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—
Chair

Mr. Massimo Pacetti

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•(1005)

[English]

The Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)): Order. Let's not get all excited. This is a big bill; we have a big job ahead of us.

[Translation]

We all must take this seriously.

Mr. Loubier.

Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ): Forty-eight hours ago, I tabled two motions. I announced to you the day before yesterday that I intended to debate them and have them concurred in by the committee. Forty-eight hours later, I see that the agenda does not provide for the study of my two motions. I humbly request that they be put on the agenda, because I insist they must be debated and adopted today.

The first deals with the tobacco tax problem. We are moving that there be a study undertaken by the Department of Finance in conjunction with the Department of Health on the tobacco tax rate in order to avoid smuggling and in order to analyze the limits of effective taxation.

The other deals with the committee hearings we were discussing in the motion on Barbados and issues related to this tax heaven that I had passed by this committee. It deals not only with the tax treaty, but with the tax regulations which, together with the Barbados' tax treaty, result in unfairness in the tax treatment of some Canadian taxpayers.

I want these motions debated and adopted today. I did everything that was required of me: 48-hours notice, tabling in both official languages. I humbly request that they be put on this morning's agenda.

The Chair: There are two motions. I do not know if the committee members received the one dealing with health. No?

Mr. Yvan Loubier: There is still the one on Barbados.

The Chair: I do not know if people received the English version.

Mr. Yvan Loubier: Yes, we have copies in English.

The Chair: All right.

You are aware of the situation in which we find ourselves. Usually, I prefer to deal with motions right away. We will therefore study this motion at the first meeting on our return, that is May 31. We already have the Barbados' motion, and I wanted us to discuss it. With the consent of the committee, we will proceed in this way.

Mr. Yvan Loubier: What are you saying, Mr. Chairman? I did not understand.

The Chair: The committee has already adopted a motion dealing with Barbados. I know there should be a short discussion, and I want us to take the necessary time, and to be very calm.

Mr. Yvan Loubier: I am very, very calm.

The Chair: We are in a more delicate situation.

•(1010)

Mr. Yvan Loubier: Do you feel I am nervous?

The Chair: You, you are very calm, but things can change by the minute. If I have unanimous consent, I have no objection to our debating the motions.

Paul Szabo would like to speak.

[English]

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Chairman, you're quite right, unanimous consent would be required. From what I understand, from what the member says, this is a recommendation for study, for some work, with regard to both motions he mentioned. I suspect there may be some preparatory work that the clerk and others may have to do in scheduling or planning that.

I don't think it really is a major problem, but I'm not sure the members will have all the information to be able to discharge everything. But if it's simply to request that the studies be undertaken and the planning be done, I think that would be acceptable.

The Chair: Mr. Penson.

Mr. Charlie Penson (Peace River, CPC): Thank you. I understand what Mr. Loubier is saying, and I think we should deal with those motions today.

In deference to Mr. Duncan, who has gone through a long, tortuous process to get his bill finally to this stage, I would ask that we deal with it first and then stay the extra time to finish off and deal with Mr. Loubier's two points.

[Translation]

Mr. Yvan Loubier: Fine.

[English]

The Chair: Is there anybody else?

[Translation]

I would like to have unanimous consent to put the motions on today's agenda. We have always proceeded in this fashion.

[English]

So we're going to go to Bill C-259....

[Translation]

I promise you that at the first meeting after the break, we will study the two motions. Notice for the second motion must be sent today.

Mr. Yvan Loubier: Mr. Chairman, I tabled these two motions 48 hours in advance. I did everything according to the rules. I am not quite sure, as far as the health one is concerned, but for the one on Barbados, I am quite certain. Everyone received them in both official languages. It will not take much time, because we have already passed a motion to this effect. I have tabled another motion indicating the sort of witnesses we would like to have testify during these hearings. I remind you that it would be important to dedicate a day to Barbados and to other tax treaties before we adjourn, if we do not adjourn tonight.

The Chair: My only concern ...

Mr. Guy Côté (Portneuf—Jacques-Cartier, BQ): Mr. Chairman...

The Chair: Just a moment, please.

I do not know if the committee members received the motion dealing with health. That is the thing,

Mr. Yvan Loubier: I am talking about the Barbados' motion.

The Chair: The clerk says he received it.

Mr. Yvan Loubier: Unanimous consent is not required if I have acted within the rules. I tabled the motion 48 hours ago. Normally, motions tabled 48 hours in advance are studied, tabled here, and carried or defeated.

You do not require unanimous consent. I gave you notice two days ago. I tabled both motions and I feel strongly that they should be concurred in at the next meeting. I agree with Mr. Penson that we should proceed to the clause-by-clause study of the bill. However, I demand that we discuss my motion immediately afterwards. It is completely within the rules.

The Chair: Mr. Côté, go ahead.

Mr. Guy Côté: Unless I misunderstood, Mr. Szabo is not against this process. I am under the impression that you have the unanimous consent at this time. In any case...

Mr. Yvan Loubier: We do not need it.

[English]

The Chair: Do I have unanimous consent to add

[Translation]

the two motions, Mr. Loubier?

Mr. Yvan Loubier: Only the first, as you are telling me that the one on health has not been...

The Chair: The clerk received a copy.

Mr. Yvan Loubier: All right. Both motions.

The Chair: Members of the committee did not receive it.

Mr. Yvan Loubier: Both motions.

The Chair: The clerk received it, but the members of the committee did not.

[English]

Mr. Paul Szabo: Mr. Chairman, we have to respect the member's rights. I think he's done what he has to do. If there's a reason the motions are not on here, we haven't heard it. Maybe it's an oversight, but in any event, if my understanding is correct, the request with regard to both motions is that there be some study done on the two issues mentioned—one on the taxes on tobacco the other on the Barbados question—which are certainly relevant to the committee. The member has the right to raise them and to debate and deal with them.

In terms of the process, I think the member is quite right. I don't think there's any reason to withhold unanimous consent to have them considered at the end of the meeting.

•(1015)

[Translation]

Mr. Yvan Loubier: Thank you, Paul.

[English]

The Chair: The question is, do I have unanimous consent to add the two motions, one of which we don't have, to the orders of the day?

Mr. Charles Hubbard (Miramichi, Lib.): No.

[Translation]

Mr. Yvan Loubier: Thank you so much.

[English]

The Chair: I have one dissenting, so we're going to put them off until the week after.

[Translation]

Mr. Guy Côté: Mr. Chairman, the motions were duly tabled 48 hours ago. They were tabled with the clerk.

All of the members received the first motion concerning Barbados. The second motion deals with health. In theory, the committee members should have received it.

With all due respect, we are not responsible for Mr. Dupuis' work. For our part, we did what we were supposed to do. You do not need unanimous consent, as we did indeed tabled the motions 48 hours ago.

The Chair: All right.

[English]

Mr. Charlie Penson: On a point of order, Mr. Chairman, I think the clerk owes us an explanation of what has happened here. If Mr. Loubier is correct, this is not acceptable.

[Translation]

The Clerk of the Committee (Mr. Richard Dupuis): I received both motions. I believe I received the one on tobacco on Monday, and the Barbados' one on Tuesday.

Monday, I received the motion in both English and French, and I sent it. I see that you did not receive it. I am sorry because I did send it.

I had the second motion translated and I sent it on Tuesday. The 48-hour timeframe was therefore respected.

Mr. Yvan Loubier: You have done your job properly.

[English]

The Chair: We've gone through this before in the sense that

[Translation]

forty-eight hours

does not mean 48 hours. It's up to the discretion of the chair to decide what he's going to put on the orders of the day.

[Translation]

It is not on the agenda. I need unanimous consent of the members of the committee, because I want them to be prepared to discuss the motion. If I do not have consent...

Mr. Guy Côté: Mr. Chairman...

Mr. Yvan Loubier: Mr. Chairman, we do not live in a banana republic, although I am starting to have some doubts and have been for some time. We adopted some rules when we began our work. You agreed to those rules. They provide for motions to be tabled with a 48-hour notice. That is my most fundamental right, as it is for every member of this committee. We can table motions, debate them and adopt them.

