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# **Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs**

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**Thursday, March 8, 2012**

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**Chair**

**Mr. Harold Albrecht**



## Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs

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• (1115)

[English]

**The Chair (Mr. Harold Albrecht (Kitchener—Conestoga, CPC)):** I call to order the Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs.

We are here today to look at the next 15 items in the order of precedence. You have a chart before you, as well as a packet of the entire group of motions and bills. I'm going to suggest that we work through them numerically, one at a time, ask our analyst to make a brief comment about each one as we go, and then proceed to vote on each one individually.

I'll ask our analyst to begin with motion M-307 by Mr. Casey.

**Mr. Michel Bédard (Committee Researcher):** This motion will call upon the government to recognize the contributions of the baby boomers in building Canada through various measures. The motion does not seem to be outside federal jurisdiction. It does not appear to clearly violate the Constitution. There has been no similar motion voted in the House of Commons, and there's no government motion currently on the order paper that is substantially similar to this motion.

**The Chair:** Any concerns? All in favour of allowing this one to proceed?

So ordered.

We'll move on to M-313.

**Mr. Michel Bédard:** This motion will express the opinion that the Governor General's salary be subjected to the Income Tax Act, and calls upon the government to amend the Income Tax Act in that respect.

This motion is not outside federal jurisdiction. It does not appear to clearly violate the Constitution. There are no motions substantially similar that have been voted on in the current session, and there's no government motion on the same subject currently on the order paper.

**The Chair:** Any questions or comments?

Mr. Reid, go ahead.

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** It's one of these things that deals with a constitutional convention. I know in Britain the issue of whether the Queen's salary should be taxed is something that has gone back and forth. I think currently, it is taxed. If memory serves, this was a subject of debate

in 1992. Of course in Britain, they don't actually have this division between a written constitution and constitutional conventions, and I must say, I'm actually a little uncomfortable moving forward on this without having a little bit of research.

Would it be acceptable if we just set this one aside? I'm not saying we vote against it. I'd just like to set it aside until we can get some further information.

**The Chair:** Before we do that, Mr. Reid, let's ask our analyst if he has any further information.

**Mr. Scott Reid:** Fair enough, yes. We can start with that.

**Mr. Michel Bédard:** If it is the will of the committee, I could provide further information on this subject.

The salary of the Governor General is not subject to the Income Tax Act, pursuant to a specific exception found in the Income Tax Act, paragraph 81(1)(n), and for the benefit of the subcommittee I could read that section.<sup>81(1)</sup> There shall not be included in computing the income of a taxpayer for a taxation year,...

(n) income from the office of Governor General of Canada;

This is the exemption that was put in place, I think it was in 1917 when the first incarnation of the Income Tax Act was adopted, in order to exempt the Governor General's salary from income tax.

We are at the motion stage, so to delete the exemption, the government will have to introduce legislation. We're not at the implementation stage yet, but probably if the government wants to follow up on this motion, if adopted, the government will propose to repeal this exemption.

**The Chair:** Thank you for that.

Mr. Reid, does that change your position on further study?

**Mr. Scott Reid:** I still think it would be helpful to know. I'm not sure that the law is the only consideration here, in the sense that there may be something additional to the statute.

**The Chair:** I just want to remind the committee again of the four criteria this committee has generally operated under. If we could proceed along that line and allow the debate to continue in the House, unless there's some constitutional or other matter, that would be my position, but I'm at the will of the committee.

Mr. Dion, go ahead.

**Hon. Stéphane Dion (Saint-Laurent—Cartierville, Lib.):** Yes, I'm comfortable that it is within the scope of Parliament to make this change.

**The Chair:** Go ahead, Mr. Toone.

**Mr. Philip Toone (Gaspésie—Îles-de-la-Madeleine, NDP):** As am I. I don't really necessarily want to see this bill.... It probably could benefit from debate in the House. I don't necessarily see that we should be blocking it here, but I'm open to further argument.

