



ISSN 1180-436X

**Legislative Assembly
of Ontario**

First Session, 40th Parliament

**Assemblée législative
de l'Ontario**

Première session, 40^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 3 July 2012

**Journal
des débats
(Hansard)**

Mardi 3 juillet 2012

**Standing Committee on
the Legislative Assembly**

Standing orders review

**Comité permanent de
l'Assemblée législative**

Examen du Règlement

Chair: Garfield Dunlop
Clerk: Trevor Day

Président : Garfield Dunlop
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Tuesday 3 July 2012

Mardi 3 juillet 2012

The committee met at 0938 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr. Garfield Dunlop): Folks, we'll call the meeting to order. We'll get the subcommittee report out of the way first and then we'll recess until Claude arrives. With that, can you move that?

Ms. Lisa MacLeod: Sure.

Your subcommittee on committee business met on Thursday, June 28, 2012, to consider the method of proceeding on the study of standing orders and recommends the following:

(1) That the following Clerks be invited to appear before the committee by teleconference:

- (a) the Clerk of the House of Commons of the Parliament of Canada;
- (b) the Clerk of the Legislative Assembly of Alberta;
- (c) the Clerk of the Legislative Assembly of Saskatchewan;
- (d) the Clerk of the House of Commons of the United Kingdom;
- (e) the Clerk of the Scottish Parliament; and
- (f) the Clerk of the House of Representatives of the Parliament of Australia.

(2) That the following individuals be invited to appear before the committee by teleconference or in person:

- (a) Sean Conway;
- (b) Claude DesRosiers;
- (c) Peter Kormos;
- (d) Peter Milliken; and
- (e) Norman Sterling.

(3) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The subcommittee is brilliant, and I move adoption of that report.

Interjection.

The Chair (Mr. Garfield Dunlop): Anything you'd like to add or subtract? Are you happy with that for now?

Mr. Gilles Bisson: Just a question on the Scottish Parliament: You were saying that you were not able to get a hold of them?

The Clerk of the Committee (Mr. Trevor Day): To be honest with you, going through and getting everybody was just—

Mr. Gilles Bisson: Logistically?

The Clerk of the Committee (Mr. Trevor Day): — on our part, it really wasn't—

Mr. Gilles Bisson: Because it would be nice if we could, next time—what I'd like to do next time when we come back is actually start to work on our recommendations, but it would be good to hear from them maybe first thing in the morning.

The Clerk of the Committee (Mr. Trevor Day): Next time? That's altogether possible. Again, between that and the—

Mr. Gilles Bisson: Actually, first thing in the morning would be the middle of the night for them, right?

The Clerk of the Committee (Mr. Trevor Day): No, they're four or five hours ahead of us.

Mr. Gilles Bisson: That's right, too; yes. I'm going the wrong way on the globe.

The Clerk of the Committee (Mr. Trevor Day): So that's altogether possible. We can continue to sort of make our way through the list. The only one that will be virtually impossible is (f)—Australia—due to the 14-hour time difference.

Mr. Gilles Bisson: Maybe we can both meet in Hawaii.

The Clerk of the Committee (Mr. Trevor Day): Yes, that would work. That's the one we can't get, but other than that, everyone else we can continue to move forward on.

Ms. Lisa MacLeod: I think that was a great report.

The Chair (Mr. Garfield Dunlop): All in favour of the report? Okay, that's carried.

So we'll recess until Mr. DesRosiers gets here.

The committee recessed from 0941 to 0946.

STANDING ORDERS REVIEW

MR. CLAUDE L. DESROSIERS

The Chair (Mr. Garfield Dunlop): We'll bring the committee back to order.

Claude, thank you very much for taking the time, on kind of a short notice, to meet with our committee on the Legislative Assembly. We may have a lot of questions for you, just your thoughts on the process and ways to improve things and where you see there are problems or

things that our particular committee might recommend to the House that would be pretty positive in making the House work even better.

Mr. Claude L. DesRosiers: Thank you, Mr. Chair. I'm pleased to be here and hope I can contribute a bit. I don't have any prepared statement or anything. I must say, the last six years I've really devoted myself to retirement. It didn't take me very long to forget the intricacies of this institution. What I did regret and what I did miss are the people, the people I worked with and the members—

Mr. Gilles Bisson: Even me?

Mr. Claude L. DesRosiers: Well, even you, Gilles.

I must say, I'm not up on the latest in your changes and how you work and so on. I know you're busier than ever and I know you have these godawful hours that I'm happy I missed and so on. But that's the life you chose to go to, and that's fine. So I won't be able to really put forward a series of ideas and so on, on where you should go from here, but I'm sure—listen, I have stories to tell from the past, on the McGrath committee and how things evolved and so on.

I would really like to answer your questions. I'm just putting you on guard that if you come and start quoting standing orders to me and so on, and "Should we change this and that?" I'm at a loss. I really haven't followed all those changes.

The Chair (Mr. Garfield Dunlop): Okay. We'll start with some questions and just a general conversation. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks very much, Chair. Welcome back, Mr. DesRosiers. It's really nice to see you. I think, for the benefit of all of our committee—I don't think we're necessarily looking at the minutiae and the details of which standing orders to change. And they have changed a bit since you retired. I think for the benefit of this committee, and this is something we've talked about before, we now have an opportunity in a minority Parliament to really look at this holistically, for all of us to envision ourselves in different, I would say, sides of the House or what you have you, in another election. I think it behooves all of us to look at the standing orders as they are, to make them more fair for everybody.

We've talked about the McGrath commission quite a bit, actually very extensively here, and some of the other studies that were done, I believe mostly in the 1980s, even federally and provincially. In what ways do we empower members, whether through a caucus or as individual MPPs, and ensure that that work is getting done, but also that there is a voice from the outside? Because we've seen an erosion, almost, of internal democracy here. I think all my colleagues would agree that it's either because of or the fault of all three political parties.

0950

We now have an opportunity to put that aside and sit down and have that conversation on how we actually can make this place work a little bit better. So if you can start with the McGrath commission and tell us a little bit about that: some of the studies that were done; who—because

this is the other challenge that we have: trying to convey to our colleagues, particularly House leaders, that this study does require a lot more substance than just maybe a three-week exercise of cherry-picking and a little checklist of things that we want to do, because there are, oftentimes, unintended consequences. So if you could start there, I think that would be very beneficial to all of us.

Mr. Claude L. DesRosiers: I'll start, and if I go too long, stop me, Mr. Chair. Okay. The McGrath committee was probably one of the most interesting parts of my career. It happened when I was still working in Ottawa. I worked 16 years at the House of Commons before coming here. One day, someone knocked—no, I'll start at the beginning of the story.

We had an election in 1984. Prime Minister Mulroney was elected. I remember that throne speech. There's a little corridor in the back of the Speaker's chair in Ottawa. There are curtains there, and that's where staff used to hang out. We're listening to the throne speech. Lo and behold, this Prime Minister is proposing to reform the House of Commons. Those were words that really struck us—with a jaded view, I must say. We certainly didn't believe it, and we thought, "How can you reform the House of Commons, for gosh sake? It's just got to keep evolving, and that's the way it happens." But, lo and behold, about two weeks later there was a motion on the floor to appoint a committee. The committee was appointed, and off they went.

Someone knocked on my door and said, "Would you agree to be a member of the staff?" I said, "Sure; I'd love to," and off we went. I remember going to—this would have been Christmas 1985; just after Christmas—our first staff meeting. I have a bad habit that I've never lost in my life: I'm always a bit late. I showed up, and I just sat there for a minute in the room. My colleagues were discussing what they were going to put in front of the committee to develop a plan for the committee: what they should be looking at and what they should be doing. There was a blackboard there, and I remember that they had put some standing orders on the board. I sat and listened for a while and I said, "No, this is wrong. Something doesn't—we've been there before." We had had quite a few committees—the Lefebvre committee and others—that had done that and recommended changes to the standing orders recently in history. I popped my little head up and I said, "Listen, why don't we try something different? Why don't we try putting principles in front of the members of the committee? What does the Prime Minister want to accomplish here? What is the will of the House?"

There was one word that came out after a bit of discussion. It was "power"; more power to. So we ended up putting a series of lines on the blackboard, and they all started by, "More power to": the Speaker; more power to, and stronger, committees; and more power to the private member. That's what we ended up with. We developed those themes a bit and put that in front of the members. Then the members decided where they would travel and where they would go to see and what advice they would

seek from elsewhere. With these words “more power,” we decided on where we would go.

One of the members was very strong on going to Bonn because he had heard that facilities for members there were very strong. Other members wanted to look at the Speakership and other members wanted to look at committees. So the committee decided on Bonn, and then they would go to Westminster. I said, “You want to see a powerful Speaker? Why don’t you stop in Paris on your way from Bonn?” The Chair was under strict orders from the Prime Minister not to spend too much money, so he looked at me. If his eyes could have been daggers, I would have been dead. But André Ouellet, who was a member of the committee, came to my rescue, and he said, “No, no. no. I think Claude is right. I think we should stop there.” So McGrath said, “Okay. One day, Paris, and then on to Westminster.”

The story with the McGrath committee—you have to know that there’s a subplot here. Prime Minister Mulroney was sincere. He wanted to change the place, but he had a main reason for doing this. You’ll all remember the famous debate during the election in 1984 where Brian Mulroney turned to John Turner and he said, “You, sir, had a choice.” Brian Mulroney had decided that he wanted a way out of the appointment process. He wanted to clear that up, as he wanted to make sure that the committee would make a clear recommendation on appointments.

So off we went. We saw a powerful Speaker—and we saw facilities for members in Bonn. We saw a powerful Speaker in Paris. We saw a committee system that would blow your mind in London, and it’s still there. It still operates beautifully and so on. The only problem is that you need a lot of members, and you don’t have a lot of members. That’s part of the problem with the British parliamentary system. You need members. You need cannon fodder, in a certain way, and you need people to sit on committees and to hear these things if you’re going to create different kinds of committees.

I think McGrath suggested a very intricate system of committees, which worked—and I remember I was given the responsibility to start this committee system in Ottawa in 1985. It worked for a while, but it was abandoned after a while because it was just too unwieldy—not enough people. But the ideas stuck and so on.

You see, in order to have a really, really good committee system, you go to Washington and you make sure you have a lot of people and a lot of money, and you’ve got a very good committee system. But here, at the Legislature of Ontario, I think in many, many ways, you have found a *modus vivendi*, a way of working with what you have. It sometimes shows very, very great promise.

But to finish the story on McGrath—listen, it’s a very simple report. You can read this; you can understand it. It’s still alive today. But if you read the section on appointments, the Prime Minister was sorely disappointed, because our system is a responsible system of government. The executive has to take responsibility for its appointments. It can’t fob them off on a committee or

somebody, as many people think they do in the States. But that’s not true either in the States, because you’ll all remember that last week you had a famous decision—a historic decision—by the Supreme Court. Who, in everybody’s mind, figures that appointed Chief Justice Roberts—he’s a Bush appointment, everybody says, even though he was examined by a committee of the Senate and so on. They could have said no to this appointment, but still, it’s an executive appointment.

