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

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**EVIDENCE**

**Wednesday, February 2, 2005**

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**Chair**

**Mr. Gary Carr**

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Wednesday, February 2, 2005

● (1550)

[English]

**The Acting Chair (Mr. Rodger Cuzner (Cape Breton—Canso, Lib.)):** Colleagues, our chair is in transit; he's on his way. If there are no objections, we can begin the meeting.

We welcome the witnesses today. We're all very much looking forward to your presentation.

We should be able to begin. Then we'll swap chairs here when he arrives.

[Translation]

**Ms. Audrey O'Brien (Deputy Clerk, House of Commons):** Mr. Chairman, members of the committee, we are very pleased to have this opportunity to speak to you today.

[English]

We're very pleased to be here. Thank you for inviting us to speak to you on the issue of private members' business, and more specifically on the provisional Standing Orders that you're currently reviewing.

The aspiration of private members to initiate debate is not new, nor is the quest to develop an effective procedure for the conduct of private members' business. I will ask that you bear with me while I very quickly review the recent history in this regard, since I believe it is crucial that the committee view the current review as an opportunity to ensure a coherent, holistic approach to the business of private members.

First I'll provide some historical background.

[Translation]

The present conduct of Private Members' Business developed largely from recommendations of the 1984 Special Committee on the Reform of the House of Commons, usually called the McGrath Committee. In its final report to the House of Commons in June of 1985, the McGrath Committee commented:

[English]

The House does not attach any great importance to private members' business as it is now organized. ...members are seldom greatly concerned to claim the priorities they have drawn in the ballot governing the use of private members' time, and this is largely because private members' bills and motions rarely come to a vote.

The McGrath committee is credited with amendments to the Standing Orders providing for the establishment of the order of precedence, the process for determining which items should be made

votable, and the manner in which items would be debated—in short, the basis for the modern rules relating to private members' business.

The reforms we are discussing today follow in the same tradition. The existing provisional Standing Orders can be traced back to the 66th report of the Standing Committee on Procedure and House Affairs during the first session of the 37th Parliament, which recommended a significant reform to private members' business. The committee eventually tabled the same report—that is to say, its 66th report—as its fourth report during the second session of the 37th Parliament. This was adopted on November 6, 2002, on a provisional basis to allow for careful monitoring and review.

The reforms included in the report conform to a set of basic principles set out by the committee. These principles I'll review briefly with you:

—each eligible member should have at least one opportunity per Parliament to have an item of private members' business debated in the House of Commons;

—an item on the order of precedence would be votable unless designated non-votable by the sponsor or the Subcommittee on Private Members' Business;

—eligible members would retain the right to present as many motions and introduce as many bills as they wished.

[Translation]

Meanwhile, the House had also created the Special Committee on Modernization and Improvement of the Procedures of the House, whose mandate had common characteristics with the goals that members of the Procedure and House Affairs Committee were pursuing.

[English]

The modernization committee's first report, presented to the House and adopted on February 20, 2003, proposed a new regime for private members' business whereby all items on the order of precedence would be votable and all private members would have an opportunity to present an item during the life of a Parliament, a proposal very similar to that of the Standing Committee on Procedure and House Affairs.

The third report of the special committee on modernization, containing the amendments to the Standing Orders necessary to implement the new procedures, was adopted on a provisional basis on March 17, 2003, with a stipulation that they be subject to a review by the Standing Committee on Procedure and House Affairs.

In brief, the House agreed to the following:

- the list for the consideration of private members' business would continue for the duration of the Parliament from session to session, prorogation notwithstanding;

- a list of eligible members was to be established at the beginning of a new Parliament, from which an order of precedence of 30 items would be created that would be replenished whenever the number of remaining items fell below 15;

- the existing Subcommittee on Private Members' Business of the Standing Committee on Procedure and House Affairs would continue, its membership to consist of one member from each recognized opposition party, two from the government party, and a chair from the government.

[Translation]

The Standing Committee on Procedure and House Affairs would be tasked with developing criteria for making Private Members' Business non-votable and with a procedure to allow for an appeal of a negative decision.