**The Chair:** Mr. Reid.

**Mr. Scott Reid:** I see the point. We figure these things out in the course of debates. I'm not sure that putting the statutory exemption in was the only criteria. I actually didn't know that statutory exemption existed. But had there been a bill to remove the exemption—I get that. The question of whether we are debating something that actually is....

We're adopting a motion that leads us into the position of taking a position on something that might be in violation of a convention, or a position that's actually outside of the jurisdiction of the House. That's what I'm struggling with. But I guess one could then vote against it on that basis when it comes up for a vote.

**The Chair:** You can vote against it here as well, Mr. Reid. It's your prerogative.

Is there any further discussion? All in favour of allowing this to proceed to be votable?

That is carried.

We'll move on to motion M-331. Your chart says 272, but it's 331. It's just an error on the chart.

**Mr. Michel Bédard:** My apologies for the typo.

This motion recognizes that the provision of access to adequate housing is a fundamental human right. It involves establishing a national housing strategy designed to protect, promote, or fulfill the right to secure, adequate, affordable, and accessible housing.

This motion doesn't appear to be outside federal jurisdiction. It does not clearly violate the Constitution, including the charter. There's no motion substantially similar to this motion that has been voted on in the current session. There's no government motion currently on the order paper on the same subject.

• (1120)

**The Chair:** All agreed to allow this motion to proceed? So ordered.

Next is motion 319.

**Mr. Michel Bédard:** This motion calls upon the government to put in place various measures designed to promote and maintain healthy weight for children and youth. This motion does not appear to be outside federal jurisdiction. It does not appear to clearly violate the Constitution. It is not similar to a motion already voted on in the current session. It does not appear to be substantially similar to a government motion currently on the order paper.

**The Chair:** All in favour of allowing motion 319 to proceed? So ordered.

Next is motion M-273.

**Mr. Michel Bédard:** This motion calls upon the government to recognize the responsibility of the Department of National Defence and the Canadian Forces with regard to the contamination of the groundwater in the residential area of Canadian Forces Base Valcartier, and residential areas of the municipality of Shannon.

This motion does not appear to be outside federal jurisdiction. It does not appear to clearly violate the Constitution. It is not substantially the same as a motion already voted on in the current session. It is not the same as a government motion already on the order paper.

**The Chair:** Are there any questions or comments?

Mr. Reid.

**Mr. Scott Reid:** There are obviously residents on the base. I gather that the municipality of Shannon is not on the base, and is just a standard, ordinary Quebec municipality. Is that correct?

**The Chair:** I'm certainly not in a position to answer that.

Does anyone here know the geography of this area?

**Mr. Michel Bédard:** My understanding is that it's close to the base, but not on the base.

**Mr. Scott Reid:** We're asking the federal government to take over something that is not really federal jurisdiction. Maybe it's a purely informal non-governmental thing, and it's not actually run by the municipality. Is that the case?

You can see what I'm getting at. Otherwise we're actually moving in favour of the federal government asserting a power, which it has, to declare works to be for the general benefit but we'd be doing so by the wrong means, I think.

**Mr. Michel Bédard:** There's currently an altercation between the residents of the municipality and the Canadian Forces about the contamination of the groundwater.

**Mr. Scott Reid:** It's a non-governmental.... It's not run by the municipality. Is it a purely informal, private effort that's not paid for by the provincial or municipal government?

**Mr. Michel Bédard:** The residents of the municipality claim that the Department of National Defence and the Canadian Forces are responsible for the contamination of the water. So the motion calls upon the House of Commons to recognize that this is—

**Mr. Scott Reid:** No, it's paragraph (b), the take over of the efforts of the Shannon Citizens' Committee to monitor filtration systems in place for those dealing with the contamination of drinking water. I think there is pretty much universal consensus that the contaminants are the fault of the federal government, the military.

The question is whether the Shannon Citizens' Committee is, in fact, just a private group, which doesn't present any difficulties, as opposed to being an actual group that is under the aegis of a government which is, itself, a creation of the provincial government. That's the distinction.

**Mr. Michel Bédard:** My understanding of paragraph (b) is that they asked for support from the government, and they're not necessarily asking for any special legal measure of the Constitution to take over the responsibility.