The system we came up with was a wishy-washy type of thing that sort of—that’s still alive today and was borrowed by the assembly here and so on. So nothing’s perfect; things evolve.

The main story about Legislatures, British-style and so on—as I grow older, I always have been and I’m a great fan of history, but if I go back to history and where this all started, you all go back to a great big hall called Westminster Hall. That’s where court was held. The King or the Queen would sit there with the courtiers and people would come from all over the country. There was a Parliament, but it was give and it was take and so on, and the Queen would say, “No way. We’re not doing this,” or the King would say, “No way.” All of a sudden, someone would nudge him or her and say, “You know, you best do this, because if you don’t, you’re going to have a whole lot of trouble up north there.”

It’s evolved—slowly, slowly, slowly. You watch the British system, and it’s evolved. It’s still evolving; it’s still changing. I think that has to be your main concern, to—and you’re right: You have to seize occasions like this one, when there’s a minority Parliament, where it’s easier to sit around the table and discuss things—

1000

Ms. Lisa MacLeod: Well, from time to time it’s easier.

Mr. Claude L. DesRosiers: From time to time—but to seize the moment, and always with the view of trying to help this evolving process. Sometimes it works; sometimes it doesn’t.

Ms. Lisa MacLeod: I have a quick question for you. Did you find, when you travelled with the McGrath commission, that that was actually a valuable experience for the members who were travelling, or was it just a junket? Because that’s the sort of issue that you have to confront, right?

Mr. Claude L. DesRosiers: Madame, I will tell you truthfully, I have always been, and I still am, a great believer in members getting out of this place or any other Parliament to go and see what happens in the rest of the world. It used to be that members from this institution, before I arrived here—and I had nothing to do with changing that—used to go far afield. Committees would go overseas and they would travel. But everybody’s sort of cut everything off, and that’s sad.

Ms. Lisa MacLeod: That’s my concern too, and I’ll relate an example here just in Ontario. I do have the concern, because I have been an advocate of us actually travelling to Westminster. If we’re going to do this right,

I think we need to do that, and this is coming from a small-c fiscal conservative.

That said, one of the things that I think has been a bit of a challenge for us is that even with internal travel in Ontario, our committees presently do not do what in my view is due diligence in going to communities where legislation may affect them. We just had Bills 13 and 14. We only did a day of travel. It was to the nation's capital, mostly at my behest, because I am from there and we had a high-profile suicide.

I look at different pieces of legislation where we actually have to take democracy to the people, and democracy does cost a little bit of money. I'm just wondering if you have any views on that. I mean, you just expressed them, and I appreciate that, but I'm wondering if there's a better way for us to connect with the public. I think there's merit, for example, in this committee actually travelling to some jurisdictions to see how it's working. But if we were to take it one step further in how this committee or any other committee could actually have, in my opinion, strength or teeth or whatever—I feel you have to have the strength and confidence and character to actually go to the people and listen to them, and we have not done that in a while.

Mr. Claude L. DesRosiers: I couldn't agree more. And to answer your initial question, yes, on the record, it was definitely a boon for members to visit Bonn, Paris, Westminster and Washington. Those were the four venues they went to. McGrath would not take the committee to Australia.

Mind you, there's a limit to what you can do here, but it's important that you get yourself out of the milieu where you live and abide every day and go and see what other people do, because everybody has the same pre-occupation with doing the good of the people. But democracy is not cheap and should not be put in a cheap way. I can't put it any stronger. I think if you want a strong Legislature, it needs to be funded, and that involves a whole slew of things. It involves paying members well, it involves making sure that their offices are well staffed, and it involves making sure that members find a way to get out of this place now and then to compare how other people do things.

The Chair (Mr. Garfield Dunlop): Mr. Bisson—oh, sorry. Have you got another question?

Ms. Lisa MacLeod: Well, I just wanted—

The Chair (Mr. Garfield Dunlop): Okay, and then Mr. Bisson.

Ms. Lisa MacLeod: —to finish up on this line, and I do apologize. But in terms of a typical day, when the McGrath committee actually went to those three locations, what did they do? Did they meet with members? Were they doing what we're doing, having hearings? For them to come out with a product of substance, they had to have done some very substantive research.

Mr. Claude L. DesRosiers: Well, the way it works is that you have staff who prepare the doings. For example, it was 24 hours in Paris. There wasn't a lot of time there

for sightseeing or what have you. I'll be very specific: The hotel was right across le Pont de la Concorde from the National Assembly. The members walked to their venue early in the morning, spent all day at the National Assembly, walked back to their hotel exhausted at night and flew out to Westminster the next day. That was Paris.

Ms. Lisa MacLeod: And then what was the agenda like in terms of—

Mr. Claude L. DesRosiers: The agenda was meeting with committee Chairs in the morning, a lunch that was provided, and meeting with the Speaker's staff in the afternoon, because those were the two things that they wanted to look at in Paris. Mainly, what came out of there was—you're looking at extremes, right? There's no way that the House of Commons wanted to emulate the nature of the Speaker in Paris. But they wanted to see what that gives, and that was probably one of the most powerful Speakers on the globe. But they saw that.

Ms. Lisa MacLeod: What happened in Bonn and in Westminster? I promise: This is my last question.

Mr. Claude L. DesRosiers: That's fine. Bonn was very short. Bonn was a day as well, and it was visiting facilities. Mind you, I'll tell you: We should not have gone to Bonn. Bonn was always a halfway measure in Germany. It might be worth somebody's while to go to Berlin today. Members did have a heck of a lot more in Bonn than they had in the House of Commons.

The Westminster part was, I think, three days. Westminster, you see, has the advantage of having a very specialized and professional staff who put these things together very well. The staff of the committee did not have a lot to do in that sense, because you just turn it over to the Clerk of Westminster, and he has staff at his or her disposal to do this and to meet with members and to discuss—and you're talking the same language there. What they were really looking at at Westminster was the administrative system and the committee system.

The Chair (Mr. Garfield Dunlop): Mr. Bisson has questions.

Mr. Gilles Bisson: Merci, Claude. Tu es toujours le bienvenu parmi nous.

I've got a bunch of questions. Let me start with delegated authority. Over the years, we have very much moved from drafting bills where there was little in the way of regulation to where, essentially, everything is left to regulation now. Your thoughts on that first, and then I want to get into a little bit about how you deal with that.

Mr. Claude L. DesRosiers: For a long time now, here, in Ottawa and in Westminster, very little has been done with regulations and so on. It's pretty scandalous. It's true that more and more is done by regulation, so as time goes by, it's more and more scandalous. But again, in the olden days, a committee used to sit down and look at this stuff. They don't anymore, and that's unfortunate and so on. I think maybe you want to start doing this in a more regulated way. McGrath looks at a system—but with McGrath, you're already talking nearly 30 years down the line, so things have changed.

It's hard to look at regulations. It's hard to ask a committee of this House to take the time necessary to scrutinize regulations. You need a system; you need something to fall back on where you can ask people to look at them and report to you, because you don't have time to do it; there's just no way. But there could be a system put in place to do a better job than is done right now.

Mr. Gilles Bisson: But when you say that there's no time to do it, again, I hearken back to when I first got here. There was very little that was regulation. Almost everything was spelled out in the bill. It's only because now, we've shifted the power to the executive by way of allowing them to write the regulations that we find ourselves in this.

It's a question of will, I think, on the part of the drafter of the bill to decide how much they want to leave to regulation and how much they want to leave to—so my point is: Obviously, it's to the government's advantage to leave most to regulation; then you can do what the heck you want at the end. But that being the case, is there, in your mind, any mechanism—for example, when we go through the committee process, if we had something that said okay, once the bill is drafted, here's what the intent of the bill is but the regulation package of that bill has to come back at one point so that there is some public scrutiny.

1010

Mr. Claude L. DesRosiers: There were those types of things that would have to be treated by standing order or by legislation that could be put into place; yes, absolutely. That would be part of a system to control. But the decision to decrease the importance that executives are putting on regulations today is a political decision.

Mr. Gilles Bisson: We have the legislative and regs committee, which allows members to be able to pull out of the Gazette any particular regulation you want to see. The difficulty with that is that it's very prescribed, what you can and can't do when it comes to that regulation. I'm just wondering about your thoughts in regards to, should we be looking at how we change some of the prescription that you find in the standing orders so that in fact it does allow not only a better scrutiny but possibly a little bit more time to be able to have stakeholders come in and speak on regulation and possibly amend regulation?

Mr. Claude L. DesRosiers: Well—

Mr. Gilles Bisson: Because after all, the power to do that came from the Legislature, right?

Mr. Claude L. DesRosiers: Absolutely. It still does. But this is will. If the House decides that it wants to do this, it can. Now, I'm a bit of a doubter in that sense because I think that there have been mechanisms for members to scrutinize regulations since forever but members have more interesting things to do. Do you understand what I'm saying? So in answer to your question, yes, you can do this. I'm not sure that it's going to be—

Mr. Gilles Bisson: Well, I would argue on the other side, before I get to the next question, that it's only because now we've grown accustomed to where—

Interruption.

Mr. Gilles Bisson: Je m'en viens dans une minute.

It's only because over the years we've actually moved away from the importance of committee, and this place has become, in my view, much more political because members' time is much more taken up with political work versus legislative work. So I think it's a matter of culture that you have to change would be my point.

Ma deuxième question—you may want to grab your translators as I'm about to do this. L'autre fait affaire avec la dernière fois qu'on a changé nos ordres de l'Assemblée. On a fait une séparation entre la période des questions et puis ce qu'on appelle « orders of the day ». Dans ton estimation, c'était mieux de garder ces deux affaires-là ensemble, attachées?

M. Claude L. DesRosiers: Moi, je suis un traditionaliste. Comme j'ai dit au début de ma présentation, ça me serait très difficile de vivre dans votre environnement aujourd'hui, parce que pour moi, j'ai même eu de la difficulté à accepter lorsque le gouvernement Peterson a devancé la séance de la Chambre pour la commencer à 13 h 30 au lieu de 14 h, parce que pour moi, la période de 14 h à 15 h, 15 h 30, c'est une période intensive où il y a la période des questions et puis il y a un tas de procédures qui s'ensuivent qui forment un peu la clé de la journée politique à Queen's Park. Et puis, si on veut faire plus de législation, plus d'heures de législation, puis enlever les heures de séance le soir, et cetera, qui échouent tout le temps, à ce moment-là on se sert de l'avant-midi pour de la législation. C'est une erreur pour moi de—mais comme je vous dis, je suis parti avant que ça ne se passe. Lorsque j'ai entendu parler de ça, je n'ai pas pensé que c'était une très bonne idée, mais je n'ai pas eu à le vivre.

Alors, je n'ai pas de commentaires plus précis que ça.

Mr. Gilles Bisson: L'autre question fait affaire avec le bâillon, le fameux bâillon qui était introduit et renforcé par les trois partis politiques assis autour de cette table, premièrement introduit comme concept par les libéraux, qui a été fortifié par nous, qui a été changé par les conservateurs encore. Dans ton estimation, enlever le bâillon fait quoi pour l'Assemblée?