[English]

The committee responded by tabling on March 26, 2003, its 24th report, which contained the criteria for making items of private members' business non-votable. The report stipulated that bills and motions could not be votable if they:

- concern questions that are outside federal jurisdiction;

- clearly violate the Constitution Acts 1867-1982, including the Canadian Charter of Rights and Freedoms;

- concern questions that are substantially the same as ones already voted on by the House of Commons in the current session of Parliament; or

- concern questions that are currently on the Order Paper or Notice Paper as items of government business.

Since that time, three bills have been made non-votable by the committee.

[Translation]

In each case, the sponsors availed themselves of the opportunity outlined in Standing Order 92(1) to appear before the committee to argue that the bill should not be declared non-votable. The committee has upheld the subcommittee's decisions in all cases and in no case was the committee's decision appealed to the House.

[English]

That brings us up to the present day. The provisional Standing Orders have been extended until June of 2005. This subcommittee will be reviewing them and reporting back to the committee no later than May 31. The committee must then consider the subcommittee's findings and report to the House no later than June 15.

The Clerk asked my staff and me to review the provisional Standing Orders, so the issues we will be raising are a result of that review. I should say at this point that I'm going to be leaving aside the matter of technical drafting changes related strictly to language. These will be sent to the chair of the committee by the Clerk, of course in writing in both languages, so that you can discuss the technical changes with your research officer and the clerk of the committee.

We'd be happy to come back if you need further elaboration on those changes, but rather than sink into the swampland of small technical changes, I thought we'd talk about three issues that are of basic concern.

● (1555)

[Translation]

This afternoon, I want to look at three issues to get your guidance so that we can prepare appropriate language for you as a result of our discussions.

[English]

The first issue concerns votability. We believe the Standing Orders should ensure that the House is informed of decisions taken outside the chamber by the subcommittee and the committee with regard to items on the order of precedence. So the records of decisions and the communication of those decisions constitute the first issue.

[Translation]

In a few moments, I will turn things over to André Gagnon, the Principal Clerk of Journals, who will explain these issues in greater detail.

[English]

The second issue concerns the need to ensure the smooth execution of any appeal by a member of a decision of the committee with regard to votability. This refers to appeals to the House. There haven't been any appeals to date, so to some extent we're working still in theoretical waters.

The third issue concerns closing potential loopholes that might inadvertently permit the House not to proceed with an item without actually having taken a formal decision not to proceed. We'll explain a bit about that in a few moments.

[Translation]

I will now yield the floor to André Gagnon, the Principal Clerk of Journals, who will explain these issues to you in greater detail.

We remain, of course, always at your disposal and would be pleased to provide any assistance or advice the subcommittee may require as it undertakes its review of the provisional Standing Orders.

[English]

**The Acting Chair (Mr. Rodger Cuzner):** Thank you, Madame O'Brien.

Mr. Gagnon.

[Translation]

**Mr. André Gagnon (Principal Clerk, Journals Branch, House of Commons):** Thank you, Mr. Chairman.

Three issues will be examined more specifically.

[English]

A sheet has been given to all of you. It will probably be easier to follow.

[Translation]

As Ms. O'Brien indicated, the first issue concerns votable items.

[English]

What happens is that at the beginning of a new Parliament, or during a session when there is a replenishment of the order of precedence, there are items that are submitted and studied by the subcommittee to determine whether those items should remain votable. When the subcommittee studies those issues, it studies them with respect to the four items identified earlier.

In some instances the subcommittee has recommended to the committee that certain items should be declared non-votable; this is done through a report to the clerk of the committee. It usually does so at the same time as it has determined that other items—the large majority of the items—should remain votable. For instance, in most instances it's 29 out of 30 items that should remain votable; only one of the items is subject to another scrutiny by the full committee. In that perspective, what happens is that when the information is given to the committee, it's only the information regarding the usually one or two items that should be declared non-votable. The rest of the information is now transmitted to the committee or to the House through a report or through other means of communication.

[Translation]

Then the committee examines the cases that have been submitted to it by the subcommittee. It is already clear at that point, however, that the vast majority of items will remain votable.