**Mr. Scott Reid:** We'll take over the efforts.

**The Chair:** Go ahead, Mr. Toone.

[*Translation*]

**Mr. Philip Toone:** I will be brief.

It says: “take over the efforts of the [...] Committee”, but I don't think that is necessarily a problem. Once again, a debate on the issue would be advisable. The Shannon Citizens' Committee does not own the municipality's filtration system. If we talk about taking over the efforts of the Citizens' Committee, we are not saying that we will be nationalizing the municipality's facilities; we simply want to help out the committee. That is what I understand from the text.

That said, I think that you are right: it is somewhat unclear. However, I don't think as you do that it would allow the federal government to control a facility that is there for everyone. I think that the purpose is to support the group in its efforts to obtain suitable drinking water. That is the objective. However, I acknowledge that it could have been better written. Once again, I think that a debate would be a good thing.

• (1125)

[*English*]

**Mr. Scott Reid:** I'm actually not sure it's badly written, but I just don't know the answer to the question. If Madame Michaud were here, she could probably answer this for us right now.

Just to be on the safe side, I don't want to vote against it, because to me it's either perfectly acceptable, or there's a slight potential that it violates one of our four criteria. Would it be okay if we just set this one aside, and then deal with it very briefly once we have the answer to that question?

**The Chair:** The basic question that I think Mr. Toone is asking is whether it is to support the efforts or to take over the efforts, and superimpose itself upon the—

**Mr. Scott Reid:** Well, no, the question is not whether it is to support or take over. If it's a private group, then taking it over is not a problem. If it is a group that is actually—and you can't tell from the name—a creature of the municipal government, or a creature of the provincial government, then there is a federal power under the Constitution to take over any public work that Parliament decides is for the general benefit of Canada, but that changes the tenor of the whole thing, and the constitutional meaning of what's in here. I just don't know the answer to that question.

**The Chair:** Go ahead, Mr. Dion.

**Hon. Stéphane Dion:** I need to know more about the habits of this committee. It's clear that, if you read it this way, your interpretation is the right one, because of the words “take over the efforts”.

[*Translation*]

Words such as “take over the efforts” are used, and that means to replace them. One wonders if it is the role of the federal government to take over from a private group. However, this committee may be able to accept a certain lack of clarity and let the debate happen in the House, where the motion could be clarified.

[*English*]

**The Chair:** I want to point out again that it is a motion and that it is referred to the opinion of the House, but does this committee want further study before making its final call?

**Hon. Stéphane Dion:** In my mind, it doesn't need further study. It is

[*Translation*]

an awkwardness.

[*English*]

It's not precise, or the proper word. I guess Madame Michaud wanted to say “assist” the group in its role, but it's not what she wrote. Is it sufficient for us to ask for a rewording of the motion, or should we send the motion to debate for our colleagues to clarify after?

**The Chair:** I'll get some advice from the panellists in terms of whether or not she could withdraw this motion, or change it at this stage.

[*Translation*]

**Mr. Philip Toone:** I would like to raise another question.

**Mr. Michel Bédard:** The only power the committee has is to make a recommendation to indicate that a bill or a motion is non-votable. The committee cannot require that a member redraft his motion.

If the committee were to designate the motion non-votable, Ms. Michaud could certainly introduce a similar motion that would take the committee's discussions into account. However, the mandate of the committee is to determine which private members' items are non-votable, using the four criteria.

**Hon. Stéphane Dion:** Would she take our justifications into account? Would she understand why we blocked her motion, or would we simply be sending her the message that this did not go through?

**Mr. Michel Bédard:** A report would be made to the House, and since the meeting is public, she could examine the minutes.

• (1130)

**Hon. Stéphane Dion:** Very well.

**Mr. Michel Bédard:** If the committee wants to include the reasons why the motion has been deemed non-votable, it is free to do so. However, the motion must meet the criteria. Among others, a motion is non-votable if its topic falls outside federal jurisdiction, or if it is clearly unconstitutional, even if this only applies to a few unfortunate words. We are simply asking for the House to express an opinion on a topic.