Mr. Claude L. DesRosiers: Je pense que vous avez besoin d'un bâillon quelconque. Il y a besoin d'un mécanisme. Il n'y a pas un parlement au monde, à ma connaissance, qui n'a pas de mécanisme précis pour mettre terme à un débat. Et puis je pense que c'est dans la façon dont s'exerce ce bâillon-là : est-ce qu'il doit être plus radical, moins radical? C'est une question de règlement.

Dans le système parlementaire britannique il y a une règle de base qui remonte au temps des rois : au bout de la ligne, c'est le gouvernement, c'est l'exécutif, qui va avoir raison d'être. Et puis, ce que vous voulez savoir, c'est jusqu'où va la ligne. Comprenez-vous? Au bout de la ligne, c'est le gouvernement qui va avoir raison, c'est

l'exécutif qui va avoir raison—combien de temps va durer le débat, combien de temps va durer—

M. Gilles Bisson: Mais au début, pour la majorité de ta carrière ici comme greffier, il n'y avait pas de bâillon.

M. Claude L. DesRosiers: Ça a tout le temps été, ça existait.

M. Gilles Bisson: Tu peux demander—tu peux avoir une clôture à 19 h 30. Tout ce concept-là, ce n'était pas en place. Je me rappelle, en 1990, c'était plus les partis mêmes. C'était un gouvernement majoritaire; tu devais, sans avoir de clôture comme aujourd'hui, trouver des ententes avec les autres partis pour être capable d'avancer l'agenda législatif.

M. Claude L. DesRosiers: Non, je ne suis pas d'accord avec vous. Je pense que ça a tout le temps existé. Si vous remontez à très loin—comprenez-vous, on ne peut pas isoler un parlement des autres parlements dans le système britannique. La notion de bâillon, c'est un moyen pour mettre fin à un débat, alors les législatures canadiennes et britanniques ont tout le temps eu des moyens pour mettre fin à des débats.

M. Gilles Bisson: Je suis d'accord. Tu as le bâillon que tu peux faire pour demander—like, to call the question. Ça, je le comprends.

M. Claude L. DesRosiers: Ce n'est pas seulement ça—ce n'est pas ça que je veux dire. Je veux dire qu'il peut y avoir une motion mise de l'avant pour mettre fin à un débat.

M. Gilles Bisson: Mais ce n'est pas quelque chose qui était fait comme d'habitude.

M. Claude L. DesRosiers: Mais il n'y a pas d'habitude là-dedans, monsieur Bisson. C'est que vous—

M. Gilles Bisson: C'est rendu l'habitude.

M. Claude L. DesRosiers: Ça, la fréquence avec laquelle on s'en sert, c'est autre chose. Comprenez-vous? Ce n'est pas le fait que ça existe. C'était peut-être un fait de fréquence, mais on se plaint de fréquence depuis que j'oeuvre dans ce domaine-là.

Je vais vous raconter une histoire. Dans ma tête à moi, il faut se placer avant 1968 et après 1968, partout au monde, parce que le monde a changé en 1968. Moi, je me souviens d'un président de la Chambre, Lucien Lamoureux, qui était président de la Chambre en 1968, et puis lui, un homme qui n'était pas grand—il était assez court—se levait debout comme ça, les deux mains jointes. Et puis il y avait un silence complet qui se faisait dans la Chambre automatiquement. Ce qui est arrivé, c'est que les gens qui étaient à l'université, qui étaient dans le monde, les jeunes qui étaient « out and about » dans les années 60 se sont fait élire dans les années 70. Et puis pour eux, il n'était plus question d'autorité inhérente; ça n'existait plus. Un président avait beau se lever, les mains jointes, ou bien en criant, ou bien en tapant du poing—non, on n'en voulait plus.

Alors, à ce moment-là se sont développés des mécanismes, des habitudes, et puis le respect inné—écoutez, avant 1968, pour aller à l'université, je devais avoir une cravate. Après 1968, je pouvais me montrer à l'université avec un jeans troué. Le monde a changé

complètement. La notion d'autorité est disparue, et puis quand on ramène ça à un système parlementaire, il faut changer nos règles, il faut changer nos attitudes, parce que la simple autorité ne fonctionne plus. Puis, à ce moment-là—et je pense que c'est à ça, monsieur Bisson, que vous faites référence indirectement, parce qu'il y eut un temps où on n'avait pas besoin du bâillon, sauf dans des moments extrêmes. Et aujourd'hui, on a besoin du bâillon de plus en plus pour faire avancer la législation, parce qu'on prend pour acquis que le rôle de l'opposition—et vous avez tous été l'opposition, chacun à votre tour, ici—c'est de bloquer la législation. Ça, c'est du point de vue du gouvernement, de l'exécutif.

1020

Du point de vue de l'opposition, ils voient la chose complètement à l'inverse. Ils disent : « Nous, on est ici pour empêcher le gouvernement d'arriver à ses fins. » Comprenez-vous? Il y a un juste milieu là-dedans, si les deux partis, les deux côtés de la Chambre, peuvent s'entendre pour dire : « Notre rôle à nous, c'est de prendre la proposition du gouvernement et d'essayer de l'améliorer pour faire un meilleur produit, et puis de coopérer, tout le monde, à faire ça. » Et bien, d'accord.

M. Gilles Bisson: Et même ça, c'est la vue oppositionnelle, ces jours-ci.

M. Claude L. DesRosiers: Mais oui.

Mr. Gilles Bisson: You must have other questioners on the Liberal bench. I have others, but I don't know if they have other questions. I have a whole bunch.

Mrs. Laura Albanese: I have a question.

The Chair (Mr. Garfield Dunlop): Okay. Can we go to a couple over here—

Mr. Gilles Bisson: Yes, just be fair.

The Chair (Mr. Garfield Dunlop): Mr. Leal, did you want to go with yours first, then Mr. Balkissoon? Yes, go ahead.

Mrs. Laura Albanese: I have a question.

The Chair (Mr. Garfield Dunlop): I'm sorry, Laura. Okay. So we have at least three over here. We've got lots of questions.

Mr. Jeff Leal: It's good to see you again. Thanks so much for coming. I enjoyed the exchange of information between you and Mr. Bisson.

You talked about time allocation and the balance. The government of the day wants to move forward with its agenda and the opposition, of course, to hold the government to account and improve the legislation. Have you ever spent much time talking about programming motions as a way to replace time allocation, in that with a programming motion you've got benchmarks? You set it out—we'll say, for the sake of discussion this morning—over a month, and you say, "During that month, through a programming motion, these are the things that are going to be set out. We know at the end of the month we want to get royal assent or approval on bills (a), (b) and (c)." It provides the opportunity for the opposition to have meaningful input. That's their proper role, and I have great respect for that. But it really may get away from time allocation, which really gets the hackles up of

the opposition. I always chat with Jim Bradley on these issues because he has been on both sides and at times has used every tool available, depending on what side of the House that Mr. Bradley was on on any given day.

Mr. Claude L. DesRosiers: Thanks for the question. I'll go back to 1986, if I may.

Mr. Jeff Leal: Sure.

Mr. Claude L. DesRosiers: I came here in 1986. I was coming to a very different land. I did not know this institution at all. I knew Parliaments but I didn't know the culture here and so on. I was amazed. In the first Parliament that I sat through here, which was a minority Parliament, I was amazed by one thing. I would tell my colleagues this. I couldn't get over it. They never used the standing orders. It was amazing. And you know what worked? There was a wonderful institution here that still exists and was called the House leaders' meeting. You talk about programming: Well, the programming was done in the House leaders' meeting, and it was respected. That's the way it worked.

Then it broke down. When the majority came along in 1987, it broke down completely. I was amazed again. How could this wonderful institution, which had worked so well in the previous Parliament, have fallen completely down? Well, politics, I imagine, and there was less of a need to make things work. But there are places where they do have very strict programming. Again, I come back to McGrath, and this is one of the things we saw in Paris. I haven't checked, but it probably works the same way today.

House leaders meet in Paris, as they do here, once a week, and they program. They say, "Okay, so many hours, so many hours, so many hours, so many hours. Vote, vote, vote, vote." They write this down, and they all put their signatures to it. Then they give it to the Speaker. It's the Speaker's job to put it in place. The Speaker will stand up and say, "Oh, listen, I have a program here, signed by the three or four or five House leaders. It says that after three hours of debate on this bill, we put the question"—end of story.

So yes, programming, but again, I mean, you're talking good will, and you're talking all kinds of things and so on. Those are two extremes that I just illustrated: a time and place where three people would sit down and program and make it work. They didn't give their things to the Speaker or anything; they just made it work.

Mr. Jeff Leal: As chief government whip, I get to attend the House leaders' meeting now, and I thoroughly enjoy it—

Mr. Claude L. DesRosiers: Okay, here's—

Mr. Jeff Leal: I wanted to follow up—I'm sorry, you keep going because I've got a follow-up—

Mr. Claude L. DesRosiers: Just one last thought on this: One of the problems that I sort of put my finger on after 1987, when I said, "How come this is not working anymore?" was because instead of three people around the table—whoops!—you had a whole bunch of people around the table. I think that one of the great things about being close to Legislatures and close to Parliaments and

so on and sitting at a table in the centre of the place is that you can see wonderful things happen, and you can see people that can be at each others' throats and so on during lively debate and then be the best of friends afterwards. That's the way it should be. But it has its ups and downs.

What you need to find is, yes, a programming something, but you need to find a way where it will be respected. I was once a fan of giving the list to the Speaker. I don't know if that would work or not. You know, you need something to—respect amongst yourselves is key and so on.

I don't know; I'm just a lowly former Clerk. I often scratch my head and say, "Oh, my gosh, keep this for the election."

Mr. Jeff Leal: I'm a big fan—Mike Pearson was my hero, and I've studied his minority government from 1963 to 1968 closely. It's interesting when you look at that period of time. You talk about the House leaders; the House leaders set the agenda. It wasn't particularly the executive and the cabinet. Mr. Pearson operated with a PMO in those days of 10 people, and it was quite separate. They handled that side of things.

The legendary comment was, "You check it with Allan J." who was the legendary Liberal House leader—right?—Allan MacEachen. Everybody said, "You check it with Allan J." because he was there with Mr. Diefenbaker's House leader and Mr. Douglas's House leader. At a time when you had the most acrimonious debate in Canadian political history, they would—but they were able to get it done, right? The House leaders, in fact, ran the parliamentary arm of the government of the day in Ottawa.

Mr. Claude L. DesRosiers: Absolutely.

Ms. Lisa MacLeod: And you had a strong Nova Scotian there.

Mr. Claude L. DesRosiers: Yes, he was.

Mr. Jeff Leal: The dour Scot from Cape Breton.

Mr. Claude L. DesRosiers: Former Jesuit, too—

Mr. Jeff Leal: And a great guy.