I do not accept your insistence on taking a dictatorial attitude. We made rules for ourselves, now let us follow them. I tabled these motions in the prescribed manner, and it is not for you to decide. You do not even need unanimous consent. I am just asking for us to debate them. Everyone has received them, and the clerk had done his job properly. We must first adopt the bill clause-by-clause, and then it will take just a few minutes. I insist on having these two points on today's agenda so that we can debate them, especially since in a few days, the U.S. Congress is going to be adopting a proposal that will allow Canadian drugs to be imported. The Speaker refused an emergency debate in the House, and that could have significant implications here. If we wish to do serious work and move things forward—who knows what is going to happen tonight—we have to debate these motions. I do want to follow the rules that we have adopted, but just to a certain point. If I follow the rules and you do not follow anything, that will not work.

[English]

The Chair: Mr. Solberg.

Mr. Monte Solberg (Medicine Hat, CPC): Thank you, Mr. Chairman.

Maybe I'm missing something, but I don't understand what the problem is. I think we're trying to work within the rules here. What will happen, of course, if we don't respect this convention, is that there'll be a lack of cooperation all the way around. Things won't go well.

So I would just urge you to consider my friend's point here, and remember that we all have to try to work together and get things done. The wheels are going to fall off if we don't respect this convention.

The Chair: Mr. Szabo.

• (1020)

Mr. Paul Szabo: I wonder, Mr. Chairman, since perhaps people need to consider this a little bit, if we could move on with the private member's bill and then pick this up at the end.

Mr. Charlie Penson: Mr. Chairman, that already was my suggestion. I think it was accepted, except that when you, as chair, asked for unanimous consent, it was turned down by Mr. Hubbard.

I would ask if Mr. Hubbard would reconsider this in light of what's happened.

Mr. Charles Hubbard: Mr. Penson, it's been a concern of mine right from day one, from when I first came to this committee, that things have not been circulated on time to give people notice of what's going on at meetings.

Maybe Mr. Loubier did put it in, in good...

Mr. Guy Côté: No, he did.

Mr. Charles Hubbard: The point is, we don't have them. Why should we take motions and decide on things that we've never seen?

I don't know who's at fault, but I—

Mr. Yvan Loubier: *Une minute, là.* I deposited it two days ago. Didn't you receive it?

Mr. Charles Hubbard: No. That's the point.

[Translation]

Mr. Yvan Loubier: Just a second!

The Chair: Mr. Loubier, that is the point.

The clerk has just...

Mr. Yvan Loubier: When I table motions with the office of the clerk, I am not responsible for what happens next. Unless you are saying that the clerk is lying... The clerk said that he had sent these motions out in both official languages.

The Chair: That is not what he said.

Mr. Yvan Loubier: I tabled them with the office of the clerk over 48 hours ago. I cannot deliver them to you in person.

The Chair: That is not what I am asking you to do.

[English]

Mr. Paul Szabo: Could we have them circulated?

Mr. Charlie Penson: Mr. Chairman, this isn't the first time we've run into trouble. Let's just go back to Mr. Duncan's bill for a moment. We've had several false starts on Mr. Duncan's bill as well.

I say we have a fundamental problem here that needs to be corrected. If the clerk and the chair can't get their act together, I suggest we're going to have to find somebody else.

Mr. Duncan's bill was scheduled a couple of times, and it disappeared off the notice. This is not acceptable. We're here today, finally, to get Mr. Duncan's bill to clause-by-clause, and now we're taking up an hour with incompetence again. It's not acceptable.

The Chair: I agree.

[Translation]

Mr. Guy Côté: Mr. Chairman...

[English]

The Chair: Look, I don't mind if everybody speaks. If you guys are going to speak to this, I need unanimous consent from all the members to add the motions to the orders of the day.

[Translation]

Mr. Guy Côté: Mr. Chairman, I appeal that decision. In my view, you do not need the committee's unanimous consent to include these two motions on the agenda. They were duly tabled. The clerk has confirmed that he sent them out in both official languages to committee members. You do not need the unanimous consent of the committee. I am appealing your decision.

[English]

The Chair: Mr. Szabo.

Mr. Paul Szabo: Mr. Chairman, there is no dispute that the member submitted them within the 48 hours. The concern is with regard to the distribution of the documents. They have been read into the record, they're not very complex, and I would suggest that the clerk immediately make arrangements to have them circulated in both official languages, to all members of the committee, while we consider the private member's bill. Then we would move on to those motions at the end.

Members' rights have to be respected.

Mr. Yvan Loubier: Right.

Mr. Paul Szabo: I think we should move forward on the business of the day.

The unanimous consent issue is technical, in that it is not on the web nor on this hard copy—to respect the rules as well. I think with the proper circulation of those documents, members can peruse them while we do the other work. That would be acceptable.

The Chair: In the order of calm, I'm going to ask one more time, do I have unanimous consent from the members?

Mr. Charles Hubbard: To do what, Mr. Chair?

The Chair: To add the two motions to the orders of the day.

Hon. Maria Minna (Beaches—East York, Lib.): We'll discuss them at the end.

The Chair: To discuss them at the end of Bill C-259.

Mr. Charles Hubbard: Provided, Mr. Chair, that if we read the motions and feel they require investigation, they not be brought to the table at this time.

Mr. Paul Szabo: That's okay.

The Chair: Mr. Hubbard, could you please repeat that?

Mr. Charles Hubbard: What I'm saying, Mr. Chair, is if we look at them and we decide that we can deal with them today in an honest and a straightforward way, we will accept them, but if we can't, we'll put them off—

Mr. Brian Pallister (Portage—Lisgar, CPC): That's part of the debate, Mr. Hubbard, at that point—

Mr. Charles Hubbard: But to give unanimous consent at that point, Mr. Chair, if I can—

The Chair: Let's distribute them. At the end of Bill C-259 we'll take a vote and decide whether we should add them or not.

Mr. Charlie Penson: Can we move to Bill C-259, please? That's why we came here today.

The Chair: All right.

I just want to make it clear, Mr. Penson. We have your motion, which is the only amendment.

Mr. Charlie Penson: That's correct.

The Chair: I had some other amendments, and I'm assuming they're no longer amendments.

If we could go directly to the amendment, it's reference 1606862. It is that Bill C-259, in clause 1, be amended by replacing lines 22 and 23 on page 1 with the following:

1. Section 5 of schedule 1 to the Excise Tax Act is replaced by the following:
 5. Clocks adapted to household or personal use, except those specifically designed for the use of the blind, ten per cent of the amount by which the sale price or duty paid value exceeds fifty dollars.

I don't know if I can say it, but there's a bit of dispute; there is not consent as to whether this amendment is in order or not. First of all, from what I understand, the amendment is in order when it amends other parts of a section already amended by a bill. Section 5 of schedule 1 of the Excise Tax Act is therefore open to one or several amendments that can be proposed either at committee stage or report stage. However, amendments to a section must respect another condition, and that is the scope of the bill.

I think what we're having a problem with is the scope of the bill. In the case before us, the study of Bill C-259, the amendment proposed amends section 5 of schedule 1 of the Excise Tax Act, a section included in Bill C-259. In terms of respecting the scope of Bill C-259, I'd like to hear arguments from both the sponsor and the officials on this matter.

Mr. Penson, are you ready, or do I go to the officials first?

• (1025)

Mr. Charlie Penson: You can go to the officials first.

The Chair: Good morning, Mr. Trueman. I'm glad to have you with us. I forgot to welcome you.

If you would like to speak on this amendment...

Mr. Geoff Trueman (Senior Tax Policy Officer, Sales Tax Division, Tax Policy Branch, Department of Finance): Good morning. Thank you very much.

I guess the issue that concerns us, as you mentioned, is the scope of this proposed amendment, given that the bill that was introduced in the House and voted on by the House and then submitted to this committee for review specifically refers to paragraph 5(c).

I would just like to give a few comments on how the Excise Tax Act is structured and the schedule.