[*English*]

**The Chair:** I have a more basic question, if we can try to get at this. Maybe this isn't where the committee is, but is it possible for the committee to approach the sponsor of this motion and ask her to clarify whether she meant to support, or to subsume within the right of the Canadian government? If she could clarify that, if that's allowable, we could then bring it back and it would still be in this order of precedence.

Has she forfeited her spot? That's what I'm asking.

**Mr. Michel Bédard:** If it is the will of the committee—maybe the clerk will have something to say on that too—the committee could have the sponsor of the bill as a witness or ask the sponsor of the motion for a submission. The committee is the master of its own proceedings.

**The Chair:** I'll ask the clerk to comment as well.

**The Clerk of the Committee (Mr. Olivier Champagne):** That would be a precedent, certainly. Since the current rules have been in place, we haven't had any witnesses before the subcommittee. The idea is that if we designate something as non-votable, the sponsor of the item could appear before the procedure and House affairs committee to defend the item.

The design is such that this witness would appear not before the subcommittee but before the main committee.

**The Chair:** Mr. Toone.

[*Translation*]

**Mr. Philip Toone:** I would like to raise two points.

First, I would like to go back to a point which seems to be bothering people somewhat. It is incorrect to say “relever les efforts” or, in English,

[*English*]

“take over the efforts of the...Committee”

[*Translation*]

in the sense where the federal government would replace the committee and take control of things. It says: “take over the efforts of the Shannon Citizens' Committee to monitor filtration systems in place [...]”. In the final analysis, what this means is that we want to support the members of the committee in their undertaking. The objective is not to take over control of the committee.

**Hon. Stéphane Dion:** But that is not what is written.

**Mr. Philip Toone:** It says the following:

[*English*]

“take over the efforts of the Shannon Citizens Committee to monitor filtration.”

[*Translation*]

It does not say:

[*English*]

“take over the committee.”

**Hon. Stéphane Dion:** But “take over” is very strong.

[*Translation*]

**Mr. Philip Toone:** Perhaps.

I would like to go back to another point, concerning the committee's four criteria. We cannot exceed our powers. Which criterion would be the basis for our rejection of the motion? I think we could invoke the criterion that the bills or motions must not concern matters that are outside federal jurisdiction.

Personally, I think that this matter does fall under federal jurisdiction, even if it is not desirable that the federal government deal with it. But we cannot reject the motion simply because we

don't like the idea that the federal government play that role. This question nevertheless falls under federal jurisdiction. Honestly, I think it would be regrettable for us to do that. I would not want to reject the motion on grounds that do not really allow us to reject it. I think that we would be exceeding our powers if we referred this to the Standing Committee on Procedure and House Affairs.

[*English*]

**The Chair:** Mr. Reid, and then we're going to try to get to the end of this one.

**Mr. Scott Reid:** Sure.

First of all, I wasn't actually thinking of inviting anyone as a witness. I agree that would be unprecedented. It's not unprecedented to take something and just set it aside until a question is answered. I know this from personal experience, because this committee did that with a motion that I had proposed. They had to deal with the question of whether or not that motion was permissible for a private member's bill, to produce a motion to amend the Constitution. In fact, it was to amend part of the Constitution that deals with the power to take over public works for the benefit of all of Canada. It's just an irony, but the point is that all I'm asking is that it be set aside.

If I were guessing, I'd say there's a 75% chance that what is in here is completely constitutionally acceptable. At the next meeting, once the question is answered, we'll be able to vote in favour. However, there is a 25% chance that it is not. The question to me really boils down to the nature of the Shannon Citizens' Committee—if it is actually a creation of the municipal government or if it is totally non-governmental. That's the question I'm seeking to answer.

It's just to set it aside and deal with it that way.

**The Chair:** Okay.

Mr. Toone.

[*Translation*]

**Mr. Philip Toone:** Once again, I fail to see how we would have this power. Unless I am mistaken, the only thing we can do today is decide whether or not this motion is votable, and convey that decision to the Standing Committee on Procedure and House Affairs.