But the issue really was, there was a much greater distinction. Everybody now defers to the centre, whether it's the centre of the government of the day or opposition or third party. In fact, the House leaders have, I think, lost power in that particular situation, where they should have the power to make it work—an understanding between three honourable people to make the House work.

Mr. Claude L. DesRosiers: I totally agree. You know, you can devise all the systems in the world and so on, but you've got to get down to basics of, you're all honourable men and women who have been elected by the people of Ontario to come here and do the work of the people of Ontario. Yes, you have to go back to the people of Ontario every four years to get re-elected. That's fine. That's a separate process. But once you're here, you have a responsibility to make the darn thing work, and yes, give more power to get people out of that room.

1030

I'm sorry; I'm not aiming at you, I'm just saying—just make sure that the three House leaders have impetus, and once they've made a decision, they can look at each other in the House when somebody's about to break the deal so that something happens—that it doesn't happen.

The Chair (Mr. Garfield Dunlop): Mr. Bisson, you had a quick comment on that.

Mr. Gilles Bisson: Just a quick point, and I agree with you wholeheartedly, because where we did actually get things done this spring was through the programming motion which was negotiated with the three House leaders—

Mr. Jeff Leal: That's my point, Gilles.

Mr. Gilles Bisson: —and we purposely kept people out, for that reason, because if it's too big, it's unmanageable.

Mr. Claude L. DesRosiers: Can't do it.

Mr. Gilles Bisson: Exactly.

The Chair (Mr. Garfield Dunlop): Thank you. Mr. Balkissoon?

Mr. Bas Balkissoon: Good to see you again, and thanks for being here.

I've been in the municipal world, and then I came here. I'm thinking that I've observed some changes over the years. Strictly, when I first joined municipal council, none of it used to be broadcast. We used to get business done in a hurry because everybody wanted to be in and out.

Then I became a member of the amalgamated city, and committees were broadcast, and it was total chaos, because the political members used that medium to make their points in legitimate debates or, in other cases, just to grandstand.

Similarly, I see the same situation here, not by all members, but there are certain people that do it on a regular basis. Then I started seeing committees being broadcast out of here, in the short period of time that I've been here, and I'm seeing the same behaviour.

If I go back to what you're saying about the 1960s, the 1970s, the 1980s and the 1990s, and then I go back and remember when I first came to this country, there were only a couple of media outlets—there were two or three newspapers; there might have been five multiethnic newspapers; and there were only a couple of TV stations. Now there's huge competition in the media outlets, and I personally believe that a lot of things that are being done here are to satisfy the media. I just wondered if you could give me your comment.

Mr. Claude L. DesRosiers: I remember very much when television was brought into the House of Commons. It was a mess. I regret that day. I remember spending my question periods, at that time, in order to prep the people who were handling the cameras to—I'd have a window on the House and I'd say, "Member for so-and-so; member for so-and-so," because I knew all the members—I used to call divisions—so they could prep their cameras to these people.

Again, a huge difference in the timing and in the times. One of the big things in Ottawa prior to television was the press gallery. It had importance. It had names. It had people with good heads who worked very hard, who knew what the dickens was happening on the floor of the House. They knew why it was happening. They would communicate that, either through written press or television or radio, to the people. With television, that has disappeared. All respect due to the people I know in the press gallery and so on: They are not the same people. It's not the same job, and that is unfortunate, because you have lost a whole bunch of people who understood what this place was about. You can't go back. You can't turn the knob.

Mr. Bas Balkissoon: But that culture change is affecting this place.

Mr. Claude L. DesRosiers: The culture change has affected the place enormously. Again, I can't put the emphasis too strongly on this. This is a pet theory of mine—it's really mine. I was at university in the 1960s, I saw the world change, and I know darn well that the people who started ringing bells in Ottawa in 1980 were the people who were at university in the 1960s.

Also, there's another situation that influences Parliaments: It's when the unthinkable happens. I've seen that twice in my career. The first time I saw the unthinkable happen was in the 1979 election, when they defeated Joe Clark in the House, and when Joe Clark was rather happy to be defeated in the House. I don't think he'd admit this, but I think he was, because he felt darn sure that he was going to go to the people and come back with a majority. It didn't happen. Not only did he not get his majority, he didn't get a government. Not only that, but across the aisle was Pierre Trudeau again, and not with a minority but with a majority. I mean, it was the end of the world.

Then they put Jeanne Sauvé in the Chair, and she was very unhappy. I know this because I knew her very well. I worked with her very closely. She didn't like the job, but Pierre Trudeau didn't want her in his cabinet anymore, so he gave her the Chair—because in those days, the Prime Minister decided who would sit as Speaker. And she was unhappy. She didn't like the job. Well, she had to face the likes of Erik Nielsen, and it just didn't work. The standing up like this and saying, "Please stop heckling," doesn't work. They're not about to stop heckling. And when Harvie Andre and Erik Nielsen ring the bells, walk out into the lobby, and Harvey Andre says to Erik Nielsen, "How long can we ring these things for?" and Nielsen says, "I don't know. Let's see." And off they run to a caucus, and they decide, "Well, let's play the game here." In those days, there was no limits to bells, because everybody came. Everybody came running when there was bell-ringing. Well, this caucus had decided it wasn't going to come running anymore—the end of the world. It lasted for two weeks, 10 days: ring, ring, ring.

Amongst the clerks, there were two groups—the doves and hawks—giving advice to Jeanne Sauvé. I was with the hawks. I was advising Jeanne Sauvé, "Go in there,

shut the bells off and get the House going again.” The doves won. It lasted because she would say, “End of the story,” and the doves would say, “No, it’s a political problem. Let the politicians resolve it,” and that’s what happened.

The second time I saw this impossible thing happen was here, in 1990, when the unthinkable happened: David Peterson went early to election, thinking he’d renew his majority. It didn’t happen. And the worst of all possible scenarios happened: These people were sitting across the aisle, not in a minority but in a majority—impossible to behold. This would never—I mean, it was the end of the world. And so the Liberals were fit to be tied. The Bradleys of this world—forget it. You know, this is unheard of. Now, this was the second time. It was horrible. And the Speaker in the Chair, God love him, David Warner—you couldn’t handle these people. The place was wild.

1040

I followed Speaker Warner out of the House after question period and said, “Whoa, hold on. It’s nothing against you; these people don’t mind you. This is politics, okay? Let’s go have a Scotch or something.”

You have these extremes in parliamentary life and you have to deal with it and so on, but it all comes down to the basics and it comes down to history. I’m sure I’m right that at a certain time in our history, people who had been in university in the 1960s took over Parliaments and made hell. But that passes too. That’s not forever. Those people are grandfathers now, and they’ve been replaced by another—you now have a multicultural situation. You have more women in Parliament. These things change, so you adapt.

I’m reading about Elizabeth I these days. She’d meet Parliament and ask for money and so on, and she’d get it, but it would evolve. It’s amazing how it evolves, this thing. Her councillors—Cecil would say, “You can’t browbeat these people forever, because they’re going to hit you,” and he was right. So she’d back away, and finally, she said, “No more monopolies on wine, on this, on that. You can have that.” She was wise.

We’re getting very far, here. Back to questions.

The Chair (Mr. Garfield Dunlop): We’ve got a couple of more questions here. Speaking of more women in Parliament, we’ve got Laura and then back to Lisa—and then Gilles. Laura.

Mrs. Laura Albanese: Thank you, Chair. It’s really interesting to listen to the times you’ve experienced during your career. I was very taken by what you said at the beginning, the fact that you looked at principles. You decided to look at principles instead of the standing orders. Here, we’re trying to seize the moment and seize the occasion that we have to change things and to make them fairer for everyone. But sometimes, I feel we’re looking at too much. We’re having some difficulty zeroing in on things.

I would be interested to hear a little more about how you went from “more power to” to decisions that were taken.

Mr. Claude L. DesRosiers: Okay. In my time here, I would always—not always, but I would sometimes advise. What has been happening with standing orders is that—I used to compare it to my first watch, which was a Mickey Mouse watch. You had to wind them and so on, and my mother would say, “Don’t wind it too much” and so on. That’s what has happened with standing orders: You wind them, you wind them, you wind them. You block this loophole, you block that loophole, and then whoops, whoa, you’ve gotten yourself into a corner. So you back up a bit and then you go this way and that way. I often would say, “Why don’t you start over? This is the British parliamentary system as it has evolved in Ontario. Chuck the book away. Toss it away.”

There are certain very basic principles in the British parliamentary system that you can’t get away from. They’re constitutional. You can’t get away from these. You need three readings to a bill. You should send it to committee. You don’t have to, but you should send it to committee. So you establish: What are the bare bones here? What constitutes a Parliament? What do you need for a democratically elected institution to pass legislation? Because this is your business.

What’s a member? This is another fault that we’ve fallen into. What’s a member? Well, in the last 50 years, you will find that, more and more, members are representatives of the people. They do what the people at home want them to do. This is very much in contrast with the beginnings of Parliament, with the beginnings of the institution itself, where members were not representing their people at home. They were elected by the people at home, they came to Parliament, they participated in debate and they voted their minds. If the people back home didn’t like it, they would toss them out on their ear at the next election. We talked about the media and about this and about that and how much can you get away with that type of thing today. I don’t know. Please don’t talk about recall, because to me that is—you go down those routes and you’re in bad, bad trouble.

As I was saying, there are certain principles to the British parliamentary system that you have evolved over the years in your standing orders. Some of those standing orders you shouldn’t have on your books anymore. Don’t ask me to pinpoint them—I don’t know them anymore—but they used to be there.

I come back to what I was saying earlier. I was amazed in the first year I worked here. It was such a contrast with Ottawa. You didn’t use the book; the House leaders ran the show. You never needed the book. So I think there must be a way—and I don’t know; this is probably me speaking airy-fairy. I tend to do this, my wife will tell you. But there must be a way to go back to the basics and say, “Okay, we’re here. We’ve all been elected with a platform, under the wings of a party, and we’re going to have to do the best we can for the next four years, together. How are we going to do this? Do we leave enough time for play acting to make sure that the people at home know that we’re angry at each other?” That gets down to basics, you know?

Or is there a way? I think there is. I think you can sit down. I think you can write a system. I think you can get down and say—but it has got to be tried. To get back to what we did at McGrath, it was principles. As I said earlier, it was more power to, more power to, more power to. I think we were successful in recommending more power for the Speaker, and that's worked to a certain degree. I think he or she could be more powerful. I abide in that. But more power to the private member? Be careful. Be careful with private members, because—I think you have a good private member system here. I used to hate it—I did—because this business of having a vote at second reading on everything that comes forward to me used to be anathema. I used to cringe every time. I'd say, "Oh, we have to put this thing to vote. It's second reading, for God's sake. It's the principle of the bill." But, no, no, that's okay. I've changed my mind on this because you've left—so it's sent to a committee and you've left the government to bring it back, if it's going to survive. So that's okay; that's fine.