So here is the issue. To ensure that the information is understood by everyone and that the process is easy to understand and follow, it is being proposed that the information regarding votable items be sent directly to the House. That took place in October, I believe. The subcommittee studied 30 items; 28 of them posed no problem, and the subcommittee felt that they should remain votable. Information was sent to the committee about the two other items only. The recommendation was that one item remain non-votable and that the other be further studied.

The sooner the Speaker is provided with that information, the sooner the private members' business process can begin, even if the committee is still studying two items. There are always five sitting days during which a member can appear before the committee to argue that the item should not be declared non-votable. Then there is a five-day appeal period in the House. During those two periods, we can start the process for private members' business.

● (1600)

[English]

Essentially, if there were a mechanism by which the House was informed that essentially 28 out of the 30 items are okay, you could proceed with private members' business. This would be a way of clarifying the process and starting as rapidly as possible with the different issues at hand, with the order of priority.

[Translation]

Basically, we recommend that, once it has been decided that the recommendation to the standing committee for a given motion or bill is that it be votable, a report simply be tabled in the House by the subcommittee. The report would indicate that members of the subcommittee have considered the motions and bills on the priority list, and that, in their opinion, the 28 listed items should remain votable. That would trigger the private members' business process.

[English]

**The Acting Chair (Mr. Rodger Cuzner):** We'll go right to questions, if you are comfortable with that.

Mr. Godin.

[Translation]

**Mr. Yvon Godin (Acadie—Bathurst, NDP):** I think I understand what you are saying. We have 30 motions or bills, and the subcommittee decides that 28 of them are votable. Why wait? We can immediately move on items that are votable, and submit those that are not votable to the committee.

However, in examining the recommendations, I find I do not understand why the subcommittee should have the authority to report directly to the House on votable items. Should the subcommittee not report to the Committee on Procedure and House Affairs, which would in turn report to the House? Generally, subcommittees do not report to the House.

**Ms. Audrey O'Brien:** We debated that as well. Your experience is showing—that question comes from a whip with experience.

**Mr. Yvon Godin:** Forgive me. Perhaps I'd like it for employment insurance.

**Ms. Audrey O'Brien:** When the first 30 items of private members' business are submitted to the Standing Committee on Procedure and House Affairs and to the subcommittee, they are all votable, unless the subcommittee decides otherwise. So we thought it would speed things up if the subcommittee could report directly to the House. This is not the usual procedure, but there are precedents. At the end of the day, the point is to report and inform the House.

The subcommittee examines the 30 items submitted, and decides that 28 do not pose any problem, and that the House can put them on the Order Paper immediately. In such cases, the full committee does not need to have any input because it does not decide on these items. We thought that we would save a possibly unnecessary step in the bureaucratic process. The committee could report directly to the House, saying that there is no change for the 28 items that remain votable. At the same time, you can closely examine the two items about which you have reservations. You report those two items to the full committee, which then in its report states whether it agrees with the subcommittee or not, and reports its final decision to the House. In the meantime, since the subcommittee reported directly to the House on the 28 items for which there is no change, those 28 can begin to be dealt with immediately.

Colleagues, I'm not sure whether that indeed summarizes our entire discussion.

**Mr. Yvon Godin:** That means that this may not have happened in the past. Once the standing committee refers the items to the subcommittee, can it not change its mind? Can it not say that, even though the subcommittee agrees on 28 of the 30 items, it—the full committee—has reviewed them all and agrees only on 27 of the 30 items?

• (1605)

**Ms. Audrey O'Brien:** As I understand the Standing Orders, the full committee cannot overturn the subcommittee's decision. It cannot take an item the subcommittee has declared votable and declare it non-votable.

[English]

**The Acting Chair (Mr. Rodger Cuzner):** If we have clarification on that point, would you like to continue on the other points? You have two others to make.