We are opening the door to the possibility that the person may appeal the decision to the Standing Committee on Procedure and House Affairs. However, I do not think that we can postpone this decision. This is one of our duties.

**Mr. Michel Bédard:** In the past, when there were 15 or 30 items on the agenda, the committee examined only a part of those items. There are precedents, among others that of Mr. Reid, when the study of a bill or a motion was deferred so that members could take a closer look at all the ins and outs of the issue.

● (1135)

**Mr. Philip Toone:** This was when the members of the committee were unkind, whereas today, we are very nice and kind.

[English]

**The Chair:** The point is, we are not under a deadline to decide this today, so I think Mr. Reid's request is in order. The question is whether the committee wants to proceed in that way or not. Again, I'm willing to come back, unless there's more discussion, to ask us to vote on whether this is votable or not.

**Hon. Stéphane Dion:** Well, I'm ready to vote.

**The Chair:** Or another motion could be put into place that would defer it. I'm just telling you, I'm ready to call the question on whether it's votable or not, but if there's a motion to defer it, I'm prepared—

**Mr. Scott Reid:** Okay, so I guess I'd have to make a motion to defer it, to be in order. Let me make a motion to defer it until we get an answer to the question of whether the Shannon Citizens' Committee is a governmental or non—

**The Chair:** There's a motion on the floor. Is there a seconder? Or does it need a seconder?

Well, it's on the floor.

Mr. Toone.

**Mr. Philip Toone:** If we go ahead with Mr. Reid's motion, I wonder what the effect of it would be. As he says, there's a 75% chance of this, and 25% of that. Whatever it is that comes out, then what? Do we ask her to amend it? I'm not really sure if this is helping, because at the end of the day we are still going to have this same motion in front of us with its same ambiguity, regardless of what she says to us.

Again, I would propose that this would benefit from debate in the House, because we're essentially replacing the debate that's going to happen there with a debate in here.

**The Chair:** I'm ready to call the question on Mr. Reid's motion.

All in favour of deferring this for some future answers? Opposed?

(Motion negated)

**The Chair:** We'll now go to the votability of motion M-273.

**Mr. Scott Reid:** Seeing as we're back to main question, can I just take a little time to explain how I'm going to vote, because I can't do it afterwards.

I'm going to vote in favour of letting it go through because I think it's likely, in the balance of probabilities, that this doesn't involve the question I have raised. I'd prefer to have settled that. I'd hate to see this caught up in a discussion over the problems of paragraph (b) when we could have made an adjustment in order to accomplish all of our goals.

**The Chair:** I think, Mr. Reid, we've also indicated again the value of having these meetings in public. These discussions are on the table, and the person who sponsored it will understand our misgivings, if there are any, and the decision we make.

All in favour of allowing this to proceed as a votable item?

That is carried.

We now have motion C-326.

**Mr. Michel Bédard:** This would amend the Canada Pension Plan and the Old Age Security Act in order to provide that the payment of

benefits, which are made on a monthly basis, could be made on a biweekly basis at the request of the beneficiaries.

**The Chair:** I think I said “motion” and I should have said “bill”. It's Bill C-326. If I did say “motion”, my error.

Any discussion on Bill C-326?

Mr. Reid.

**Mr. Scott Reid:** I don't mean to be a party-pooper about all these things.

**The Chair:** Especially when you made our meeting start late, Mr. Reid....

**Mr. Scott Reid:** Yes, I do apologize for that.

I have a concern about this one but maybe it's not a criteria we deal with here. Isn't there a problem of requiring a royal recommendation because this would involve, effectively, a speeding up of expenditures? I assume these would be paid faster rather than slower.

**The Chair:** Correct. You'd have interest costs and administrative costs. We understand that. But, Mr. Reid, I want to remind us again that we don't deal with royal recommendation situations here.

I think it's a valid point to raise, but at this point, unless we change the criteria for votability, we have these four, and unless I'm directed otherwise, I need to abide by those.

**Mr. Michel Bédard:** Also, the rule with respect to royal recommendations is that they can be given to a private member's bill up to the adoption of the bill, after reading by the House of Commons.