But don't try and build a parallel legislative system by the private member to that of the executive. Am I making myself clear here? That's not what private members are here for. Private members are here to influence the executive. I mean, we all wear seat belts in our car today because some member of the NDP in Ottawa every year used to propose the same bill. It never went anywhere, this bill, but it was picked up by the government one day and made their own. So we all wear seat belts because of this member. But I really counsel you against creating a separate legislative system by private members. That's not what the role here is. This is a British-style Parliament.

1050

The Chair (Mr. Garfield Dunlop): We have a couple of more quick questions, and then at about five to 11 we have to excuse you—

Mr. Claude L. DesRosiers: That's fine.

The Chair (Mr. Garfield Dunlop): —because we have a conference call coming in from England. If that's all right, a couple more quick questions.

Ms. Lisa MacLeod: Thank you very much, Chair. You know what? Your last statement was entirely something that I think would segue just beautifully into what I wanted to talk about. You said to be careful with more power to private members. Private members are here to influence the executive.

One of the things that we've talked about with our own Clerk from time to time was pre-1985 and the use of select committees in this House in order for private members to study, examine and then try to influence the government of the day on a major social issue or public policy issue. We recently had—and I mentioned this earlier—Bills 13 and 14, which mean nothing to you except they are anti-bullying legislation. It became clear to me that when we're dealing with a social problem that is affecting people who are younger than everyone that is in this chamber, we could have benefited from a good examination that was far more impartial, that could have,

I think, provided a better result. I viewed the whole process by which we looked at that legislation as flawed. I only use that as an example, not as sour grapes but as an opportunity that we could have had to use that select committee system to do exactly what you had just mentioned: influence, as private members, the direction of the government on that issue.

I would like, just from your experience, any examples of select committees where that occurred. Do you actually believe that, that we should be using select committees more, from your time here, to turn the temperature down, lower the heat and just get to work? Because I think a lot of private members would actually feel that their time here is more valuable if they were actually put to work on something substantive instead of trying to find a headline.

Mr. Claude L. DesRosiers: I totally agree.

Ms. Lisa MacLeod: Yes.

Mr. Claude L. DesRosiers: I think you should. I think committees are two-fold. There should be some—and it really doesn't matter what you call them; they're called various things in various Parliaments, but I categorize them as two kinds of committees. One kind of committee is tasked with studying legislation after second reading and making recommendations to the House as to whether certain sections of the bill should stand. This is a very technical job. It has to be done and so on.

The other type of committee, which has disappeared to a great extent, is what I call a subject matter committee. If you have a lot of people, a lot of members, you can have them created. You have certain committees on agriculture, on this, on that, on that. They exist, they meet, they have Chairs, they have budgets, they do what they want. But if you don't have enough parliamentarians—for example, in this Legislature—you create them as need be. You should create quite a few of them over the length of a Parliament.

Ms. Lisa MacLeod: Sort of ad hoc committees.

Mr. Claude L. DesRosiers: Ad hoc committees—and make sure that they do travel, make sure that they're staffed, make sure that they have money and that they do work that is going to be useful to the executive, to the people of the province, that will be instrumental in developing the political minds and the legislative minds of the members involved.

Ms. Lisa MacLeod: I just have one final question. Can you give us an example of a select committee, in this chamber or on Parliament Hill, where we've seen some substantive change as a result of that independent—not independent work but work of the collective parties who were far more impartial than they normally would be at a clause-by-clause hearing of a particular bill?

Mr. Claude L. DesRosiers: I'd have to think about this, but I can point you in the right direction. Go to the Senate of Canada. The Senate of Canada has the most distinctive select committee system in this country. They do very good work, and it's worth keeping the Senate just for their committee system—

Ms. Lisa MacLeod: I agree. I used to work for Senator Forrestall and Senator Buchanan.

Mr. Claude L. DesRosiers: These people do very, very good work on enormous amounts of subject matter, and their results are very good and are used. They don't make the 10 o'clock or 11 o'clock news every night, that's for darn sure, but they are very useful to the country.

The Chair (Mr. Garfield Dunlop): We have a couple of quick comments here; Gilles first.

Mr. Gilles Bisson: Yes, a couple: In regard to committees, I just have a question. I'm not sure when this got into the standing orders, but currently committees can only meet in the summer with an order of the House. Was there ever a time where it was just with an agreement of the House leaders?

Mr. Claude L. DesRosiers: I don't know. I think committees probably did meet more often in the past. When I came here, I think they did. But I think it was always at the behest of the House. In principle—and this is a British parliamentary system principle—committees are creatures of the House and sit at the control of the House.

Mr. Gilles Bisson: But your point in regard to allowing the House leaders to essentially order up what happens in the Legislature includes what happens at committee. So I'm just wondering, in light of that—

Mr. Claude L. DesRosiers: Absolutely. You could make this work.

Mr. Gilles Bisson: You could change the standing orders to say, "With agreement of the three House leaders, committees can meet in the summer"—that kind of thing.

Mr. Claude L. DesRosiers: You could make this work, as long as there's a decision of the House.

Mr. Gilles Bisson: I'd like to take on some of the things you said, but I'll just leave it at that.

The Chair (Mr. Garfield Dunlop): A final comment from Mr. Leal.

Mr. Jeff Leal: Claude, just review on the use of select committees for public policy development as opposed to using select committees for investigative purposes.

Mr. Claude L. DesRosiers: I don't know about this investigation stuff, but this is just a personal matter for me. I think committees as a whole can do a lot of work.

You need money. Out of McGrath was created what they called a liaison committee. The board of internal economy—read McGrath on this—would pass a sum of money in the budget every year for committee work. Then committee Chairs would form what they called the liaison committee. The liaison committee would meet once a month or something, and they would regulate how the money was spent. If there was \$1 million for committees, the Chair would decide, "So much committee," and so on and so on and so on.

These were permanent committees. They weren't ad hoc committees; they were permanent committees, and therefore there was a permanent yearly budget to it, and

the various Chairs would decide how the money was spent. This was a great idea; I don't think it lasted.

With the size of this Legislature, you need to work more ad hoc with your committees. As a citizen of Ontario, I know that there are a lot of subject matters that would benefit from the study of members of this House in any given year.

The Chair (Mr. Garfield Dunlop): With that, I can't thank you enough for coming in on short notice. What an interesting conversation. I'm glad it was question-driven because, obviously, you had the answers.

Lisa, did you—

Ms. Lisa MacLeod: Thank you very much, Mr. DesRosiers. It was really nice to see you again. It was very informative. I think every Parliament, regardless of what year it is, would benefit from having some institutional background like we just received today. I think that I speak for everybody in saying thanks, but also, if possible, if we could call on your assistance from time to time, we would very much appreciate that.

Mr. Claude L. DesRosiers: Sure; I'm not far. I'm down the road.

Ms. Lisa MacLeod: Excellent. Chair, given what a great job this was and how—Mr. DesRosiers mentioned that it's like a watch: When you wind up some of these standing orders from time to time, it actually creates unintended consequences. I'd like to know if we could direct the Clerk, and I guess other clerks, to do analysis for us on the impact of the rule changes from the mid-1980s until the present day. I know that that reflects my party, the Progressive Conservatives, the New Democrats and the Liberals, who have had majorities from time to time and who've done that sort of winding up. If the clerks' office could provide their assessment in a report to members of this committee before we travel to Ottawa, that would be very helpful.

1100

I want to thank the previous Clerk for coming in because I think he made a point that was very important, that maybe we have a few things that are broken and we may have to go back to some basics here. Thank you very much.

The Chair (Mr. Garfield Dunlop): Okay, thank you very much.

MR. LIAM LAURENCE SMYTH

The Chair (Mr. Garfield Dunlop): All right. So we'll get prepared for the next conference call.

Good morning.

Mr. Liam Laurence Smyth: Hello. It's Liam Laurence Smyth here.

The Chair (Mr. Garfield Dunlop): Good afternoon, sir. Can you hear me?

Mr. Liam Laurence Smyth: Certainly. Yes. My name is Liam Laurence Smyth.

The Chair (Mr. Garfield Dunlop): Hi. Thank you very much, sir, for joining us. It's about 11 o'clock in the morning here in Toronto, Ontario. My name is Garfield

Dunlop. I'm the Chair of the committee. I'm joined by members Lisa MacLeod from the Progressive Conservative Party; Jonah Schein from the NDP; Gilles Bisson from the NDP; Jeff Leal from the Liberal Party; Reza Moridi from the Liberal Party; Bas Balkissoon from the Liberal Party; and Laura Albanese from the Liberal Party as well.

Can you hear me fine, sir?

Mr. Liam Laurence Smyth: Yes. Good afternoon. Yes, that's fine.

The Chair (Mr. Garfield Dunlop): Thank you. The intent of our committee is that we're doing a review of our standing orders here at the Standing Committee on the Legislative Assembly. We're just looking for feedback and for some of your comments on how you operate in your jurisdiction and on how we might improve in our jurisdiction by listening to people from other jurisdictions, and of course right from here in Canada as well.

Mr. Liam Laurence Smyth: Yes, Chair. I'm sorry Robert Rogers, the Clerk of the House of Commons, is not available just now. I am the Clerk of the Journals. He and I together both append our signatures to the standing orders of the House of Commons. I think the Clerk of the Journals' role is that he's the guy who has the long historical memory, and in practice my office deals with privileges and procedure, petitions, precedents, to advise the House on its own rules.

The Chair (Mr. Garfield Dunlop): Thank you very much. We know that you have no prepared statement or anything like that, sir, but we can ask you some questions, if that's all right. We have up to about an hour of your time, if that's appropriate.

Mr. Liam Laurence Smyth: Yes, certainly. I just wanted to say that I'm a senior non-partisan parliamentary official. I've been a clerk of the House since 1977. I'm one of the clerks at the table. I have a broad knowledge of parliamentary procedure. I'm very happy to help you on any inquiry you have.

The Chair (Mr. Garfield Dunlop): Well, thank you. We just heard some comments from Claude DesRosiers, our former Clerk here at the provincial legislature at Queen's Park, and he commented on some of the good work that your organization and your particular branch of the government does in Westminster.

If we could, we have some questions that we'd like to ask you.

Mr. Liam Laurence Smyth: Certainly, yes.

The Chair (Mr. Garfield Dunlop): I'm going to start out, sir, if you could answer questions from Mr. Gilles Bisson, who is with the New Democratic Party. He has the first question for you.

Mr. Gilles Bisson: Good day, sir. Gilles Bisson here, of, I guess in your terms, the Labour Party.

A couple of questions that I have are in regard to your committee process. Our current committee process is pretty rugged, not a bad one, but I'm just wondering, because you have the large numbers of members, you have a pretty robust committee system over there. I'm just wondering, is there anything in particular other than the

numbers that is interesting in regards to how you approach committees?

Mr. Liam Laurence Smyth: Yes. I think we have a binary committee system. On the one hand, I would have the general committees, and on the other, the select committees. To take the general committees first, they are like the chamber itself in miniature. It's an extremely formal process: Members stand to speak; they debate; they contest; they vote. So there's a public performance of an adversarial process, which certainly has its place, and most of our legislative activity happens through those committees.