As currently enacted, schedule 1 of the Excise Tax Act provides for the application of an excise tax in section 5. Section 5 may be paraphrased or summarized as follows: paragraph 5(a) refers very specifically to clocks and watches; paragraph 5(b) pertains to articles made from semi-precious stones; and paragraph 5(c) stipulates articles commonly or commercially known as jewellery.

When Bill C-259 was adopted at second reading, it proposed to repeal paragraph 5(c) only—

The Chair: Mr. Trueman, I understand you're reading from a document.

Mr. Geoff Trueman: Yes.

The Chair: I think we're going to distribute it so it will make it a lot easier for the members. If you can just wait 30 seconds, it might be a little bit easier for the members to follow.

Sorry, Mr. Trueman.

Mr. Geoff Trueman: Thank you.

The Chair: If you'd like to continue....

Mr. Geoff Trueman: I'll just briefly recap to give people a chance to have a look at it.

The Chair: Yes.

Mr. Geoff Trueman: In looking at the structure of the Excise Tax Act as it is currently enacted, section 5 in schedule I provides for the application of the tax and it sets out three separate subheadings, paragraphs (a), (b), and (c) very specifically. Paragraph 5(a) refers to clocks and watches, paragraph 5(b) to articles made from semi-precious stones, and paragraph 5(c) stipulates articles commonly referred to as jewellery.

When Bill C-259 was adopted at second reading it proposed to repeal paragraph 5(c) only, thereby eliminating the tax on jewellery. The amendment that has now been proposed looks to eliminate the tax on watches that is set out in paragraph 5(a).

It's clear that watches, which are expressly referred to in paragraph 5(a), are not included in Bill C-259, as it was adopted at second reading, which referred only to paragraph 5(c). So we've had a very fundamental change in direction between what is proposed in the bill and what the amendment seeks to do.

We would think that this proposed amendment is outside the scope of the bill and not permissible in accordance with the parliamentary rules set out in section 698 of Beauchesne's. You can see on the handout sheet as well that an amendment is out of order if it is irrelevant to the bill, beyond its scope, or governed by or dependent upon amendments that have already been negative.

We would assert that it is beyond the scope, given that the bill as originally adopted referred very specifically to paragraph 5(c), to jewellery only.

It's important to note, simply from a common sense point of view, that when you look at legislation you give it a common sense interpretation. The act very clearly set out three specific articles, (a), (b), and (c), clocks and watches, semi-precious stones, and jewellery. On this basis, the legislation is quite clear and distinct in setting out these three categories. To now move an amendment that seeks to expand the scope, the ambit, of the bill itself is, we would argue, beyond the scope of the bill as it was passed by Parliament.

•(1030)

The Chair: Thank you, Mr. Trueman.

Mr. Paul Szabo: Can I ask him a question?

The Chair: I'd like to have Mr. Penson speak on this first.

Mr. Charlie Penson: Mr. Chair, I think we should have Mr. Duncan give his side of this. Could he move down to the witness table?

The Chair: Good morning, Mr. Duncan.

Mr. John Duncan (Vancouver Island North, CPC): Good morning again.

I have been dealing with this bill for some time, and in terms of the scope of the bill, this is not the first discussion we've had about the scope of the bill. When I presented myself before this committee after second reading, the question was asked at that time because we had tabled amendments. I can read a response from the procedural clerk at that time, from the minutes, and it is:

We just felt that on the first amendment it's been considered that clocks are not jewellery, so that's the reason we thought it would go beyond the scope of the bill, which is just addressing jewellery.

The interpretation of that, certainly from our side, was that clocks were the only part of paragraphs 5(a), (b), or (c) that would not be considered jewellery.

There are two main arguments as to why this amendment we're discussing today is within the scope of the bill. The first is that my bill deals with section 5 of schedule I of the Excise Tax Act, so an amendment to section 5 of schedule I of the Excise Tax Act is within the scope of the bill.

Secondly, the term "jewellery" is undefined. Certainly on paragraph 5(c), which is my original wording, there's no debate. Paragraph 5(b) talks about articles of all kinds, including semi-precious stones and articles of ivory, amber, jade, onyx, and other semi-precious stones. In paragraph 5(a), where we're talking about clocks and watches, it's very clear that the term "jewellery" can and does include watches, maybe not all-inclusively, but there are certainly jewelled watches that would clearly fall within the jewellery category and they are worn as items of jewellery.

What I would like to do at this time is ask legislative counsel, who is here today at my request, to explain further as to how the term "jewellery" is an undefined term in legal language.

•(1035)

Mr. Doug Ward (Legislative Counsel, Law clerk and Parliamentary Counsel Office, House of Commons): It's just a straightforward fact that in this particular act there is no definition of jewellery, so jewellery just has the ordinary everyday meaning of that term. There's really nothing more to that point than this.

Mr. Monte Solberg: It's not defined.

Mr. Doug Ward: It's just not defined, so it has the ordinary meaning that you would understand to be included by "jewellery".

The Chair: All right.

Mr. John Duncan: I take from that—

The Chair: I want to have Mr. Duncan finish and then we'll go around with questions.

Mr. Duncan.

Mr. John Duncan: We had communications in April when this issue about the scope of the bill came up, which at the time interpreted the amendments, which were very similar to this amendment, to be unofficially within the scope of the bill.

The first time I was notified that there was any question that this amendment was out of the scope of the bill was yesterday afternoon. The phone call to my office was some time between 5 p.m. and 6 p.m., that is, before the vote but after 5 o'clock yesterday.

I think it is clear that common sense has told many people for an extended period of time that certainly the scope of the bill included elements of most of paragraph 5(a), all of paragraph 5(b), and all of paragraph 5(c), so I don't understand this last-minute rush to declare it out of the scope of the bill.

The Chair: In all fairness, I'm not sure if we ever ruled on whether it was....

The Clerk: There was no ruling, but there was advice.

Mr. John Duncan: Okay.

The Chair: Can I go to members? I have Mr. Szabo, Mr. Côté, and Ms. Minna.

Mr. Paul Szabo: Mr. Chairman, first of all, before I ask my question, I would like to ask the legislative clerk if there is an opinion on whether or not the proposed amendment is outside the scope of the bill before the committee.

Mr. Jean-François Lafleur (Procedural Clerk): As I first advised the chair, the amendment we have in front of us is in order. In terms of all the questions on the definition of "jewellery", that is not clear.

Mr. Paul Szabo: Thank you. I think I understand now, and I suspect it's the same for Mr. Duncan. I certainly think it's relevant for any member to consider a broader scope of this, but the bill.... And in terms of the mechanics, I don't think it matters what "jewellery" says. What matters is what the bill says. The bill specifically says that "Paragraph 5.(c) of Schedule 1 to the Excise Tax is repealed." That is the bill. The amendment seeks to do something outside of paragraph 5(c).

The member referred to the schedule under section 5 as the ambit or the scope. That is not correct, I believe, and I would like your ruling on whether or not, for the membership now, this bill is restricted. Was it voted on and approved at second reading with regard to the repeal of paragraph 5(c)? Is that the bill?

•(1040)

[*Translation*]

Mr. Jean-François Lafleur: First, you mentioned that it was just paragraph 5(c). I believe that the chair said something about that earlier.

When we are dealing with an amendment to a bill, the first rule is that the amendment must respect the section in the bill under consideration. In the bill that concerns us here, C-259, there is an amendment to section 5 of Schedule 1 to the Excise Tax Act. At that point, section 5 is open. It is not just paragraph 5(c). That is the first rule.

The second rule, as the Chair said and as you were saying, Mr. Szabo, is that there is still the question of the scope of the bill. That is the second rule.

Mr. Duncan's amendment is fully consistent with the first rule, in that it is an amendment to a section that is already open. There is no problem in that regard.

As for the whole question of the scope of the bill, excuse me for repeating myself again, and I know that you might not like this. I understand full well that the purpose of the bill is to do away with the excise tax on jewellery, but the definition of jewellery would have to be clear. That would enable us to determine precisely what the parameters of the scope of the bill are. But in this case, the definition is not at all clear, as far as I am concerned. An attempt was made to come up with a definition, but it could not be done. That is the conclusion I drew after a few consultations.