**Mr. Scott Reid:** Okay, fine.

**The Chair:** All right. So there still is time for that to happen if indeed it is necessary.

Does that answer your question?

**Mr. Scott Reid:** It does.

**The Chair:** I don't mean to cut you off, Mr. Reid.

**Mr. Scott Reid:** No.

**Mr. Philip Toone:** But I do appreciate the expediency in the time.

**Mr. Scott Reid:** Yes. You don't mean to, but it happened anyway.

**Voices:** Oh, oh!

**The Chair:** We're all in favour of Bill C-326, yes?

Okay. It's so ordered.

Now we will consider Bill C-383.

•(1140)

**Mr. Michel Bédard:** This bill would amend the International Boundary Waters Treaty Act and the International River Improvements Act in order to prohibit the bulk removal of transboundary waters.

This bill does not concern questions outside federal jurisdiction. It does not appear to clearly violate the Constitution. There is no similar private member's bill voted on in the current session, and there's no government bill on the same subject currently on the order paper.

**The Chair:** Are there any comments or questions?

I think, in fairness, this one could also probably have the same question asked of it in terms of the potential of the need for a royal recommendation.

I see no opposition to allowing it to proceed to votability.

It is so ordered for Bill C-383.

We'll move on to Bill C-279.

**Mr. Michel Bédard:** This bill would amend the Canadian Human Rights Act in order to add, as prohibited grounds of discrimination, gender identity and gender expression.

The bill would also amend the Criminal Code in order to add, as distinguishing characteristics protected under the Criminal Code, gender identity and gender expression.

This bill does not appear to be outside federal jurisdiction. It does not appear to clearly violate the Constitution. There is no similar private member's bill that has been voted on in the current session, and there's no similar government bill on the order paper.

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

All in favour to allow it to proceed?

It is so ordered.

We will now move to Bill C-321.

[Translation]

**Mr. Michel Bédard:** This bill would amend the Canada Post Corporation Act with regard to library materials.

The bill does not concern questions that are outside federal jurisdiction; it does not clearly violate the provisions of the Constitution; it does not concern questions that are substantially the same as ones already voted on in a private member's bill by the House of Commons in the current session of Parliament; it does not concern questions that are currently on the *Order Paper* as items of government business.

[English]

**The Chair:** Are there any comments or questions?

All in favour?

It is so ordered.

We'll now turn to Bill C-273.

[Translation]

**Mr. Michel Bédard:** This bill would amend the Criminal Code in order to prohibit cyberbullying. Various amendments would be made to the offences already in the Criminal Code, so as to also prohibit intimidation and harassment by means of the Internet.

This bill seems to fall under federal jurisdiction; it does not seem to clearly violate the Constitution, including the Charter; it does not concern questions that are the same as ones already voted on by the House in the current session in a private member's bill; and no government bill on the same topic appears on the *Order Paper*.

[English]

**The Chair:** Are there any comments or concerns?

Seeing none, well, that one's proceeding.

We'll go now to motion 315.

[Translation]

**Mr. Michel Bédard:** This motion would instruct the Standing Committee on Finance to undertake a study on income inequality in Canada.

This matter seems to fall under federal jurisdiction; it does not clearly violate the Constitution; no similar motion has already been voted on by the House of Commons in a private member's bill; and there are no government motions on the same subject currently on the *Order Paper*.

[English]

**The Chair:** Are there any concerns, questions, or comments?

Seeing none, that will proceed.

We'll move to motion 312.

[Translation]

**Mr. Michel Bédard:** This motion asks that a special committee of the House be appointed and directed to review subsection 223(1) of the Criminal Code which states that a child becomes a human being only at the moment of complete birth, and to answer various questions.

This motion does not seem to fall outside federal jurisdiction; it does not clearly violate the provisions of the Constitution; it does not concern questions that are the same as ones already voted on by the House in private members' motions in the current session; and it does not concern questions that are currently on the *Order Paper* as items of government business.

[English]

**The Chair:** Proceed.

•(1145)

**Mr. Philip Toone:** I have some comments.

**The Chair:** Okay.

Mr. Toone.