Mr. Gilles Bisson: Do the vast majority of your bills go through committee?

Mr. Liam Laurence Smyth: Yes, and the select committees, by contrast, are smaller groups. They are far less partisan in their behaviour. They typically sit around a horseshoe, I guess much like you're doing now; question and answer and engagement with the outside world, often producing consensus reports which shift on the policy debate. So the same members of Parliament take part in these two kinds of committees but they behave in two different ways.

Mr. Gilles Bisson: The ability for the committee to meet in the intersession when the Parliament is not sitting is by order of the House?

Mr. Liam Laurence Smyth: No, the committees have leave to meet, notwithstanding any adjournment of the House. So there would only be something like five days a year, when we have our regular annual prorogation—and that's normally just over a weekend—when there's literally no Parliament and the committees can't sit. So the committees have freedom to sit in the rest of the year. General committees, these highly partisan debating committees, never do. They only sit in term time. Select committees generally stick to sitting weeks, but they certainly have the power to travel, which they do in recess times—

Mr. Gilles Bisson: Can I back you up, because I just want to understand something. When you talk about partisan committees, I understand there are select committees and then there are committees of the House. Is there a difference with your other committees? The ones that are hyper-partisan that only meet when the House sits, are they different than other committees that would sit except for when you're prorogued?

Mr. Liam Laurence Smyth: Yes, I'd say the general committees are the ones that are nominated by a committee of the House, the committee of selection which, in effect, rubber stamps the decisions of the party whips; you know, who will sit on the finance bill or the committee on the latest VAT change order. So there's a whole scale of these committees, whereas the select committees, on the other hand, are elected by the entire House. Their Chairs for the select committees are elected by a secret ballot of the whole House, whereas for the general committees, the Chair is nominated by the Speaker from a panel of senior members. So the two committees behave in very different ways.

Mr. Gilles Bisson: Did I understand you correctly: Your Chairs of your select committees are elected by the House?

Mr. Liam Laurence Smyth: This is a new reform which has been, I think, hugely successful. The parties decide amongst themselves who gets which committee to chair, so there is still an element of backroom deal about it, but the Speaker decides how many Chairs each party's going to get. They look at the result of the election, the Speaker decides how many Chairs each party's going to get, the parties decide which they're going to be, and then the whole House votes. But only the Liberal Democrats could chair the international development committee, and in fact they only put forward one candidate. The Conservatives could chair the treasury committee; they have two good candidates. Only the opposition could chair the public accounts committee, and there must have been at least four candidates for that.

And so the Chairs of the select committees are now very powerful figures, because they feel a certain sense of entitlement because the whole House has voted to put them there.

1110

Mr. Gilles Bisson: So that would then mean, by virtue of the Chair being elected by the entire House, that committee has a bit more weight, I guess, in a funny kind of way.

Mr. Liam Laurence Smyth: Definitely. The House insists that each party caucus use the democratic method to choose their own members, although the parties have different ways of doing it, and then the whole House approves the slate between them that party caucuses bring to the floor of the House. So it is now a more open process of how you get to be on a select committee—less in the hands of the party whips.

Mr. Gilles Bisson: And the committee orders up its own business except when a bill is referred to it? How does the committee deal with its business? Because it may have more than two or three bills referred to it, how do they decide—

Mr. Liam Laurence Smyth: The typical template select committee is meant to examine the expenditure, administration and policy of a government department and its associated bodies. So they are ministry-facing committees. They can decide what they want to do, and they are—

Mr. Gilles Bisson: Just a question: So they kind of do estimates or public accounts wrapped into one, these select committees?

Mr. Liam Laurence Smyth: No, we do have a public accounts committee. These select committees, the departmental committees, which are created and lively and consensual and innovative, lack real power. The general committees, these sort of partisan, adversarial committees I'm talking about, they are the ones who debate bills line by line. They have the power, but they are completely under the thumb of the party whips. The party whips decide on their composition, the government makes sure they win every vote, and because in those

committees, the general committees on bills, the votes really matter, they'll make a difference.

So we have these two kinds of committees: the ones that are adversarial and powerful, but ultimately rather sterile; and the select committees, which our members enjoy—they find them creative and stimulating—but are ultimately without authority. They can only hope to influence by the skill of their inquiries.

Mr. Gilles Bisson: I hate to monopolize, but I'm really trying to understand something. Your select committee essentially has the authority to say, "Okay, we're going to review the expenditures or the policies of a particular ministry."

Mr. Liam Laurence Smyth: Yes. In fact, they don't trouble themselves too much about expenditure and admin; they like to go for the big policy headlines. They decide what they're going to inquire into.

Mr. Gilles Bisson: Okay. There may be other questions. I don't want to monopolize, so we can go around.

The Chair (Mr. Garfield Dunlop): Thank you, Mr. Smyth. Now Mr. Leal, from the Liberal caucus, has a question for you.

Mr. Jeff Leal: Thank you, Mr. Smyth, for being with us this morning. We do know that all eyes will be on London in the not-too-distant future with the Olympics, and we wish you all the very best.

Mr. Liam Laurence Smyth: That's very kind.

Mr. Jeff Leal: I want to go back to issues that were raised by Mr. Bisson and the role of select committees and regular committees. Do the select committees look at policy issues through deliberations to make recommendations to ultimately try to influence the executive of the government of the day?

Mr. Liam Laurence Smyth: Exactly. These policy select committees hold hearings, go on visits occasionally, and then they meet in private to craft a report which will review the evidence they have received and make recommendations more or less on consensus, with votes where necessary, and they will then publish a report, a book containing their conclusions. It's a very different kind of process from the powerful general committees on bills, which hold debates in public, arguing line by line on amendments to the text.

Mr. Jeff Leal: Many of us certainly watched with interest the issue of the relationship between the Murdoch media chain and the government. Was that the purview of a select committee, or was that a regular government committee that did that review? I'm trying to differentiate between public policy issues and issues where there was a topic that came up that needed a thorough investigation just because of the nature of what was part of that topic under investigation.

Mr. Liam Laurence Smyth: That committee is the committee on the Department for Culture, Media and Sport. It's their responsibility to have overview of the Olympics and of the regulation of gambling. These are issues that they are currently dealing with. They are also interested in the regulation of the press, the ownership of the media, which that ministry has oversight of. Although

they were technically supposed to be focused on what the ministry is concerned about, inevitably these committees get engaged in the entire policy field which that committee addresses.

All the time, inquiring into the conduct of the News Corp. operation, the thread bringing them back should be, “What are we going to do about it, and what do we expect the ministry to do in terms of policy about it?” So their recommendations, in the end, come back to, “Therefore, we think there should be greater press regulation” etc.

Mr. Jeff Leal: So the issue then was the concentration of media ownership that they were looking at from a policy perspective, am I correct?

Mr. Liam Laurence Smyth: Yes, and the regulation—the rights of the individual person, the press standards, what happens if somebody wants to complain about the invasion of their privacy.

Mr. Jeff Leal: If I could just shift gears for a minute, sir, I want to ask about question period. At Westminster, how many times a week do you have question period?

Mr. Liam Laurence Smyth: It’s every day except Fridays. We only meet on 13 Fridays a year. Every day starts with an hour of questions on a rota, and the only person who answers question every week is the Prime Minister, and he does 12 to 12:30 on Wednesday.

Mr. Jeff Leal: Could you just repeat that, sir? I think what you were saying is the Prime Minister is only there once a week and answers questions on Wednesday, but I just want to—if you could confirm that.

Mr. Liam Laurence Smyth: The Prime Minister answers questions every week, and the other ministers are on a kind of cycle that will bring them in every fourth Monday, let’s say. It’s normally every fourth—every fourth Tuesday; a small ministry will get the Wednesday slot before the Prime Minister comes on. He’s the only person who’s there every week.

Mr. Jeff Leal: Are the questions pre-submitted in that when the Prime Minister would come on Wednesday, he or she would know the questions in advance to prepare the answers?

Mr. Liam Laurence Smyth: No. It’s allowed to put a specific question on the written order paper to the Prime Minister. Most people don’t bother. They would rather be able to be spontaneous on the day. The Speaker will definitely call the Leader of the Opposition six times during this 30-minute period. The 30-minute period is partly a contest of the party leaders. It’s partly going through the list of the 15 members who are lucky on the ballot; they got their names on the order paper. And it’s partly the Speaker’s own choice of other members who he calls to ask. So there are different things going on in this question-hour period.

It’s a very noisy time of the week. It’s one that people pay a lot of attention to. It’s one that certainly the Speaker feels we haven’t yet got quite right.

Mr. Jeff Leal: Here in the Ontario Legislature, typically in any question period, the government of the

day gets three questions. In Westminster, how many government questions are allowed?

Mr. Liam Laurence Smyth: The Speaker would alternate between the two sides of the chamber, so the government would get half. They perhaps, you could say, are slightly under-represented if they get half the time, even if they have a large majority. The Speaker would still be tending to alternate between the two sides of the House. I should make an exception that the Leader of the Opposition will be called as soon as he stands up; he doesn’t need to wait his turn.

1120

Mr. Jeff Leal: You have a minority government situation, correct, right now in Westminster?

Mr. Liam Laurence Smyth: Because the Conservatives went into a coalition with the Liberal Democrats, between them they do have a majority.

Mr. Gilles Bisson: Tell him we’re not interested.

Mr. Jeff Leal: Thank you very much, sir.

The Chair (Mr. Garfield Dunlop): I’m now going to go over to Ms. MacLeod from the Conservative caucus and then—

Ms. Lisa MacLeod: Hi, Mr. Smyth. My husband is actually going to be at Whitehall this evening, so he’ll be in your fair city this evening. Of course, I look to get an update from him on how things are there.

I’ve got a question in the meantime. You had mentioned to one of my colleagues that the committee structure changed a bit in your House, whereby the House actually chose by secret ballot who the Chair and the Vice-Chair would be on each committee, I guess giving it more weight etc.

I’m wondering, when were the most recent changes to your standing orders or your parliamentary procedure at Westminster, and how did you go about it? I know that it’s often a natural evolution. I would consider, for example, your assembly sort of the mother ship we all look to for guidance, because quite frankly you had a hand in creating all of us. I’m wondering how, from time to time, your members, private and otherwise, come to the decision that there needs to be changes through that evolution and then how they go about making those substantive changes.

Mr. Liam Laurence Smyth: It’s often because there’s a crisis. In the 1880s it was because of the obstruction by the Irish nationalist members. Where we are now is the result of the disaster that engulfed us in 2009 with the members’ expenses crisis, which was a shattering psychological blow, very destructive to the reputation of Parliament.

As part of an attempt to recover the respect that the institution had lost, right at the end of the last Labour government a committee was convened of very experienced backbenchers chaired by Tony Wright, and the Wright committee report, I think very significantly, was called *Rebuilding the House*. The opposition at the time bought into their prescription and their diagnosis—as oppositions often do; they see the advantage in strong Parliaments—and then when they came into government

the leader of the House, George Young, has seen through most of that reform program.