[Translation]

**Mr. André Gagnon:** Essentially, the subcommittee is not short-circuiting the full committee in deciding...

[English]

**Mr. Yvon Godin:** I like that.

**Mr. André Gagnon:** The other aspect of the first issue that was raised is, for instance, when you have a situation where the subcommittee has recommended to the committee that a certain item should be designated as non-votable. If the committee decides to overturn or not go ahead with that recommendation, as of now the committee is not obliged to table a report in the House indicating it does not support the report from the subcommittee; it would usually stay there.

This has never happened. Usually, when the committee reports to the House, it has to report only on items that it designates as non-votable.

Just to make sure there is a good understanding of all the items on the order of precedence, the idea is, at the end of the process, to be able to report on each of the items: should they be votable, or should they be designated as non-votable? So in a case where the committee decides to overturn the decision from the subcommittee, it would have to report as well. At the end of the process, there is a report on the 30 items in the House, so that the House knows where the

committee stands, and the Speaker has in front of him all the information to better manage private members' business.

[Translation]

This would just be an adjustment to ensure that the House is provided with all the information.

**Mr. Yvon Godin:** Can you give us an example?

**Ms. Pauline Picard (Drummond, BQ):** I would also like an example, because you have lost me completely. Could you be less technical? I am new to this committee, and you lost me completely when you talked about the last two provisions.

**Ms. Audrey O'Brien:** Let's go back to the 30 items. Let's say that 28 of them are votable, and that the subcommittee reports them to the House. The subcommittee decides that two of the 30 items should not be votable, and reports this to the Standing Committee on Procedure and House Affairs, to inform the committee. The next step is for the Committee on Procedure and House Affairs to look at these items. Now let's assume that the committee examines the issue and decides that item A, the first of the two, is indeed non-votable, but that on item B it does not agree with the subcommittee, and would like to make the item votable; what happens then? According to the current Standing Orders, the standing committee can report item A, which is not votable, to the House, but cannot say that it would like to make item B votable, in spite of the subcommittee's recommendation. So all we are saying with this provision is the following: when the standing committee reports on the items the subcommittee has referred to it and is not sure whether they should remain votable, the standing committee informs the House of its decision as a committee. The standing committee tells the House whether the items in question are votable or not. The standing committee will have the option of agreeing or disagreeing with its subcommittee.

**Ms. Marie-Andrée Lajoie (Clerk Assistant, House Proceedings, House of Commons):** I believe that, at the outset, the committees—the standing committee or the subcommittee—should not report to the House when no changes were made, when all items remain votable. The committees would report only when there was a change, if one of the two, either the standing committee or the subcommittee, decided that an item was not votable. We were all aware in an unofficial way of what was happening for each item, but there was no official communication between the committees and the House to indicate that all items remained votable, except for one that did not. If there was no report to the House, it was taken for granted that all items remained votable. This left us in limbo to some extent. It is better to have a specific procedure to the effect that the standing committee must report on all items, regardless of whether they are votable or not.

• (1610)

**Ms. Pauline Picard:** Is that what this means? So there was a vacuum.

**Ms. Marie-Andrée Lajoie:** Exactly.

**Mr. Yvon Godin:** But now we are talking about the standing committee and the subcommittee. The subcommittee reports on the 28 votable items, but at the same time does it report that two non-votable items have been referred to the Standing Committee on Procedure and House Affairs?

**Ms. Marie-Andrée Lajoie:** I don't know whether this would be specified in the report, but it could be.

**Mr. Yvon Godin:** The suggestion is that the subcommittee report to the House. I think that we are introducing duplication.

**Ms. Marie-Andrée Lajoie:** This is what we had in mind: the subcommittee would report on the 28 votable items. By the same token, the subcommittee would refer the two remaining items to the standing committee. The standing committee would review them, and then report. This would take care of everything, since between them the standing committee and the subcommittee will have reported on all 30 items.

**Mr. Yvon Godin:** In reporting on the 28 items, would the subcommittee specify that the 28 are votable, and that the other two, which are not votable, have been referred to the Standing Committee on Procedure and House Affairs? Would the House be informed of this?

**Ms. Marie-Andrée Lajoie:** We could do it that way.

**Mr. Yvon Godin:** But this is not what you suggested.

**Ms. Marie-Andrée Lajoie:** When it comes to how the reports would be drafted, I think we are still at the stage of discussing what the most logical formulation would be.