**Mr. Philip Toone:** I want to point out that today is International Women's Day. We're debating a bill that has to do with abortion. I thought this had been decided over and over again. I'm shocked and appalled that it's being presented today to this committee. The thought of bringing it to the House would appall me even more.

This has been decided over and over again. I might remind people that in *Tremblay v. Daigle*, all of the Supreme Court judges voted in favour of allowing Ms. Daigle to have an abortion. The question in that case was precisely this: when does a person have legal rights? At what point does a child get its rights? Is it at conception? Is it at birth? When exactly does a child get rights? It has been decided. In fact, it's been decided in this country since the thirties with *Montreal Tramways Co. v. Léveillé*. And we're having this debate again?

The Supreme Court has ruled—

**The Chair:** Mr. Toone, I need to remind you that the purpose of this committee is to decide on the votability of motions and bills based on the four criteria. You've commented earlier that we're having a debate that should happen in the House. I think you're entering now into an area of the same nature.

**Mr. Philip Toone:** I appreciate what you're saying, but I don't agree. When the Supreme Court rules on questions of human rights, that is the law of the land. It is the constitutional law of the land. They have ruled on this. They have decided that this is the state of law in this country. It was a charter case from Quebec. I don't see how we can simply put aside the constitutional acts of this country. As far as I can understand it, that's part of the job of this committee—to look at the human rights in this country.

I consider this bill quite out of order. I want to remind people that this is International Women's Day. There's a room full of men deciding whether this is going to go forward. I had a conversation this morning with people who told me that they can't believe that we still have an International Women's Day. I guess we do because we're having this debate and I find it appalling.

**The Chair:** Mr. Reid.

**Mr. Scott Reid:** I'm assuming that Mr. Toone is saying that this is a violation of the Constitution Acts, 1867 to 1982, including the Charter of Rights, section 2. That would, in essence, be the rationale. Is that correct?

**Mr. Philip Toone:** Yes, I'm referring to sections 2, 7, and 15.

**Mr. Scott Reid:** Sorry.

**Mr. Philip Toone:** The 1982 Constitutional Act?

**Mr. Scott Reid:** I'm trying to make sure I—

**Mr. Philip Toone:** Yes, it's sections 2, 7, and 15.

**Mr. Scott Reid:** All right.

So sections 2, 7, and 15 of the charter. It's on the basis of the *Tremblay v. Daigle* case as opposed to—

**Mr. Philip Toone:** A woman has a right to choose.

**Mr. Scott Reid:** It's not based on the *Morgentaler* decision; it's based on the *Tremblay v. Daigle* decision.

Is that correct?

**Mr. Philip Toone:** Yes. The *Morgentaler* decision didn't specifically deal with where life begins. That wasn't a central part

of the *Morgentaler* decisions, though it was an incidental part. But in *Daigle v. Tremblay*, that was the central question, which is the central element of this bill.

**The Chair:** Mr. Reid.

**Mr. Scott Reid:** We're not a court, but in order to make an intelligent decision we have to be familiar with the cases. I apologize. I remember the case distinctly. Jean-Guy Tremblay was a hard man to like, to say the least. But I can't comment intelligently, because I haven't read through the case. If it is acceptable to the other members of the committee, can we set this one aside and return to it later? We might have a chance to actually read the case and have an intelligent as opposed to a completely uninformed position on this. Right now, I'm uninformed about this decision.

Would that be acceptable?

• (1150)

**The Chair:** The analyst has a comment to make.

**Mr. Michel Bédard:** Just with respect to the Constitution and the nature of the motion, it's an instruction from the House of Commons to one of its committees to proceed to study. The Constitution actually protects the House of Commons from outside interference because it's part of its privilege. The House of Commons could ask one of its committees to study any subject. Also, with respect to the *Tremblay v. Daigle* case, my recollection of the case is that it was not a criminal law case, but a civil case. The legal dispositions which were at play in this case were an expression of the Civil Code of Quebec.