Part of the consequence of the expenses disaster was the resignation of the former Speaker. The new Speaker is an extraordinarily energetic, dynamic figure, one perhaps who's less of a sort of non-partisan cipher than his predecessors, and he is also a very strong driver for reform and change. It was that sense of crisis, I think, in 2009 which drove through this latest wave of reform.

Ms. Lisa MacLeod: So just to be clear, then, effectively, the previous Labour government struck that committee. It convened and provided recommendations. You said that the opposition party which became government, so I'm assuming you mean the Conservatives, also put forward what I would probably consider a minority report. Correct me if I'm wrong—

Mr. Liam Laurence Smyth: It was a consensus report, pretty much.

Ms. Lisa MacLeod: Okay, and that consensus report has been ushered in since that time by the new David Cameron government?

Mr. Liam Laurence Smyth: Yes, and of course the fact that the party is a coalition party, the Liberal Democrats being our small third party, their experience for decades has been one of opposition. We now have in government, and with significant weight in government, a party which has opposition-mindedness right the way through it, so it just has a strong commitment to having a stronger Parliament.

Ms. Lisa MacLeod: Could you walk us through the procedure? Right now, we're in a minority Parliament, as you are aware, and we're taking this as an opportunity to review our standing orders and how we can make things better. Part of that, obviously, is speaking with you and others who are Clerks in other assemblies throughout Canada. I'm curious to know what the process was. Were there public hearings, or were there semi-public hearings where there were invited guests? Did your committee, for example, travel to other jurisdictions or bring speakers in? How long did that process take in order for what I would consider a substantive document to be tabled in your assembly?

Mr. Liam Laurence Smyth: The Wright committee was appointed in July 2009. It reported in November 2009. It did not hold any hearings, and it didn't travel. It had a good balance of very senior, experienced members on it, and mostly it was negotiation behind closed doors.

The package that they produced is one that a tired government facing the probability of a period of opposition could buy into; it's one that a small third party which has always been in opposition was enthusiastic about; and it's one that the large party not confident of winning the election, with a long experience of the frustrations of opposition, could also buy into. So the political timing I think was crucial. At that point, you had three parties, all of whom could sympathize with the need for stronger scrutiny of the executive. That's not always the way. When you have a strong, secure, dynamic new majoritarian government, they tend to see the

advantages of efficiency in passing bills quicker with less fuss. There is a kind of psychology about the politics of the moment.

Ms. Lisa MacLeod: What were some of the other changes that the Parliament experienced as a result of that report from the Wright committee?

Mr. Liam Laurence Smyth: The ongoing battle is over who controls the agenda, because where we are now is that the government controls the agenda, with some exceptions. What the Wright committee did is they have carved out a space for backbenchers to determine the agenda. We now have a backbench committee which listens to members who bid for debates. The backbench committee decides which topics it will choose, and the government provides—must provide by standing orders—roughly one day a week. On that day, whichever day it turns out to be, the backbench committee is the one that decides the business. That has been a successful change, and it's one that is now being reviewed by our own procedure committee. It may lead on, in time, to a different way of the government setting the agenda for the rest of the business.

Ms. Lisa MacLeod: This backbench committee would be, obviously, very powerful. How is the membership determined? Is that again a vote by secret ballot in the House? That would appear to be a very coveted position.

Mr. Liam Laurence Smyth: It is, and the woman who chairs it has made a huge success of it. Interestingly, on the Wright committee, she was a dissident. She was somebody who was highly skeptical about creating a new elite interest. But perhaps because of her skepticism, she has been somebody the whole House has tremendous faith in leading that committee.

Ms. Lisa MacLeod: Is the backbench committee staffed?

Mr. Liam Laurence Smyth: Only in a light way. The table office clerks provide a small secretariat, but it doesn't require a great complexity. They have an open meeting on, typically, a Tuesday lunchtime. Members pitch up; they make their pitch for a debate for a minute. They say, "This is an important subject, and I know I have 28 people across the House who want to speak on it. It's a very important area, and we haven't discussed it for three years." Then, someone else stands up and says, "We must have a debate because it's International Women's Day," or whatever the particular reason is, and they have to make their judgment.

1130

Ms. Lisa MacLeod: And we do something like that, in terms of proclamations and members' statements, but you're effectively saying that if a minister were to make a statement on International Women's Day, this backbench committee would sort of set that agenda on a certain day of the week, for example, on a Wednesday or something?

Mr. Liam Laurence Smyth: If there was a day available in March for backbench business, there would be a contest about—there would be a lot of bids for how

that time ought to be used. So the backbench committee can only allocate debates on motions that they put forward. They don't control the rest of the scheduling. They don't control members' statements, for example.

Ms. Lisa MacLeod: Just one final question, because I know our Clerk would like to speak with you: My colleague Mr. Leal broached the News Corp. hearings, and that obviously had people in Ontario and the rest of Canada very interested. I do have a quick question, because you answered one of them, which is, it was through a regular standing committee that those hearings did take place. I'm wondering, did the committee have the flexibility to meet at the discretion of the Chair, and how long were those hearings? Did they meet daily, what was the reporting mechanism, what were the powers that the committee had and do have to move and make recommendations and changes to improve that situation?

Mr. Liam Laurence Smyth: They met over a period of months, typically once a week. They would have a hearing lasting between one and two hours, and then the clerks would draft a long report, a review of all the evidence that they'd received. The committee would then argue over the conclusions of it. Then this sort of large book is published with their conclusions and prescriptions for how we should move forward in that policy area.

Ms. Lisa MacLeod: So were the meetings at the discretion of the Chair? Or was that decided by the government, and the—

Mr. Liam Laurence Smyth: Oh, no, it's nothing to do with anybody outside the committee. I think committees normally operate on a consensus basis. That does have a Conservative Chair—that is to say, from the government benches—but I think the committee themselves would agree on their own program.

Ms. Lisa MacLeod: Okay, that's excellent. Thank you very much. Enjoy the Olympics. We'll be cheering Canada on.

Mr. Liam Laurence Smyth: We look forward to it. Thank you.

The Chair (Mr. Garfield Dunlop): Thank you very much, Ms. MacLeod.

Mr. Bisson, did you have another comment there?

Mr. Gilles Bisson: I'm going to let the Clerk—
Interjection.

The Chair (Mr. Garfield Dunlop): Back to Mr. Bisson, Mr. Smyth.

Mr. Gilles Bisson: Yes, a couple of questions. I've got my grandson on my knee; we have very young committee members here. It's an informal committee day here.

A couple of questions; one is in regard to this backbench committee. If I understand correctly, they would then determine the order of the House on a particular day.

Mr. Liam Laurence Smyth: Exactly, yes.

Mr. Gilles Bisson: I understand that. Now, your private members' process: Can you explain to me how that works?

Mr. Liam Laurence Smyth: Yes. We have 13 Fridays a year, and we have a ballot where the first 20 members out of a hat get the opportunity to present a bill. Obviously the first one out of the hat chooses the first Friday for their bill to go down. But there are only 13 Fridays available.

Mr. Gilles Bisson: Just before you go any further, once that member has been drawn, they no longer can go back into the ballot for the next draw, right? Until you're prorogued, I guess?

Mr. Liam Laurence Smyth: Well, we'd only have one ballot a year, so the first 20 out of the hat get the first pick of those 13 days, and thereafter private members on any day can present a bill. On Tuesdays and Wednesdays they can make a short speech asking the House to give them permission to present a bill. So by the end of the year we have about 200 bill titles that have been put before the House, of which, if there are 13 Fridays, we can say that maybe 30 will have had at least a little bit of debate, and probably two or three will get passed on to the statute book.

Mr. Gilles Bisson: The important point is, the private member gets a hearing in the House if they're lucky, but then, once they get a debate in the House, their ability to get the bill into committee and actually get work done on it is fairly difficult?

Mr. Liam Laurence Smyth: It is pretty difficult because if there's any kind of opposition at all, you would need to get a closure to finish the debate. To get a closure—and we have a House of 650 members—you've got to win the vote with at least 100 people voting on your side, and it's no easy job to have 100 friends here on a Friday. So you run the risk of falling at the first hurdle; you won't get your bill into committee. If you do get it into committee, that's okay, because you'll dominate the selection of who that committee's members are, as long as you respect the party proportions. The difficulty comes when you come back to the floor of the House for its report stage, because if you have any opponents at all, they can easily multiply the number of amendments that need to be debated to such an extent that you will run out of time.

So the bills that do get through are normally the bills that the government wrote in the first place and just didn't have time to put in the right program.

Mr. Gilles Bisson: Just to cut to the chase, if a particular member or caucus is trying to advance a particular idea or a concept that they wish the government to pick up into legislation, typically you would do it through this backbench process, this backbench committee, so that you can actually get a debate going. Then after that, hopefully the government can pick up on it if it's of their choosing.

Mr. Liam Laurence Smyth: Yes. It's a really useful part of a campaign. It's great to get the text of your bill printed at public expense. You can circulate it to everybody and say, "Spot the flaws in this," and you can come back year after year. It's got a place to play. Our next big

procedural review will be about private members' business.

I should say that we are voting on Wednesday next week about changing our sitting hours. There's a strong sense that the procedures we have need to be challenged. One thing we haven't talked about so far at all, which I feel I ought to mention, is the programming of time for government bills.

Mr. Gilles Bisson: Yes, I was going to come to that, so if you can just hold on that.

Mr. Liam Laurence Smyth: Yes.

Mr. Gilles Bisson: Just finish your thought, because I have another question to ask you before I go to the business of the House.

Mr. Liam Laurence Smyth: No, it's okay. I'm ready for this.

Mr. Gilles Bisson: Okay. The other thing just before—and I was going to get to the programming issue after. But the first one, I just want to chat with you, how much of a habit is it in Westminster that you delegate the authority of the legislation to regulation? Is that the norm or the exception?

Let me just explain by way of background. In Ontario at one time, very little was left to regulation. A bill was drafted in its form and it spelled out what the power of the minister was and what the act was supposing to do, and very little of it was left to regulation. Nowadays, pretty well everything is left to regulation, and I'm just wondering, what's the norm in Westminster?

Mr. Liam Laurence Smyth: I think the norm is for the act of Parliament to set out the broad principles within which the minister exercises powers to make regulations. If we get about 35 bills through a year, we will also see 2,000 regulations, orders, statutory instruments laid before Parliament, of which only about 200 will require an affirmative vote.

Mr. Gilles Bisson: Oh, so you actually vote on your regulation if—let me understand. If there are 2,000 regulations drafted, they're tabled with the House, and then the House decides which ones they want to vote on.

Mr. Liam Laurence Smyth: No, it depends on the original legislation; if the original legislation says the minister may by order make regulations, subject to approval by both Houses of Parliament. If it's a significant or important power, particularly if it's one that involves imprisonment or money, it is likely to require an affirmative vote. Most of the others are available for a negative vote, and a very small number are picked up by the opposition for challenge.

1140

Mr. Gilles Bisson: Maybe I need to follow up later on this, because we only have limited time, but do I understand you correctly that once a bill is drafted and regulation is drafted from that bill, all of the regulations come back to the House in some way? They're tabled with the House, I guess?

