The document can't be distributed.

**Mr. David Tilson:** That was my next question. Thank you.

**The Chair:** I think we've got an agreement on that one...

**Mr. Derek Lee:** What was the agreement? What did we adopt?

**Hon. Marlene Jennings:** That no document will be considered to be officially tabled until the document is available in both official languages and ready for distribution solely by the clerk.

**The Chair:** That doesn't mean that they can't hand you a document in either official language if they so choose.

**Mr. Derek Lee:** They can't hand it to me. They don't table it with me, they table it with the clerk.

Colleagues, if the committee orders the production of a document and the party delivers up the document, then that's it, the document is "produced", or "tabled". So you can't say, oh, it's not officially produced, because it is produced.

**Hon. Marlene Jennings:** Suggest something.

**Mr. Derek Lee:** I've been around here for 16 years. This issue has come up every new Parliament. We've talked about it, and the wording we have here is the best we've been able to come up with. I suggest we adopt it. If Monsieur Laframboise...

I'm happy to take it up at the steering committee. If we can find another iteration of this that will serve the two-language policy, I'd be delighted to adopt it, but to date no one has come up with a better iteration than this one that wouldn't otherwise unduly restrict the committee work and the witnesses.

I suggest we adopt this, take up the matter at the steering committee—

**Hon. Marlene Jennings:** I withdraw my motion.

**The Chair:** It's a committee decision. I'm open to whatever you want.

**Mr. Derek Lee:** I'm going to move adoption of what's there and refer the matter to the steering committee. That's what I'm going to move.

**The Chair:** It would be my intention as chair to notify any witnesses prior to their appearing before the committee that they are required to present their material in both official languages.

**Mr. Derek Lee:** The clerk always does that.

**The Chair:** Go ahead, sir.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** When you would have that expectation for a speaker to provide their document in both languages, are they expected to translate it, or are they expected to simply provide one official language and have the clerk translate it?

**The Chair:** We offer to do that for them, but we make them aware of the policy of the committee that the documents can only be distributed if they are in both official languages.

**Mr. Russ Hiebert:** So if witnesses arrived with some last-minute changes to their documents, they wouldn't be able to distribute them under that scenario?

**The Chair:** They wouldn't be able to distribute them. They would be able to present them to the clerk of the committee. We could discuss the subject matter of the documents, whatever that might be, but they couldn't be distributed until they are translated.

**Mr. Russ Hiebert:** Even unofficially, as Mr. Lee was suggesting, where we walk over and pick up a copy and are able to review it?

**The Chair:** I don't think I'm prepared to police that.



● (0945)

**Mr. Russ Hiebert:** I do think, having been a witness in the past and knowing how things can change at the last minute, it might be an undue burden upon a witness to suggest that any document distributed to the committee has to be provided two days or a certain number of hours in advance for translation.

**The Chair:** As I said, it's always been a subject for discussion over the last I don't know how many years, and it's never turned out to be a huge problem in practice. I guess what we'd better do is put this motion that we have in writing here to a vote, and go with that.

Go ahead, David.

**Mr. David Tilson:** I have now gone from confused to really confused. My whole concern is that if someone comes with a document in either language and they want to talk about it, then surely to heavens they can talk about it.

**The Chair:** That's not a problem. They can talk about it.

**Mr. David Tilson:** All of this is about the official tabling of a document so that it's part of the record. Is that what this is all about?

I don't know whether I understand the motion or not.

**The Chair:** If they read the document they have with them, it's interpreted as they read it.

Go ahead, Mario.

[Translation]

**Mr. Mario Laframboise:** Just to clarify one thing, sometimes documents can be many pages long. There's no problem if the witness discusses the document's contents. However, if the perception is that the document has been officially tabled, that members have fully grasped the contents, when that may not in fact be the case, then we do have a problem. We run the risk of witnesses often arriving with hefty documents and subsequently claiming to have tabled them.

That's why I liked Ms. Jennings' proposal. I understand that it does not have the unanimous backing of members, but you need to understand our position. I don't want to find myself in a situation where I'm given a document of which I have no knowledge, a document that someone claims to have tabled and given everyone copies. Before a document can be officially tabled, at the very least I have to be able to read it in my first language in order to understand it fully. You would feel the same way if you received a unilingual French document. Ask yourself the same question. If a witness showed up with a unilingual French document, you'd have the same problem.

[English]

**The Chair:** Go ahead, sir.

**Hon. Ed Broadbent:** It seems to me that we could have a consensus here rather quickly from a practical point of view if we accepted Ms. Jennings' proposal. I think we'll all be able to function that way, unless I missed a practical objection from one of my colleagues.