I would also like to draw the attention of members to the last paragraph of the motion, which is a question to be instructed to the special committee: "...what are the options available to Parliament in the exercise of its legislative authority in accordance with the Constitution and decisions of the Supreme Court to affirm, amend, or replace" the section of the Criminal Code.

I just wanted to bring this to—

**The Chair:** Thank you.

Mr. Dion.

**Hon. Stéphane Dion:** That's exactly my point.

[*Translation*]

I am sorry, Mr. Toone, I share your outrage, but in this case the motion asks for the creation of a committee to examine a problem. Nothing comes before the right Parliament has to debate issues. Parliament is a forum for debate, by definition. I fail to see on what constitutional basis we could prevent the House of Commons from debating issues, even things we don't like.

This does not concern seeing whether Parliament can invalidate a court decision; nothing in the motion asks for that. It is asking Parliament to study, to create a committee, to examine an issue, to make a recommendation. I don't see how we can oppose it.

[*English*]

**The Chair:** Okay.

Go ahead, Mr. Reid.

**Mr. Scott Reid:** I appreciate, as I always do, Monsieur Dion's comments. I personally do think that setting this aside so that we can base this on something other than a recollection of what might have been in the subject matter of Tremblay v. Daigle would be the only circumstance under which I would feel comfortable casting a vote one way or the other. I guess once again I am.... Actually, maybe before I do that, I have one other comment to make, which is that it's not Mr. Woodworth's fault that it got introduced today. It really wasn't, you know.

I guess I'm going to move again that we delay this to give me the opportunity and others the chance to read that case so I can feel confident in making this decision. That's the motion I'm proposing, that our decision be delayed until that has occurred.

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

Mr. Dion?

**Hon. Stéphane Dion:** I'm ready to vote on it. The motion is very clear.

**The Chair:** I'm the Chair, so I can't comment.

All in favour of Mr. Reid's motion? Those opposed?

(Motion tied).

**Mr. Philip Toone:** I'm curious....

**The Chair:** I'm going to vote against it.

All in favour of making this motion votable, please indicate so. Everybody in favour of allowing this to be votable, indicate. Those opposed...?

It is carried.

We are on motion 370.

[Translation]

**Mr. Michel Bédard:** The purpose of this bill is to change the name of the St. Lawrence Islands National Park of Canada to "Thousand Islands National Park of Canada".

This bill appears to concern a question that falls under federal jurisdiction; it does not appear to clearly be unconstitutional; no similar private member's bill has been voted on in the current session of Parliament; no government bill concerning the same question is currently on the *Order Paper*.

[English]

**The Chair:** Okay. All in favour...? Are there any comments?

Motion 370 will proceed.

Now we have motion 314.

[Translation]

**Mr. Michel Bédard:** The motion reads as follows:

That the House acknowledge that Canada lags behind international search and rescue norms and urge the government to recognize the responsibility of the Canadian Forces for the protection of Canadians, and to take such measures as may be required for Canada to achieve the common international readiness standard of 30 minutes at all times, from tasking to becoming airborne, in response to search and rescue incidents.

The motion appears to be a matter of federal jurisdiction; it does not appear to clearly violate the Constitution; no private member's bill that is similar to it has been voted on in the current session; no similar bill is currently on the *Order Paper*.

● (1155)

[English]

**The Chair:** Are there questions or comments?

All in favour?

Now we have Bill C-394.

[Translation]

**Mr. Michel Bédard:** Bill C-394 would amend the Criminal Code to make it an offence to recruit or invite a person to join a criminal organization.

This bill does not seem to concern a matter that is outside federal jurisdiction; it does not seem to clearly violate the provisions of the Constitution, including the Charter of Rights; no similar private member's bill has been voted on in the current session; no similar government bill is currently on the *Order Paper* or the *Notice Paper*.

[English]

**The Chair:** Are there any questions or comments?

All in favour of allowing it to proceed? So ordered.

That brings us to the end of our list, and at this point I need someone to move that the subcommittee present a report listing those items which it has determined should not be designated non-votable, and recommending that they be considered by the House.

That's moved by Mr. Toone.

All in favour?

(Motion agreed to)

**The Chair:** Thank you.

The meeting is adjourned.







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