**Mr. Yvon Godin:** In fact, you want the question to be referred to the House. We could state that the subcommittee has accepted 28 motions and bills and that two items are before the committee because they have been designated as non-votable. Then, the Standing Committee on Procedure and House Affairs could study these two items and make its decision. It could prepare a rapport indicating that of the 30 items, 2 were designated as non-votable, thus communicating its decision on these items.

**Mr. André Gagnon:** The objective is that the House be quickly informed of items designated as votable so that we can act as quickly and coherently as possible. You will see later on that other factors have to be taken into consideration. We have to act in as clear a manner as possible and place the items on the order of precedence.

[English]

**The Acting Chair (Mr. Rodger Cuzner):** That's good.

**Mr. André Gagnon:** Should we proceed with item number 2?

**The Acting Chair (Mr. Rodger Cuzner):** Yes, please.

**Mr. André Gagnon:** Item number 2 relates to the appeal process.

[Translation]

As you know, in accordance with procedure for private members' business, a report is tabled in the House on any item designated as non-votable by the Standing Committee on Procedure and House Affairs. The member has five sitting days to collect, in addition to his own, the signatures of five members representing a majority of the recognized parties of the House.

If memory serves me well, on two occasions, while this process was underway, the item in question became ready for debate. It even happened when the committee was studying the item in order to determine whether it should remain votable. I am speaking here of a situation where the member's question is still being studied or, in some cases, under appeal. The Speaker cannot allow debate on the question. There are various differences between votable and non-

votable motions. A primary difference is that a non-votable motion only gets one hour of debate.

[English]

A votable item gets two hours of debate.

So there's a difference in the way the House would take a look at things. You cannot start the first hour, first of all, because you don't know at the end of the hour whether you need to drop the item to the bottom of the list or whether you need to say it dies right there because we can't put the question.

[Translation]

We are confronted with this situation because the status of the question has not been defined.

[English]

We've had in the past situations where members would wish to say, or would have thought of saying, "I waive my right to appeal the decision"—the recommendation from the committee—"so that we can debate my item for at least one hour."

• (1615)

[Translation]

That has happened on two occasions. If I am not mistaken, in one of the cases, we were able to discuss the item at the last minute, and the Speaker did not have to put it at the bottom of the order of precedence. However, in the second case, I believe that the Speaker had to drop the item to the bottom of the list, because the status of the motion or bill had not yet been determined. Given that we did not know if it was votable or not, we could not debate it.

The recommendation aims to allow a member to simply waive his right to appeal a decision made by the committee, should he so desire. The item would then be designated as non-votable, and we would proceed to debate.

**Mr. Yvon Godin:** If a member chooses to do that simply because his motion has made its way quickly to the House of Commons, will he lose his chance to appeal the decision before the committee?

**Ms. Marie-Andrée Lajoie:** Only if the member himself decides not to appeal.

**Mr. Yvon Godin:** No, it is because he does not want to lose his chance to debate the item.

**Ms. Audrey O'Brien:** Yes.

**Mr. Yvon Godin:** I think that that is unacceptable.

**Ms. Audrey O'Brien:** You are referring to a situation where the member does not want to miss the opportunity to debate the item at that particular time. No one is forced to waive their right to appeal. If the member wishes to appeal a decision by following the standard procedure, his item will drop to the bottom of the list. However, if he feels that based on the subcommittee's recommendation, the committee's decision will be unfavourable to him and that he has no hope of winning an appeal, then he may wish to go ahead anyway and he might be prepared to settle for one hour's debate. We have already seen that happen.

**Mr. Yvon Godin:** If I understand you correctly, you are speaking about a situation where a member decides to waive his right to appeal. He accepts the subcommittee's decision and his item remains in the same position on the order of precedence.