In terms of a working committee that respects the principles of two official languages, and that tries to work effectively and very

often informally around the table here, is there a problem with Ms. Jennings' proposal?

**Mr. Derek Lee:** I do have a problem, because I don't understand what official tabling is. It's a new concept. I've never heard of it before. We don't have an official procedure to officially table. Really, tabling is just filing with the clerk. The concept of officially filing has never existed around here. The clerk either does or doesn't have the document delivered to him or her.

We're weaving a web here. We've gone from the concept of distribution by the clerk—that's all this motion, drafted here, does—to the concept of not just getting documents delivered or produced but now also officially tabled. Nobody is going to know what it means. I don't know what it means. In practical, day-to-day terms, no one, in the operation of a committee, is going to hamstring the witnesses. What's going to happen is going to happen. No one is going to prevent a member from doing whatever he or she wants to do as a member. At the table, the chair is in charge, but if I'm standing over here at the end of the room, I don't think so.

So be careful what you wish for here. Let's not go around making too many rules. I don't want to support the current iteration that Ms. Jennings put forward, not because it's... but because I have questions about it. I have great respect for her intelligence and for her attempt to create something here—

**Hon. Marlene Jennings:** Yeah, yeah, yeah...

**Hon. Ed Broadbent:** It's just the stupidity in the present case he has problems with.

**The Chair:** Mr. Bains, go ahead.

**Mr. Navdeep Bains (Mississauga—Brampton South, Lib.):** I concur with Mr. Lee.

This is my first committee meeting. I'm really just listening. We're getting too technical. I think at the end of the day we're trying to be respectful of both languages. That's very clear.

I understand it in the same way that if there was a French document... I understand your concern very well. I think the clerk will be providing translation in both official languages. We have to be accommodating to the witnesses, as mentioned by the member. I believe in the discretion of the chair. I think we are all trying to get to the same point. We're getting too technical. I would like to concur with Mr. Lee and stick with the wording we have right now.

**The Chair:** Actually, Marlene's suggestion is on the floor in the form of a motion, so I think we have to dispose of that, unless you want to withdraw it.

● (0950)

**Hon. Marlene Jennings:** I would be prepared to withdraw it if the committee consents that the issue be sent to the steering committee. But if the committee is going to go forward and vote on the motion being proposed on this document, then I will not withdraw my motion. I would prefer to have it voted on and defeated rather than withdrawn.

**The Chair:** Then would you withdraw your motion and make a motion to table it to the steering committee?

**Hon. Marlene Jennings:** I propose to withdraw my motion and have it sent to the steering committee for decision.

**Hon. Ed Broadbent:** Or that the issue be sent to the steering committee

**Hon. Marlene Jennings:** Sure.

**The Chair:** Is this on the motion?

**Mr. Russ Hiebert:** This is related. It's further discussion as far as the suggestion that was made by the clerk. It appears to me there would be some advantage to having some consistency between all committees. If it's true, as my colleague suggested, that this is standard language and has been the case for many years among all committees, then it would make sense that we adopt something that's consistent so that there aren't different rules for different committees.

**The Chair:** Certainly the committee is its own master and can do whatever it wants.

Was there somebody else...

[Translation]

**Mr. Mario Laframboise:** No. It will go to the steering committee. I'm fine.

[English]

**Mr. David Tilson:** I assume the motion is withdrawn and that she has made another motion to table it.

**The Chair:** We have to split this in two places. First we need unanimous consent to withdraw the motion. Everybody is okay with that?

**Some hon. members:** Agreed.

**The Chair:** Then there's a motion to send the subject matter to the steering committee. Is everybody agreed?

(Motion agreed to)

**Mr. Derek Lee:** — [Inaudible—Editor]—

**The Chair:** No, we'll have it settled before we accept—

**Mr. Derek Lee:** We may never get back to this.

**Hon. Marlene Jennings:** Well, too bad.

**The Chair:** On number seven, I don't think there's any controversy there. Is everybody agree?

**Some hon. members:** Agreed.

**The Chair:** On number eight, this one is always a little more controversial. Is it agreed?

**Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.):** That would be whether the member was at the meeting or not? The staff member could be there either in the absence or in the presence of the member.

**The Chair:** Rather than a staff member simply coming in to listen on behalf of a member of the committee, staff can only come in accompanying a member of the committee. Is that the intent?