[*English*]

Mr. Paul Szabo: I would like to ask the finance official about the Excise Tax Act. There are three gradations within section 5—one is clocks. There must be a reason they were separated. I suspect they have other tax consequences. I would not think that a child's plastic watch would be under anybody's definition of "jewellery". I would think that a grandfather clock would not be defined in this way either. I think there has to be some due care here.

I'm surprised by the comments, because the bill is quite explicit. There is, however, a way to deal with this. There could be some debate, as one could imagine. If the committee deals with this and reports it back without amendment, Mr. Duncan could seek the consent of the House to amend it. I think it's the House that has to do it, not this committee, because of the scope issue.

I don't believe the definition of "jewellery" is the issue. I think the issue is, what does the bill say? So are there any other reasons section 5 is in three parts? What does it mean to the taxation regime?

Mr. Geoff Trueman: The argument has been made that since jewellery is undefined in the act it should be given the ordinary, everyday meaning, which includes watches. We have a great deal of difficulty with this, precisely because schedule I, section 5 contains three subparagraphs, (a), (b), and (c).

We have clocks and watches set out on a clear and distinct basis. To say that they are included in jewellery would be to render absurd the work of the Parliament that enacted paragraphs 5(a), (b), and (c). To say that jewellery is not defined should also be considered in the context of the time when this bill was brought in. In interpreting legislation, there was less reliance on definition and greater reliance on common sense and logic. The custom was to read the enactments as they stood.

Anyone who looks at the Income Tax Act of the 1920s, which was five or ten pages long, and compares it with the current act can see the difference. There was far less reliance on a definition. That is what we have here. We have jewellery set out in (c), articles of semi-precious nature in (b), and clocks and watches in (a). To say that clocks and watches are included in (c) is unfortunately absurd, given the parliamentary intention at the time.

•(1045)

The Chair: Thank you, Mr. Trueman.

Mr. John Duncan: Could I comment on that?

The Chair: I'd rather let the members speak. The members haven't spoken yet, and I still have Mr. Côté, Ms. Minna, Mr. Bell, and then Mr. Penson.

I'm going to start setting time limits.

[*Translation*]

Mr. Côté, is it going to take long?

Mr. Guy Côté: It won't take very long, Mr. Chairman.

The Chair: Go ahead.

Mr. Guy Côté: As the analyst from the Department of Finance said, it's important to put the Excise Tax Act in context. In 1918, among other things, the use of portable watches was much less commonplace than today. At that time, it was necessary to make that distinction, which was quite precise. As a matter of fact, in that section, an exception was made for railway employees' watches, for example. This bill was adopted in a very specific context.

Today, in 2005, the term "jewellery"—*bijou* in French—has a much broader scope. I, among others, have noticed that there seemed to be a bit of an anomaly there. However, it is quite clear that in Mr. Duncan's bill, as in the discussions we have had in committee, the idea is still, gradually or immediately, to completely eliminate the excise tax.

As for the definition of what jewellery is, anyone looking at the jewellery section of a Sears catalogue will find watches there, Mr. Chairman.

The Chair: I don't know, I have never looked at a Sears catalogue. That was just a comment.

Is there a question?

Mr. Guy Côté: It seems to me that the amendment should be in order, Mr. Chairman.

[*English*]

The Chair: Ms. Minna, Mr. Bell, and then Mr. Penson.

Hon. Maria Minna: I have a couple of questions that are really similar to what has been asked before.

We're not talking about eliminating only paragraph 5(c), because it affects the whole of the section. Even if you look at the normal standard definition, clocks are not jewellery. I don't consider clocks to be jewellery in the generic sense of the term, although some watches may be. To some degree, I consider my watch to be a standard thing, because without it you're not quite normal throughout the day, but certainly clocks are not.

I wanted to ask the clerk this. Yesterday when we were talking to some of our colleagues, I think you mentioned that paragraph 5(c) was a problem because it actually changed the whole thing. Can you tell us what you meant by that?

The Clerk: Me?

Hon. Maria Minna: I think you were talking about that.

The Chair: No, it was the legislative clerk.

Hon. Maria Minna: It was the legislative clerk.

The Chair: Yes. Go ahead.

Hon. Maria Minna: I don't understand.

Mr. Jean-François Lafleur: I'm not sure about your question.

Hon. Maria Minna: My question is on the fact that I don't understand what the amendment in Bill C-259 actually does.

If we're trying to put the concept of jewellery into paragraph 5(c), that changes the previous legislation, not only the text regime. It actually changes the existing bill that defines the three sections. It affects the whole of paragraphs 5(a), (b), and (c), and not only paragraph 5(c), doesn't it?

Mr. Jean-François Lafleur: Yes, it does. It changes more than paragraph 5(c), absolutely, since watches are included.

Hon. Maria Minna: When the amendment says to delete paragraph 5(c), it affects the whole of it.

Mr. Jean-François Lafleur: The amendment?

Hon. Maria Minna: Isn't that what the bill says?

Mr. Jean-François Lafleur: The bill does say that.

Hon. Maria Minna: It says section 5 of schedule 1.

Mr. Jean-François Lafleur: Yes, I'm sorry. The bill does say that.

Hon. Maria Minna: If you delete paragraph 5(c), you're really affecting the whole section.

Mr. Jean-François Lafleur: Yes, it does.

If I may, again, as I said previously, when a section is amended by a bill, the whole section is open. If you have paragraphs 5(a), (b), or (c) and you amend paragraph 5(c), of course, it amends paragraph 5(c), but it is subject to an amendment.

For instance, in a bill of Mr. Duncan's, it is subject to another amendment that would amend paragraph 5(b), paragraph 5(a), or the whole section. Of course, it can change what is in the bill in terms of including or withdrawing other things, depending on what you do with the amendment.

As for the question yesterday, I'm not quite sure. I was not here yesterday, but if you would like to tell me—

•(1050)

[*Translation*]

The Chair: It was Tuesday.

[*English*]

Mr. Jean-François Lafleur: Oh, okay.

The Chair: Ms. Minna.

Hon. Maria Minna: My next question would be to Mr. Duncan.

Your bill says you want to delete paragraph 5(c), which is the section that sets out a list of jewellery and all kinds of personal things. Technically, if you were able to drop only paragraph 5(c), you would be left with paragraphs 5(a) and (b).

Are you suggesting that clocks such as my grandfather's clock would be jewellery in the house? Is that what you were suggesting?

Mr. John Duncan: No.

Hon. Maria Minna: But that's what you're essentially saying. That would be the effect of what's left, if I'm not mistaken.

Maybe Mr. Trueman can comment as well.

Mr. John Duncan: The amendment would have the effect of continuing to have an excise tax apply to clocks and to nothing else. That's the effect of the amendment.

The Chair: Mr. Bell.

Mr. Don Bell (North Vancouver, Lib.): Let me ask Mr. Duncan this, if I can. Why clocks?

Mr. John Duncan: Because clocks are not jewellery. When I included clocks, as I tried to do before, it was ruled that it was definitely outside the scope of the bill. I accept that.

Mr. Don Bell: Okay. If I read paragraph 5(b), it looks like the reading of paragraphs 5(a), (b), and (c), as originally intended, was that clocks and watches were one category. They're timepieces, in other words, whether they're portable or not.

Secondly, paragraph 5(c) talks about jewellery or items commonly known as jewellery that you would wear, including bracelets, I would presume.

Paragraph 5(b) seems to be on ornaments. It would be a carving out of jade or something, a little horse or whatever, that you stick on the mantle. That's not jewellery. It was a distinction for what I would call an ornament or things that are commonly known as ornaments.

As I understand it, the original proposal of this committee was that the excise tax would be phased out, over a five-year period, for paragraphs 5(a), (b), and (c), the whole of section 5. Is that correct? I'm talking about in the budget.

Mr. John Duncan: No, it's four years.

Mr. Don Bell: It's four years on everything. Mr. Duncan's bill came in and basically said repeal paragraph 5(c) at this point. So what would happen with respect to paragraphs 5(a) and (b) is they would continue to be phased out over the four years. Paragraph 5(c) would be totally phased out immediately.

The suggestion is to say, okay, in effect, expand it to everything except paragraph 5(a), clocks. Is that...?