**Ms. Audrey O'Brien:** Exactly.

**Mr. Yvon Godin:** Do members not already have this right under the current system?

**Ms. Audrey O'Brien:** Currently, no mechanism provides for that. A member can state that he or she is willing to proceed in that manner, but it is not specified in the Standing Orders. We want it to be specified in the interest of clarity and so that the Speaker can see that Mr. or Ms. X has decided not to—

**Mr. Yvon Godin:** Were this recommendation to be adopted, when a member wanted to appeal a decision, he would make that known and his item would be dropped to the bottom of the order of precedence.

**Ms. Audrey O'Brien:** We would proceed as usual. In such a situation, the member would not lose anything, but he would also have the option to waive his right to appeal and to have his hour's debate straightaway.

**Mr. Yvon Godin:** Right.

**The Acting Chair (Mr. Rodger Cuzner):** Mr. Gagnon, the floor is yours.

**Mr. André Gagnon:** It is not a matter of a member waiving his right to appeal. If I am not mistaken, a member may declare his item non-votable at one point only, and that is during the two sitting days following an item being placed on the order of precedence. The subcommittee has not yet studied this question. We are at the beginning of the process, and here we are talking about something which takes place much later on.

After the two days have passed, the member no longer has the possibility of declaring his item non-votable.

[English]

**Mr. Yvon Godin:** I move that the meeting adjourn.

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

**Mr. Bill Casey (Cumberland—Colchester—Musquodoboit Valley, CPC):** At least you moved.

**Mr. André Gagnon:** We're now on the second part of the appeals process. Essentially, if the member gets all the required signatures, there are two days of secret voting in the House. This has never happened, as you know. What the Standing Orders say about that is that these two sitting days should take place one after the other.

When looking at all the possibilities, we were quite surprised to find that this could lead to some funny situations. For instance, if the first day of voting takes place on a Friday, the other sitting day would be on the next Monday, which is not that bad. The vault of the Journals branch is used to store the ballot box, and we would keep it there for the weekend. That's not too bad.

That being said, there could be an adjournment of a week. That doesn't make it easier. There could also be a summer adjournment.

[Translation]

That would put us in a far more delicate situation regarding the security of the ballot box. The deputy clerk has volunteered to keep the ballot box with her throughout the summer. However, such a situation could lead to difficulties and cast doubt on the credibility of the vote, or, at very least, raise some questions.

[English]

The recommendation here just goes to the point of saying the two voting days should be contiguous. That means side by side in the same week, essentially; that would be determined by the Speaker. That's the recommendation.

• (1620)

**The Chair (Mr. Gary Carr (Halton, Lib.)):** Thank you very much to both of you.

We will go now to some questions, if anybody has any. We can start a list.

Are there questions from any of the members?

[Translation]

**Ms. Pauline Picard:** We asked them as we were going along.

[English]

**The Chair:** Rodger, have you any questions?

Seeing none, then, thank you very much.

**A voice:** There's another section now.

**The Chair:** Oh, we have the other section, the second section. Excuse me.

**Mr. Yvon Godin:** We know you're in a hurry.

**Mr. André Gagnon:** The last section deals with bills in committee.

This standing order, Standing Order 97.1, was not adopted with the recent changes. That being said, we thought it would be useful to mention to this subcommittee the fact that this standing order could raise some difficulties when being applied.

When a bill is sent to committee for study, there is a standing order that says the committee has 60 sitting days to study that item and report to the House on it. If it does not do so, on day 60 the bill is deemed reported back to the House without any amendments. That's the situation that would arise.

There are two exceptions to it. There's a first exception: the committee could ask for a 30-sitting-day extension to a report. The other exception is to recommend to the House that it not proceed further with that bill. Those two instances have happened in the past.



What has happened in the past as well, when looking at that issue, is—and I'll take the first one, the 30-day extension—that some committees have reported to the House before day 60. The standing order says the bill is reported to the House without amendment if on day 60 there has been no report tabled by the committee asking for an extension. If a committee tables a report on day 50 or day 58 or something like that asking for an extension, even though the House has not made a decision on the report saying there should be an extension of the study, the bill stays in the committee until there is a decision taken by the House.