**Mr. Derek Lee:** That's my understanding of it.

**The Chair:** Is that okay?

**Hon. Ed Broadbent:** It doesn't say that.

**Mr. Derek Lee:** I agree, but in camera meetings are for members, not for staff.

**The Chair:** That would be my interpretation, that they come in accompanying a member.

**Mr. Derek Lee:** An in camera meeting is an in camera meeting for members. If members want to bring an assistant, they can bring one. That's my understanding.

**The Chair:** That would be my understanding.

Go ahead.

**Mr. Russ Hiebert:** What about the situation where a member can't be present but wants to have knowledge of what occurred at the meeting?

**The Chair:** Then the minutes of that in camera meeting are available to that person in the clerk's office. I don't think we want to open it up to staff members to come in and report back to the member. I don't think that's the intention.

Go ahead.

**Hon. Ed Broadbent:** Mr. Chairman, on the one hand that would seem to make sense to me, but I don't know in recent years what the past practice has been. Maybe committees in recent years have allowed that if a member can't attend, a staff person can go there to just sit and report back. If that's been the practice, that's acceptable to me. But if it hasn't been and this is the practice, this on the whole probably makes more sense.

● (0955)

**Mr. Derek Lee:** The difficulty is it defeats the whole concept of it being in camera to have a non-MP going out and talking about what happened at an in camera meeting to whomever he or she might talk. Once it's in camera, the person who comes to the meeting can't talk about what happened in the meeting.

**The Chair:** Yes, that's right.

**Mr. Derek Lee:** So there's no point really, technically, in having the staffer come here. By having a staffer come here without the member, we're inviting a patent breach of the whole in camera concept.

**Hon. Ed Broadbent:** Has it been done before?

**Mr. Derek Lee:** No. This is poor wording. This is inappropriate wording.

**Hon. Marlene Jennings:** May I propose that the wording be "that unless otherwise ordered, each committee member present be allowed to have one staff person also present at in camera meetings".

**Mr. Derek Lee:** Yes, I agree.

**The Chair:** Is everybody comfortable with that?

David.

**Mr. David Tilson:** Why are we doing this?

**The Chair:** Because when we're in camera—

**Mr. David Tilson:** I understand.

**The Chair:** — we're in camera and it's for—

**Mr. David Tilson:** Can we not think for ourselves?

**Mr. Derek Lee:** I would be just as happy to have no staff—

**Hon. Marlene Jennings:** It's not that at all.

**The Chair:** This has created a problem in the past. We're not—

**Mr. David Tilson:** I'm just following along on Mr. Lee's comments about confidentiality and all of that business.

**Mr. Derek Lee:** Occasionally there is a staffer who is way up to speed on the file. We all recognize who he or she is and it might be a staffer of the chair or a vice-chair. In this case we have a disabled member who sometimes needs someone accompanying him. It's just to allow for the general case. The committee is quite capable of saying no staff, no nothing, if we wish.

**The Chair:** We can make that decision.

Marlene, did you have something more?

**Hon. Marlene Jennings:** Simply to add to what Derek said in response to Mr. Tilson's question, there are times on certain committees where particular members, either because they have a private member's bill in the works or are working on a particular file and their staffer may need that information in order to continue the work on those files, without violating confidentiality obviously....

**The Chair:** Is everybody okay with this? We have a change of the wording and everybody's comfortable with that change. That's good.

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

**The Chair:** In camera meeting transcripts. Is everyone comfortable with that one?

**Mr. Derek Lee:** As directed, so moved.

**The Chair:** Is everybody good with that?

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

**The Chair:** Finally, number 10, notice of substantive motions, the 48-hour rule. That's pretty standard, I think, in committees.

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

**The Chair:** Okay. I think that's it then.

I think all we have to do then is that the steering committee needs to meet as quickly as it can and talk about future business.

And you're going to be on the steering committee, Ed, because you're vice-president, and myself and Derek.

We'll contact your offices to see when we can make it work for everybody and we'll meet about future business, because I think this committee has all kinds of possibilities and it could be really quite an interesting committee. We'll have that discussion as quickly as we can.

The next meeting of the committee will be at the call of the chair.

[*Translation*]

**Mr. Mario Laframboise:** Regarding the scheduling of committee meetings, according to the timetable we've agreed to, the committee will meet on Mondays and Wednesdays, and not on Thursdays. Correct?

[*English*]

**The Chair:** We don't have a lot of flexibility in terms of the availability of committee rooms, so we'll have to stay with that.

Thank you, everybody.

The meeting is adjourned.

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