Mr. John Duncan: That is correct, recognizing that clocks are a very different item even for the jewellers who carry clocks. It's not really their focus.

I want to say something. The difficulty you're having with what jewellery is, the definition within paragraphs 5(a), (b), and (c), is also a problem the jewellers have. It's also a problem the Canada Revenue Agency has. This very committee heard from a witness, a jeweller, in this community, in Ottawa, who had three separate audits

because of two appeals, and he went from a multi-million-dollar bill to a half-million-dollar bill to actually a credit situation, depending upon how the auditor interpreted what "jewellery" consists of and what "manufacturing jewellery" consists of. So it's anything but clear, and that's because "jewellery" remains undefined, as counsel has explained.

What this committee is being asked to do, if I may say so, is to decide whether my amendment, which we are discussing today, is within the scope of the bill or not. Because legislative counsel cannot decide that for us, and neither can the procedural clerk, it's really up to the committee members to make that decision.

● (1055)

Mr. Don Bell: Mr. Chair, if I understand, the intention of the budget is to eliminate the excise tax over four years on everything, paragraphs 5(a), (b), and (c), including clocks.

The Chair: That's not what we're debating. We're not debating the budget.

Mr. Don Bell: No, I appreciate that, but I just wanted to say that's what the intention was. The issue now is somebody has brought in a proposed bill that would change that and deal with a portion of it, whether that can be expanded, and not—

Mr. Charlie Penson: It's taken quite a while, but you've got it.

Mr. Don Bell: —to include everything. But in this case, we're still not including clocks. It would be interesting to have an argument as to why not, if you want to get into that.

Procedurally, the question is whether you can expand the definition of what is there, and if so, why not...? The real argument, then, is whether you phase it out over four years or take it out all at once, and I don't know why, then, there's the subtle change that you leave clocks in.

The Chair: Thank you, Mr. Bell.

Do you want to speak to this, Mr. Penson?

Mr. Charlie Penson: Mr. Chairman, I just want to say that this is a very simple issue here, and a lot is being made of it. If there was this much scrutiny of most government spending bills or revenue bills, it would be far more important than this.

It's very clear what Mr. Duncan has proposed. I have an amendment that I think our committee needs to vote on. Then we need to proceed with the clause-by-clause, and I suggest we move to that.

The Chair: Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): I have just a quick question.

I'm not sure why Mr. Trueman is so fixed on this notion of watches not being considered part of jewellery, when in fact watches are part of the proposal for the phase-out. It seems that you're almost having it both ways.

Mr. Geoff Trueman: No, the phase-out is very clear. We are phasing out the entire tax, the federal excise tax that applies to specific items. But when we come down to this type of amendment and it's necessary to examine the legislation per se, there really are three separate headings—clocks and watches, articles made of semi-precious stones, and jewellery. All I'm doing is simply drawing attention to the fact that where you have a paragraph with three subheadings and you have items that are included in one or the other, they cannot then be considered. An item set out in paragraph (a) cannot reasonably or logically be considered as part of paragraph (c).

As I said, that would give irrelevance to the parliament that enacted this.

[*Translation*]

The Chair: Mr. Côté, you have 30 seconds.

Mr. Guy Côté: I have a 15-second comment to make. In the end, Mr. Chairman, I think the debate comes down to this: are we going to follow the legislation and the amendment to the letter, or rather the spirit in which this was done?

[*English*]

The Chair: From what I understand, it's up to the chair to decide. Whether to accept the amendment or not is up to the chair. Then the committee can deal with the chair.

Seeing as how I'm being very open this morning, I will give you my opinion. Of course, it's going to be gender-based. I've never purchased a watch in a jewellery store, so obviously I don't feel this is part of the scope, but since I feel very generous today, we might as well just vote on it.

The question, Mr. Penson, is going to be if we accept your amendment or not.

Mr. Charlie Penson: That's correct.

The Chair: Mr. Szabo.

Mr. Paul Szabo: Can somebody tell me when the report-back date is on this bill?

The Chair: It's May 31.

Mr. Paul Szabo: In the event that there is a challenge in the House as to the admissibility of the amendment when it is reported back to the House, the matter could be overturned in the House and returned to this committee. Then it would, I think, be deemed to have been reported back to the House without amendment once the due date had passed. I raise it only from the standpoint of—

Mr. Charlie Penson: We'll deal with it as it happens.

Mr. Paul Szabo: Okay, as long as members are aware of that.

•(1100)

The Chair: Just to clarify, if the Speaker rules the amendment out of order, he can rule the whole bill out of order.

Mr. Paul Szabo: That's right, so the question is whether or not you want to risk losing the bill.

The Chair: Yes.

Mr. John Duncan: I'm okay with that.

The Chair: All in favour of the amendment?

(Amendment agreed to)

The Chair: Does anybody need to discuss the rest of this complicated bill?

(Clause 1 as amended agreed to)

The Chair: Shall the preamble carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the title carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the bill as amended carry?

Some hon. members: Agreed.

The Chair: I'd like to make a special request that the vice-chair report the bill to the House.

Mr. Penson, would you do that?

Mr. Charlie Penson: I can, but why?

The Chair: It's one of your members, and I think it would be nice if you did that.

Mr. Charlie Penson: Somebody asked for a recorded division here I think.

Mr. Paul Szabo: I asked for a recorded division on the question to let the bill pass.

The Chair: Okay.

Shall the bill as amended carry?

(Motion agreed to: 6 yeas; 5 nays)

The Chair: So the bill will be reported, Mr. Penson, before May 31. We'll work it out with the clerk.

[*Translation*]

Mr. Yvan Loubier: Mr. Chairman, I have a point of order, please. I ask that we continue the meeting to allow for the adoption of the two motions I tabled with the required 48-hour notice.

•(1105)

[*English*]

The Chair: Okay.

I'm back to square one here.

Again, I need to have consent. I want unanimous consent to add these motions to *l'ordre du jour*.

[*Translation*]

Mr. Yvan Loubier: No.

Mr. Chairman, point of order. To jog your memory, I'm going to read you what was adopted here. It appears your memory is quite selective.

When this committee began its work, the following procedural motion was adopted:

It was agreed—That except for amendments to bills, a notice of 48 hours be given before any substantive motion may be presented to the Committee; and that the motion be filed with the clerk of the Committee and circulated to members in both official languages. Upon receipt of the notice, the clerk shall put the motion on the agenda of the Committee's next meeting.

That is a routine motion, and I would ask that you comply with it. As chair, you are the custodian of the rules that the committee sets for itself. So you don't need unanimous consent and you don't need to dwell inordinately on the issue of whether my motions are in order. Both of my motions are in order. They should have been on the agenda. There is no need for unanimous consent in that regard. I insist on our discussing and debating these two motions, and that is my most fundamental right as a member of Parliament.

The Chair: Give me 30 seconds, please.

[*English*]

I have a problem because I have to leave, but how much time....? I don't want this to take forever either.

[*Translation*]

How long will it take? Until 11:30?

Mr. Yvan Loubier: Is there a vice-chair here, Mr. Chairman? You are not essential. There's a vice-chair.

A voice: There is no vice-chair...

Mr. Yvan Loubier: It's true, it's the opposition. Forget what I said. I am the one who is mixed up.

[*English*]

Mr. Charles Hubbard: Mr. Chair, I think the hours are hard in terms of meetings, from 10 to 11 o'clock. The hour is gone.

[*Translation*]

Mr. Yvan Loubier: What are you doing?

[*English*]

The Chair: No, according to the order paper, the hour is up.

Mr. Charles Hubbard: Mr. Chairman, we have to make a ruling before we leave by the hour of the meeting.

[*Translation*]

Mr. Yvan Loubier: Wait a minute.

I am going to immediately table a motion asking that the committee extend the hour. You promised me that earlier.

The Chair: You said that there was no problem, that we didn't need a chair, that there was a vice-chair who would take over chairing.

Mr. Yvan Loubier: Mr. Chairman, if you leave now, I am going to ask that you leave for good.

The Chair: I have no choice.

Mr. Yvan Loubier: That makes no sense. You have no right to do that.