There were some situations where there was a 30-sitting-day extension requested on day 50, for instance,

[Translation]

and when day 60 came around, no decision had been made on the committee report. Day 62, day 63, day 64, 72, 77... We have seen cases where the bill has stayed in committee until day 110, or something like that, and then Parliament was dissolved. This creates a situation where, by tabling a report in the House, the 60-day process is cancelled, and no specific decision is taken on the legislation.

[English]

What we're bringing to your attention here is there probably is a need to clarify this process. Again, it's in the perspective of clarifying the process for members of Parliament and as well for the people who want to understand the procedures.

If before day 60 a committee reports to the House saying it wants to have 30 more sitting days on this, there should be a mechanism by which the House would make a decision on the matter, saying yes, you have 30 more days to look at this, or no, you don't have 30 more days to look at this.

The recommendation here would be that once a committee tables a report requesting 30 more sitting days to study an issue, the report would, upon tabling, be deemed a question for concurrence in the report, which would be deemed to be put and the question asked, and the vote would be deferred to the next Wednesday, usually, where all the votes on divisions on private members' business take place.

At the end of that process, the committee knows where it stands on this issue, the member of Parliament who is the sponsor of that item knows where he or she stands on the issue, and the House knows as well where it stands on the issue. They'll know after the vote whether or not there's an extension.

That would be the first recommendation.

•(1625)

**The Chair:** Are there questions?

[Translation]

**Mr. Yvon Godin:** Is there no possibility of an extension?

[English]

**Mr. André Gagnon:** If the House decides not to concur in the report, there would be no extension. The 30 days would not be given.

[Translation]

If, for example, the report is tabled on day 40 and the House makes its decision on day 45, basically, we know that on day 60 at the latest, the bill has to be brought before the House.

**Ms. Pauline Picard:** Before day 60. There was no mechanism before—

**Mr. André Gagnon:** The bill was in limbo, as it were. But it has often happened that a committee reported on a bill, requested an extension, and got it. That has happened on several occasions, but it is not always easy to decide to adopt committee reports. It has happened that the bill got caught in limbo. We did not know if there was to be an extension or not.

[English]

**The Chair:** Are there further questions by any members?

There's one last point.

Yes?

[Translation]

**Mr. Yvon Godin:** I am not clear on something. Earlier, you spoke of 58 days; apparently this has sometimes gone as long as 110 days. With a mechanism such as the one you are proposing, the bill will be dealt with much more quickly. It will not be delayed. Will members or the committee in any way lose out?

**Ms. Audrey O'Brien:** It does not take anything away from members. It even gives them an advantage. It forces the committee to study the bill and report within 60 days. The committee can also ask for an extension and be refused. That means that the committee must report within 60 days. If the extension is granted, the committee has up to 90 days.

**Mr. Yvon Godin:** It is not 110 days.

**Ms. Audrey O'Brien:** That is correct.

**Ms. Pauline Picard:** Are there criteria or some mechanisms by which you decide to grant or refuse an extension?

**Ms. Audrey O'Brien:** The House makes that decision. The outcome is probably determined during informal discussions between the committee chair, the whips and the party leaders in the House; an explanation will be given as to why the work could not be completed as hoped, and an argument made to the effect that an extension would allow the committee to complete the study.

**Ms. Pauline Picard:** Thank you.

[English]

**Mr. André Gagnon:** The other item refers to the recommendation to not proceed further with the bill. This is essentially the same process as the one regarding the 30-sitting-day extension. What it means is that a committee reports to the House and recommends to the House that it not proceed further with the bill. This has happened in the past on a couple of occasions.

On a couple of occasions the House has agreed and has adopted the report. On other occasions, the report was tabled, let's say again on day 58, and because there was no decision made on that report, the bill stayed in limbo, because on day 60 the bill wasn't reported back to the House, but there had been a report tabled prior to day 60. It could go to day 65, day 69—you can go as long as you want.

The recommendation here would be to clarify this, to have the House make a decision on the recommendation of a committee regarding the status of a bill: should we proceed further with that bill, or should we stop it here? Not to proceed further with a bill is essentially to say we stop it here.