The Chair: You just asked me to leave.

Mr. Yvan Loubier: No, I didn't ask you to leave. I said that if the debate were to be prolonged, we could still carry on.

The Chair: Well, I have a meeting. That is why I want to set a limit. Does half an hour suit everyone? If that doesn't suit you...

Mr. Yvan Loubier: A half an hour is fine. That is no problem for me. At any rate, the debate will not be difficult, because the motions are very...

[*English*]

Mr. Charlie Penson: Mr. Chair, a point of order.

Mr. Chairman, if you recall at the last meeting we had when I tried to get Mr. Duncan's bill up for report stage reading today, the motion I made was that we allow enough time for Mr. Duncan's bill to be debated, and if that required us starting at 10 o'clock we would do so. So I don't think there are limitations on this.

We wasted quite a bit of time at the beginning of this meeting. It was agreed that we would talk about it at the end. I think we need to deal with Mr. Loubier's motions, and I hope we can do it expeditiously.

In terms of the one on Barbados, that was circulated, Mr. Chair.

The Chair: I agree. It was circulated. I'm not saying it never was.

Mr. Charlie Penson: The 11 o'clock meeting was never cancelled, so I think you need to roll on this.

The Chair: I have no problem.

I just want to set a time limit, because this is going to go on forever. Can we give fifteen minutes to one motion and fifteen minutes to another?

Mr. Brian Pallister: This is under discussion.

[*Translation*]

Mr. Yvan Loubier: Do you have a problem with Barbados, Mr. Chairman?

The Chair: I have no problem. That's what I said.

Mr. Yvan Loubier: Okay. Do you want me to introduce the motions?

[*English*]

The Chair: Mr. Szabo, go ahead, if it's on the point of order.

Mr. Paul Szabo: Yes.

Mr. Chairman, I've had a little consultation here. I've consulted my colleagues here, and I don't see a need for debate or whatever on the first motion with regard to the health and the tobacco tax, and we would give unanimous consent that the motion be put now without debate.

With regard to the second one, unfortunately, there is a request for some presentation and some appropriate debate because it's a little more complex. We would suggest that this matter be dealt with at the next meeting.

Hon. Maria Minna: With people here.

Mr. Paul Szabo: With the proper—

[*Translation*]

Mr. Yvan Loubier: I agree with Mr. Szabo. It would be preferable to begin with the motion on drugs, because the situation is urgent. It could lead to perilous situations for Canada.

Mr. Paul Szabo: I agree.

Mr. Yvan Loubier: As for the other one, it could be short too, Mr. Szabo, because it is further to a motion that I have already presented to the Standing Committee on Finance. However, the one that I am presenting to you this morning specifies which witnesses we should invite before the summer adjournment. The longer we wait, the closer we are going to get to the summer adjournment and the less likely we are going to be able to hold this meeting, which was supported by the committee.

It won't take too long either. It's just about considering the issue of the tax treaty between Canada and Barbados, including subsection 30(3) and paragraph 5907(11.1)(c) of the Income Tax Regulations. If you are in agreement, I will introduce the motion on drugs and we can adopt it immediately...

• (1110)

[English]

Mr. Paul Szabo: Mr. Chairman—

[Translation]

Mr. Yvan Loubier: ...because it appears to be unanimous.

[English]

Mr. Paul Szabo: I understand the member, and I would just simply repeat that there appears to be an interest by the members in discussing this, without moving straight to a question without debate. It would take some time, and I'm trying to be respectful of members planning their time here. If it's an important issue to the member, the member should have a chance to properly present it in its detail and have proper debate at the committee. If it's not time-sensitive, it might be helpful for the committee to simply defer it to the next available meeting.

The Chair: Thank you, Mr. Szabo.

Mr. Penson.

Mr. Charlie Penson: I agree with Mr. Szabo that we can get through the first motion with unanimous consent.

On the second one, Mr. Loubier did serve notice. This is on the upcoming study the committee is going to be starting very shortly. I suggest that one way of resolving this would be for everybody to have a look at this and see what list of witnesses we would like to present. Maybe there are others we'd like to add to this. It would be a way of moving this forward. So at the next meeting we could deal specifically with this topic, and others could bring their lists of witnesses as well, in order to conduct this study.

[Translation]

Mr. Yvan Loubier: Mr. Chairman, normally, the finance committee sits twice a week, on Tuesdays from 11:00 a.m. to 1:00 p.m., and on Thursdays, from 11:00 a.m. to 1:00 p.m. It is now 11:15 a.m. on Thursday. I don't understand why it doesn't say on your schedule that the committee is sitting at the prescribed time. I don't understand that at all.

I am a man of compromise. I am going to table my first motion. I insist that we schedule another meeting when we return to...

Mr. Paul Szabo: Another meeting?

The Chair: Continue.

Mr. Yvan Loubier: I am tabling my first motion.

The Chair: I am listening with my ears.

Mr. Yvan Loubier: How can you do two things at the same time?

The Chair: It sometimes happens.

Mr. Yvan Loubier: I am tabling my first motion on tobacco. I am tabling...

[English]

The Chair: Can I help in this? We have a motion by Mr. Loubier.

[Translation]

I am going to read it :

That the Standing Committee on Finance recommend: 1. That the Department of Finance, in conjunction with the Department of Health, estimate the turning point for the tax rate on tobacco, with the double goal of combating tobacco use and increasing tax revenues. That this study be tabled jointly before the Standing Committee on Finance and the Standing Committee on Health by October 30, 2005. And that the Committee report and make recommendations to the House of Commons.

Mr. Yvan Loubier: Wait a second, Mr. Chairman. I made a mistake earlier. I discussed with my colleague Réal Ménard the issue of drugs and the decision of the US Congress, and I got things mixed up.

This motion has to do with tobacco, because there is currently an upward trend in tobacco smuggling. This has been seen...

The Chair: Can we do this more efficiently? Can I ask some questions?

Mr. Yvan Loubier: Yes, of course.

[English]

The Chair: Agreed?

[Translation]

Mr. Paul Szabo: Yes.

[English]

The Chair: Do I have an agreement on consent?

[Translation]

Mr. Yvan Loubier: And here is my second motion, Mr. Chairman.

• (1115)

[English]

The Chair: Now go ahead.

[Translation]

Mr. Yvan Loubier: It is an open-ended motion.

That the Standing Committee on Finance, on adoption of a motion regarding the tax treaty with Barbados [which was recently adopted here], schedule one or more televised committee meetings before the House rises for the summer recess.

That the Committee should hear evidence from the following witnesses and any other individuals or groups who request to appear:

As you can see, it is open-ended. If you wish, you can add witnesses to the list that I drew up and that is included in the motion. Here is the list:

- Officials from the Department of Finance and the Canada Revenue Agency...
- Members of the board of directors of Canada Steamship Lines;
- Members of the board of directors of CSL International;
- Representatives of the Office of the Auditor General of Canada;
- Representatives of ATTAC;

This group deals with analyzing tax havens.

—André Lareau, tax lawyer;

Mr. Lareau has written a number of articles on this issue.

—Guylaine Leclerc, forensic accountant;

—Brigitte Alepin, tax expert.

And that the Committee report and make recommendations to the House of Commons.

If you have any other suggestions for witnesses, once we have chosen a date to work on the tax treaty with Barbados and the related tax regulations, you can add witnesses, because the motion mentions that the list is open-ended: “the following witnesses and any other individuals or groups who request to appear”.

I am tabling this motion for adoption. If anyone wishes to, I am quite prepared to discuss it.

[English]

Mr. Charles Hubbard: Mr. Chair, I have a point of order. Are we tabling this motion or debating it?

The Chair: I had a proposal from, I think, Mr. Solberg—or Mr. Penson?

Mr. Monte Solberg: Charlie...on bringing forward witnesses.

The Chair: Just tabling the motion....

Mr. Charlie Penson: All members of the committee can bring their lists of witnesses they'd like to come to a study we're going to be doing on the tax treaty.

Mr. Yvan Loubier: It's written in the motion.

Mr. Charlie Penson: Yes.

[Translation]

Mr. Yvan Loubier: Mr. Chairman, I wanted to point out earlier that if we adopt this motion, I would like, when we hold our first or second meeting after the break, this subject to be dealt with. That is what I meant to say earlier.

If we adopt this motion, it has to be on the agenda. It should not be put off indefinitely, as you have too often done.

The Chair: I'm not sure if you know, but at 5:30 p.m. there is a non-confidence vote, and three weeks ago, we had a meeting of the steering committee.

[English]

Mr. Charlie Penson: Is it a non-confidence vote? I thought it was a vote on the budget bills.

The Chair: The budget, yes. Sorry.

Mr. Guy Côté: Are you not feeling confident?

The Chair: We had that meeting, and I didn't get any cooperation from the members as to the

[Translation]

desired agenda for the coming three or four weeks. Today, you are willing to set the agenda for the next four weeks.

[English]

I can make a suggestion because I am a member of this committee.

[Translation]

I suggest that we refer this to the steering committee, which will decide what is to be studied. I said that we could look at that calmly. You are now talking about a study, but at the outset, this motion did not call for a study, it called for a meeting.

I am now going to turn the floor over to Mr. Hubbard.

[English]

Mr. Charles Hubbard: Mr. Chair—

[Translation]

Mr. Yvan Loubier: I'd like to clarify something, because you just made a mistake.

The Chair: Yes, maybe, but I am sure that a number of people will correct it. I do make mistakes.

Mr. Yvan Loubier: Yes, definitely.

[English]

Mr. Charles Hubbard: Mr. Chair, I thought originally, before the meeting, when we decided that we had not had copies of this at our office in advance, I had withheld my consent as a member of this committee that it be any more than tabled. In other words, it would not be discussed at this meeting.

Mr. Guy Côté: Does it need it?

Mr. Charles Hubbard: Mr. Côté, I'm talking with the chair, and hopefully with the committee. But I withheld my consent that this be accepted as a topic for debate today because it was not circulated to our offices. It was brought in unexpectedly.

The Chair: The committee overruled my decision, Mr. Hubbard.

Mr. Charles Hubbard: They overruled your decision?

The Chair: That's why we're here. We're trying to discuss this and find some compromises to what we're trying to discuss and when we're going to discuss it.

Mr. Charles Hubbard: Did you vote on this decision?

[Translation]

Mr. Guy Côté: Mr. Chairman...

The Chair: Okay. Wait a second.

Mr. Guy Côté: Mr. Chairman, the motion that was adopted some time ago called on the committee to look into this matter. Were we to hold one or a number of meetings? I'm not quite sure. At any rate, this motion requires that there be at least one televised meeting. It goes very well with the motion that has already been adopted. In addition, if we adopt this motion today, the clerk will be able to use our break week to plan the work and communicate with the witnesses so that we will be able to meet with them here. Then, in theory, we should be sitting for another three weeks before the House adjourns.

It is very important for us to adopt this motion today so that we can do our work before the adjournment.

Mr. Yvan Loubier: One must not prejudice the vote this evening.

[English]

The Chair: Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Well, I want to make a couple of comments.

First of all, with respect to the general issue of motions that meet all requirements, I think it would help us if we had an understanding about the rules. If a member follows all proper procedures and circulates a motion in two official languages 48 hours in advance of a committee meeting, that is then the property of the committee for discussion. It cannot be ignored, it does not require unanimous consent, and it ought to be discussed.

We made an error in terms of pushing this aside and not dealing with it, and I think that needs to be clarified for all future motions. I think if we had resolved that, we wouldn't be in this sort of contentious moment right now.

Having said that—

• (1120)

The Chair: That's been addressed already.

Ms. Judy Wasylycia-Leis: Having said that, I would say, Mr. Chairperson, that as long as this motion specifies specific meetings for our committee without taking into regard the developments that will happen today, in the event that the budget Bills C-48 and C-43 are passed, they become the first priority of this committee.

So we can pass this motion all we want, but there must be an understanding that under no circumstances can the work of this project supercede the work of the committee in terms of the budget bill.

The Chair: Thank you very much.

Ms. Judy Wasylycia-Leis: If that's the understanding, I can support and we could start work, but I don't think we can actually require certain timetables and certain witnesses to be called at this point.

Hon. Maria Minna: I agree with you. This is what I would have said.

Thank you.

The Chair: My point exactly.

Ms. Judy Wasylycia-Leis: Who said two peas in a pod today? Let's see. Let's look over here. Is the pot calling the kettle black?

The Chair: I can't believe this. I don't have anybody who wants to speak to this.

[*Translation*]

Mr. Yvan Loubier: Can we proceed to the vote, Mr. Chairman?
[*English*]

The Chair: There's no motion from you guys?

Mr. Monte Solberg: Well, we could vote. We vote to accept this motion.

The Chair: Okay.

All in favour of the motion?

[*Translation*]

Mr. Yvan Loubier: I request a recorded division. That will be more interesting. This is a historic moment we are experiencing today.

[*English*]

The Chair: A recorded vote?

Mr. Yvan Loubier: Yes.

Ms. Judy Wasylycia-Leis: On a point of order, is there a standard procedure for our committee that says that if a bill comes from the House of Commons to this committee, that is the first priority of business? So no matter what happens with respect to the passage of this motion—

Mr. Yvan Loubier: Yes.

Ms. Judy Wasylycia-Leis: —that will automatically occur.

Mr. Yvan Loubier: Automatically.

Some hon. members: No.

Ms. Judy Wasylycia-Leis: That's key for voting on this motion. I cannot support a motion—

The Chair: Okay. Well, vote no then.

Ms. Judy Wasylycia-Leis: Well, but—

Hon. Maria Minna: The committee is master of its own—

Ms. Judy Wasylycia-Leis: Does that mean the members in the Conservative Party don't want to see this discussed?

Mr. Brian Pallister: Mr. Chairman—

Ms. Judy Wasylycia-Leis: I mean, surely they're willing to look at this in the context of the budget bills?

Mr. Brian Pallister: I have a question for Ms. Wasylycia-Leis.

Hon. Maria Minna: They would rather deal with this than the budget bill. That's the whole point.

Ms. Judy Wasylycia-Leis: Yes, but the Conservatives won't acknowledge that.

The Chair: It's a valid question. Could we just get a proper answer?

Hon. Maria Minna: No, they won't, which means they don't want to discuss the budget bill.

The Chair: On the same subject, Mr. Pallister?

Mr. Brian Pallister: Yes, indeed.

The Chair: Order. Come on.

Mr. Brian Pallister: Mr. Chairman, I'm just curious. Madam Wasylycia-Leis was making the point earlier that we should follow conventions in terms of the introduction of measures such as Mr. Loubier has introduced and that we should honour those. Now she wants to put on the record something that departs from the most traditional convention of committees, which is that they are in charge of their own agenda.

Ms. Judy Wasylycia-Leis: No, a point of order.

Mr. Brian Pallister: She's asking us to support a position that causes us to depart from the most important precedent this committee has to abide by, which is that we are in charge of our agenda, not someone else.

The Chair: Okay. Let me see if we can get an answer.

[*Translation*]

Mr. Guy Côté: Mr. Chairman, I have a point of order. It will be very quick.

I was only very recently elected, but I clearly recall that in the fall, among other things, during the pre-budget consultations, we held more than two meetings per week. If Bills C-43 and C-48 are adopted, there would be nothing to prevent us from increasing the frequency of our meetings in order to deal with these bills as well as Mr. Loubier's motion.

The Chair: That is not the issue. The issue is whether priority is to be given to...

Mr. Guy Côté: The decision can be made then, Mr. Chairman, once these bills have been adopted.

The Chair: I just want to check something. Have you no response?

[*English*]

Mr. Charles Hubbard: Mr. Chair, again, I'd like to get all the facts straightened out on this.

It would appear that any member of this committee could simply send a motion 48 hours in advance—

[*Translation*]

Mr. Guy Côté: Mr. Chairman, we were about to vote. He wants to start the debate over about whether the motion is in order.

[*English*]

Mr. Charles Hubbard: Mr. Chair, I think I have the floor.