• (1630)

[Translation]

In that case, asking for an extension is very straightforward and the decision can be made as to whether or not to discuss the item. There is not much discussion possible about the issue. In the case we are talking about,

[English]

we felt there is probably a need to have at least an hour's debate on this. The report is tabled in the House. You just can't decide like that. You need a bit of information around it—much more, probably, than in the case of having the 30-day extension.

The idea would be that upon the tabling of the report to the House by the committee chair, a motion to adopt this report would be put on the order of precedence, which is exactly where all the private members' bills and motions are right now. It would be put over and above. I don't know if you've noticed this in the past, but when private members' business is cancelled, the Speaker puts the item over and above the list of precedence. That means he has to determine at a certain point where that item will be debated. It's usually in the second hour of private members' business that takes place on one of the nights the House sits.

This would be exactly the same process. At a time determined by the Speaker, a second hour of private members' business would be added to debate the sole question of the adoption of that committee report that says we should not proceed further with that bill. After this—after one hour of debate—the question would be put on the item,

[Translation]

and the House would decide whether the bill would be proceeded with or not. Again, the objective is to clarify the whole process around bills and to prevent them once again from being in limbo. On day 58, a report is tabled. As a result, it is no longer clear where the bill is, it cannot be proceeded with further, and it does not come back to the House. The idea is to avoid that kind of situation. The only difference between this and the 30-day extension is that there would be one hour of debate.

[English]

**The Chair:** Are there some questions?

[Translation]

**Mr. Yvon Godin:** That means that when a bill is introduced in the House of Commons, agreed to at second reading and sent to committee—because we are talking here about a bill and not a motion—the committee would recommend that it be proceeded with. If it recommended that the bill not go ahead, then there would be a vote. This would force a vote, so that the House could deal with the bill.

**Ms. Audrey O'Brien:** The committee would not come back and say that the bill should go ahead.

**Mr. Yvon Godin:** No, there is concurrence or no concurrence.

**Ms. Audrey O'Brien:** Yes, concurrence in the report. If the committee does its work and decides to proceed, the bill goes to clause-by-clause consideration, it is adopted and then reported to the House. The bill comes back to the House so that the committee report can be adopted, etc. In some cases—some bills are quite controversial—the committee may decide that the bill is improperly drafted and that it should not proceed. So it tables a report in the House to say that it recommends that the bill not proceed. It is rare to see a committee make such a recommendation, and since it is an unusual recommendation, we want a formal decision by the House on the recommendation so that the bill is not killed inadvertently. If the committee recommends that it not proceed, the House can agree or disagree, and we will know the fate of the bill. We do not want—

• (1635)

**Mr. Yvon Godin:** —the committee to make the decision instead of the House.

**Ms. Audrey O'Brien:** Exactly.

**Mr. Yvon Godin:** The House can listen to the recommendation, but it then makes the decision.

**Ms. Audrey O'Brien:** It is the House that should decide and the committee should be governed by what the House finally decides.

**Mr. Yvon Godin:** That means that a vote would be held on Wednesday.

**Ms. Marie-Andrée Lajoie:** Yes, but after one hour of debate, so that the House can...

**Mr. Yvon Godin:** One hour of debate on why the bill should or should not be votable.

**Ms. Marie-Andrée Lajoie:** Yes, to decide whether the bill should proceed or not.

[English]

**The Chair:** Is that clear? Good.

Are there any other questions from any of the members? There's one last chance, if you have anything to add.

I think I can speak on behalf of the committee. We really appreciate your expertise—all year around, actually, but particularly on this issue. Your insight is always very helpful.

On behalf of the committee, I want to thank all of you for the great work all of you do on behalf of all the members. Thank you very much. We really appreciate your input here today.

**Ms. Audrey O'Brien:** Thank you, Mr. Chair.

I think I can speak for my colleagues in saying we really appreciate the fact that you're sitting here devoting yourselves to the minutiae of private members' business. I hope your colleagues realize you're doing the Lord's work on their behalf.

Thank you very much.

**The Chair:** It's our pleasure; thank you very much.

We'll take a short break, and then we'll go in camera to discuss the report.

We'll break for a few moments here.

*[Proceedings continue in camera]*

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