[*Translation*]

Mr. Guy Côté: I'm sorry, Mr. Chairman, but we were about to vote; a recorded division was requested. The member is merely attempting to delay the work of the committee.

The Chair: No. We are going to try to get an answer to Ms. Wasylycia-Leis' question.

Mr. Guy Côté: There you go.

The Chair: Will you bear with me?

• (1125)

[*English*]

Mr. Charles Hubbard: I think I have the floor, Mr. Chair.

The Chair: Yes, Mr. Hubbard.

Mr. Charlie Penson: It's not a point of order.

The Chair: Well, let me hear it.

Mr. Charles Hubbard: It is a point of order. I would like to establish in my own mind how this committee works. It would appear, in terms of what happened this morning, that any member can simply send a notice of motion to the clerk, and at the very next meeting—

Mr. Yvan Loubier: It's my right. It's your right.

Mr. Charles Hubbard: Just let me finish, Mr. Loubier. I let you talk and I hope you'll let me speak.

At the meeting, 40 hours later, whatever meeting comes next, that motion, despite the fact that it's not on the order paper, will be brought to the table and will be decided by this committee.

Mr. Clerk, is that the established rule that we have within this committee?

The Chair: Can you just repeat that last part? Sorry, Mr. Hubbard.

Mr. Charles Hubbard: Any member of this committee, by submitting a notice of motion 48 hours in advance of the next meeting, will have that motion, despite the fact that it's not on the order paper, brought to the table and decided upon, without notice by the submitter.

[*Translation*]

Mr. Guy Côté: For the benefit of Mr. Hubbard, I am going to reread the routine motion that we adopted.

The Chair: No, no, Mr. Côté.

Mr. Guy Côté: That's it.

The Chair: I know. I accept Mr. Hubbard's point of order.

[*English*]

because it's answering Ms. Wasylycia-Leis' question.

Mr. Penson, if it's related to this, and then Ms. Minna.

Mr. Charlie Penson: Mr. Chairman, you've already ruled on this issue, and you also called for the vote.

We started on a recorded vote. I would like you to finish that vote. It has been called.

Hon. Maria Minna: I'd like clarified what that vote was.

[*Translation*]

Mr. Guy Côté: Mr. Chairman, the answer to Mr. Hubbard's question was given earlier, and I am willing to give it to him again. It's what we adopted. I just want to answer his question.

[*English*]

The Chair: Ms. Minna.

Hon. Maria Minna: Mr. Chairman, this motion obviously should go to committee where they can assign time. I don't think we should be assigning time here.

The Chair: We're not talking about the motion. We're talking about the effect of the motion in general, not just this one. But Ms. Wasylycia-Leis' point is—

Hon. Maria Minna: No, I understand what you're saying.

The Chair: —that this motion and any future motion...

Let's not specifically address this motion, please. We've already addressed it.

Hon. Maria Minna: All right. Regarding this motion or any future motion with respect to the budget, I think the budget takes precedence. If this committee is not prepared to say that, then the steering committee has to make that decision.

[*Translation*]

The Chair: Okay.

Mr. Yvan Loubier: There are seven days in a week.

[*English*]

The Chair: There's nothing written in the Standing Orders, from what I understand, and I looked at our routine motions that we adopted at the first meeting we had. There's nothing written in there. It's the usual or customary fashion in which committees of the House work, where they give priority to bills—*point final*.

I don't know if that answers your question, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I would try to seek clarification then, because this is a very serious matter for our committee. I would like to further pursue this point of order, and if necessary, pursue a matter of privilege, because in fact I raised the question earlier about the importance of duly constituted motions to be heard by our committee. I believe in that, and I think that is an issue for our committee that should be addressed. That is quite separate from the issue of seeking clarification about the order in which this committee determines its work, based on competing demands and questions.

[Translation]

Mr. Yvan Loubier: No, no, no.

[English]

Ms. Judy Wasylycia-Leis: If in fact the Conservative members of this committee are suggesting that this motion, if passed, will—

Mr. Charlie Penson: Mr. Chair, this is out of order. You've already ruled—

The Chair: Ms. Wasylycia-Leis—

Ms. Judy Wasylycia-Leis: This is a point of order and a point of privilege. If these Conservatives are suggesting—

The Chair: Okay, thank you.

[Translation]

Mr. Loubier... [inaudible].

Mr. Yvan Loubier: The committee is master...

[English]

Ms. Judy Wasylycia-Leis: I'm still talking.

The Chair: Order.

[Translation]

Mr. Yvan Loubier: The committee is master of its own business, but the House of Commons sets objectives for it that cannot be ignored. In terms of those objectives, Guy is going to read an excerpt from...

Mr. Guy Côté: A committee must report on the main estimates and private members' bills within a given timeframe, otherwise the committee shall be deemed to have done so and consequently the matter is not before the committee anymore.

Mr. Yvan Loubier: Precisely. This means that it is our obligation—and it is unavoidable—to analyze and adopt the main estimates.

This also means that if the budget and this motion are adopted, we will be able to meet again, organize our work and set aside one or two days for that study. We are masters of own business and we cannot avoid dealing with the budget.

The Chair: We'll do so with [inaudible].

[English]

Mr. Charlie Penson: Mr. Chairman, you were interrupted in calling a vote by a point of order from Ms. Wasylycia-Leis.

Now you have ruled on that, and I call on you to return to the vote now that you've made your ruling.

The Chair: Yes. We just got the answer. I prefer to be clear so that everybody understands. We've never gone through this before.

[Translation]

Mr. Yvan Loubier: I'd like to ask for the vote, Mr. Chairman. This is the second time I'm doing so.

• (1130)

[English]

The Chair: We're ready. *On est prêt.*

Ms. Judy Wasylycia-Leis: You ruled, I know.

The Chair: Yes, I did rule.

Ms. Judy Wasylycia-Leis: I want a point of privilege, Mr. Chairperson.

Mr. Charlie Penson: Raise it in the House.

Ms. Judy Wasylycia-Leis: Mr. Chairperson, my rights as a member of Parliament are being infringed by the way in which this issue is not being dealt with clearly and precisely. In fact, Mr. Chairperson, by virtue of what the Conservative members have said at this committee, it is clear that in passing this motion it may become an issue at our next meeting of this committee when we are confronted with dealing with the budget bills.

Mr. Monte Solberg: It may become an issue?

Ms. Judy Wasylycia-Leis: So, Mr. Chairperson, I think it's very critical. It is a very important issue for us, and under no circumstances should we proceed any further until it is absolutely clear that the passage of this motion does not become a matter of obstruction by the Conservatives.

Mr. Monte Solberg: Ruling.

[Translation]

Mr. Yvan Loubier: Mr. Chairman, we are intimately familiar with the Standing Orders.

[English]

The Chair: That's it. Order.

Let's finish the vote.

[Translation]

Mr. Yvan Loubier: I'd like to ask for a recorded vote.

[English]

The Chair: We have decided legislation is going to take priority over the....

Okay? That's it.

Mr. Don Bell: Can I ask a point of privilege?

The Chair: No.

Mr. Don Bell: Can we not have debate on a motion?

The Chair: No.

Mr. Don Bell: Why not?

The Chair: Order.

Go, Mr. Clerk.

The Clerk: The yeas and nays—

Mr. Charles Hubbard: Mr. Chair, again a point.

The Chair: No points, no nothing; we're voting.

Mr. Charles Hubbard: Let it be recorded that I did not give consent for this matter to be considered this morning. I withheld consent. The blues will indicate that, and for that reason I will not vote. But I will report my problems with this committee to the Speaker.

Ms. Judy Wasylycia-Leis: Mr. Chairperson, I will vote no, only because we have not received clarification from the Conservatives that they will not use this to obstruct the work of this committee. Notwithstanding the fact that this committee is master of its own

destiny, and I appreciate the importance of the resolution before us and the sincerity of the Bloc, the tactics of the Conservatives give us much to be desired.

The Chair: Thank you, Ms. Wasylycia-Leis. Your comments are duly noted.

(Motion agreed to: yeas 6; nays 3)

The Chair: The meeting is adjourned.

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