Mr. Liam Laurence Smyth: Yes, we would expect the minister to exercise their order-making power by statutory instrument. Statutory instruments have to be

laid before the House of Commons. We publish daily lists of the statutory instruments we receive. Some of them need to be approved.

Mr. Gilles Bisson: Okay. I'll get that information later.

Let me get to the programming motion. The business of the House itself: Is it essentially negotiated by the House leaders on a weekly basis or do they negotiate some form of programming motion? How do you proceed?

Mr. Liam Laurence Smyth: There's an announcement every week of the business for next week and the likely business for the second week. So we get two weeks' notice at a time, although the second week is a bit sketchy and draft. That is, at the moment, an obscure process where the leader of the House makes an announcement and responds to questions and challenges on the floor of the House, but the actual negotiation is entirely offline, behind closed doors. The proposal in the Wright committee is to try and make that process more transparent, something a bit more like our pioneering backbench business committee has done, where you can actually see how they reach the decisions on which items to choose.

When we talk about programming, what I'm thinking of is a guillotine for allocating the time to an individual bill. What I'm thinking of is the big debate we have next week on House of Lords reform—the big question that everybody is asking here is: Can the government win the vote on the program?

Mr. Gilles Bisson: I just want to tell you, I'm opposed to the House of Lords unless I get appointed. I want to be on the record.

Let me just get back to your—

Interjection.

Mr. Gilles Bisson: He just caught on to my—one of the Liberal members on the other side caught on to my joke.

In regard to programming, just to be clear, maybe the way we use the term "programming motion" is different here. We see a programming motion as essentially the House leaders sitting down and figuring out what the business of the House is going to be for a period of time. The last one we did, which was the first one we did that I can recall in this Legislature, essentially programmed about three weeks of business of the House. It was various bills: how much time at second reading, how much time in committee and how much time at third reading. That's essentially what a programming motion is. What I think I hear you saying is, it's more of a time allocation motion, is what you're talking about.

Mr. Liam Laurence Smyth: It is. Most of the time—so, 36 weeks a year—our days have a standard length. When we are sorting out the agenda, we have these standard-sized boxes of time on Monday, Tuesday, Wednesday, Thursday, and the question is, "What are we going to drop into Monday next week, and Tuesday and Wednesday and Thursday?" We don't generally tailor the length of time to each individual item of business. It's

much more a question of, “What’s going to fill the hole on Wednesday?”

Mr. Gilles Bisson: Okay. I’m running out of time. I want to make sure the other members get a chance, so—

The Chair (Mr. Garfield Dunlop): And I want to make sure that the Clerk has a chance here as well.

Mr. Gilles Bisson: Well, I have other questions. I think Ms. MacLeod has some questions. I just don’t want to take—

Ms. Lisa MacLeod: No, I concede my time to the Clerk.

Mr. Gilles Bisson: How much time do we have left?

The Chair (Mr. Garfield Dunlop): Mr. Bisson, go ahead and ask another question.

Mr. Gilles Bisson: Okay. I just didn’t want to monopolize the time, that’s all.

I just want to be clear: What you do is, your House leaders essentially agree to what’s going to be listed as the business for the following week, essentially is what you do, and that’s essentially by the House leaders. In this current configuration, I take it you have three House leaders or two?

Mr. Liam Laurence Smyth: Two, and the deputy government leader is from the smaller party—

Mr. Gilles Bisson: Okay, so the Lib Dems, because they’re part of the coalition, don’t have a House leader; they operate with the Tory House leader.

Mr. Liam Laurence Smyth: Yes, exactly.

Mr. Gilles Bisson: Okay. That’s interesting. How do you deal with conflict? Let’s say the government has a particular bill that they want to be able to pass and the opposition—in this case, Labour—says, “We want more time for debate”? Normally, does that get worked out by agreement of the House leaders, or is it time-allocated?

Mr. Liam Laurence Smyth: That’s going to be the big question. Unusually next week, with the House of Lords, we’re taking Monday and Tuesday for second reading debate, spread over two days. We have not yet seen the text of what the government is going to put down for how the bill should be dealt with after that. The speculation is that the government doesn’t have a majority to limit the time of debate on that bill.

Mr. Gilles Bisson: How does your time allocation work there? It’s by a vote of the House, just calling the question?

Mr. Liam Laurence Smyth: Yes. The motion is put down normally at the end of the second reading debate. It will typically say, “The bill will go upstairs to committee. It will come out of committee on a particular date, and remaining stages can be programmed.”

Today, we’re doing the last stage of the finance bill, which must finish by 11:30 tonight.

Mr. Gilles Bisson: So you can’t time-allocate until after second reading? Am I hearing you correctly?

Mr. Liam Laurence Smyth: That’s the normal thing that we do. In case of incredible urgency, you could timetable a bill before you had even seen it, which we might do for a really important, urgent bill that had to overturn

a court decision or deal with a terrorist crisis or something, but it’s not the norm.

Mr. Gilles Bisson: So essentially, the opposition has got to pick what their debates are about and allow the government, in some way, to be able to get their agenda through the House? Is that the culture?

Mr. Liam Laurence Smyth: I think it is. I think they want a reasonable chance to put their case over. Members, in general, prefer some certainty. I think that is a big cultural shift across all parties in that members, in general, don’t think it’s clever to keep talking until 4 o’clock in the morning any longer. There’s just a lack of appetite for that kind of inward-looking parliamentary behaviour. People are much more conscious now of how Parliament looks in the media.

Mr. Gilles Bisson: The House can continue sitting, so if the opposition decided to talk out a bill, essentially the House just keeps on sitting, and that’s the discouragement to do that.

Mr. Liam Laurence Smyth: I wouldn’t say that, no, because the standing orders provide fixed limits, the time limits at which each day finishes. Then the bill program motion limits the time spent on each bill. So the opportunities now to sit late are extremely rare.

Mr. Gilles Bisson: Okay. I’ll let the Clerk go, because I think we’re running out of time.

The Chair (Mr. Garfield Dunlop): Actually, Mr. Bisson, we have another question from Ms. MacLeod.

Ms. Lisa MacLeod: Yes, I do apologize, Clerk. I do have one quick question. It occurs to me that we’re going to continue our hearings over the summer. I think we could draw from some experience from the Wright committee. I’m wondering if the majority, or all, of those members who served on that more experienced commission are still sitting in the House of Commons today.

Mr. Liam Laurence Smyth: No. Tony Wright retired, and so did Chris Mullin, who wrote some really excellent memoirs describing his time as a backbencher. It’s well worth reading. David Howarth is now a professor at Cambridge University. I think about a good half of them retired.

Ms. Lisa MacLeod: That obviously makes a bit of sense. It would be, I think, beneficial—and I’ll just say this to our clerk at this time—if we could perhaps schedule some time with Tony Wright and Chris Mullin.

In addition, with the backbench committee—and maybe I missed this with one of my colleagues—who chairs that at this point in time? Is it a government member from the backbench, or is it another?

Mr. Liam Laurence Smyth: It’s chaired by Natascha Engel, because she won the secret ballot—and she is an opposition member, as it happens—but it was open to members from the whole House.

Ms. Lisa MacLeod: Would she be open to addressing our committee? Because I think we’ve never heard of anything like this before, and it sounds very interesting. My clerk just mentioned to us that he’ll make that contact, but I appreciate that.

It has been an absolute pleasure, Mr. Smyth. Thank you very much for taking the time with our committee, and I do know our Chair would like to invite our Clerk to speak with you.

Mr. Liam Laurence Smyth: Okay, thank you.

The Chair (Mr. Garfield Dunlop): Thanks, Ms. MacLeod.

Now, Mr. Smyth, we have Deborah Deller, the Clerk of the provincial Legislature, here. She'd like to ask—

Mr. Liam Laurence Smyth: Hi, Debbie.

1150

The Clerk of the Assembly (Ms. Deborah Deller): Hi, Liam. It's nice to talk to you again.

Mr. Liam Laurence Smyth: And you, yes.

The Clerk of the Assembly (Ms. Deborah Deller): Thank you very much for taking some time out to chat with the committee. I guess I just have a couple of maybe more technical questions. The select committees that you have, when they do up their report and present it to the House, is there then any kind of official mechanism that allows for any debate of those reports?

Mr. Liam Laurence Smyth: It's very limited. We have a technique of hanging a select committee report on to the voting of the estimates twice a year—so they get two days there. We give them some Thursday afternoons in our parallel debating chamber in Westminster Hall, which, because it meets at the same time as the main chamber, gives us about an extra 12 hours of debating time a week.

The backbench business committee is experimenting with ways of letting the Chair of a committee have 30 minutes on the floor on the day of publication just to announce the fact, because most of the publication just happens out of the chamber as a kind of—it's just like a publication. It's posted on the Web and it's available over the counter. There's not an event you can see in the chamber at which the report is laid.

The Clerk of the Assembly (Ms. Deborah Deller): That kind of segued into my next question because I was going to ask you to just, for the benefit of the committee here, expand a little bit on Westminster Hall and what kinds of things that parallel chamber engages itself in.

Mr. Liam Laurence Smyth: It's an excellent example of what we're doing now, about one Legislature learning from another. Westminster Hall is an idea we pinched from Australia, where they call it the main committee. So instead of having very late-night debates, we have daytime debates in a large room near the chamber which are never controversial; there are no votes taken. So time is allocated for debates introduced by members, always replied to by a minister. The level of debates in that chamber is really very high, often on rather narrow subjects, but certainly not always. It's an extremely level-headed, thoughtful, discursive environment where really important things are discussed, but not in a heated, partisan, point-scoring atmosphere. There is a place for that kind of debate, and it complements extremely well the more passionate debates we tend to have on the floor of the House itself.

The Clerk of the Assembly (Ms. Deborah Deller): Is there any kind of formal communication between Westminster Hall and the House itself?

Mr. Liam Laurence Smyth: We've never needed to use it. I think there is a technical device, you know: What would happen if a member misbehaved in Westminster Hall and needed to be reported to the Speaker? So there is a kind of technical possibility of a report from Westminster Hall to the chamber, but we've never needed to use it. Effectively, it's just a parallel space. It goes on in its own time. We print it in our votes and proceedings. We print it in Hansard. But it's just in a kind of separate parallel bubble.

The Clerk of the Assembly (Ms. Deborah Deller): Are there time limits on speaking times for members in either the House or Westminster Hall?

Mr. Liam Laurence Smyth: Yes. I think this is probably a fairly recent innovation. The Speaker can impose a limit on backbench speeches, and now very often does. I think the new generation of members that came in after the expenses crisis are, perhaps, more committed to being visible to speaking in the House. We are, perhaps, less willing for somebody to sit there for hours and then walk home with an undelivered speech in their pocket. We look at how many people want to speak, we divide up the available time and impose a limit. It's one of my jobs at the table to press the buttons on the clocks to keep the limit going.

It has one feature that I think that would help it stop killing debate, which is, if you give way to another member in the course of your speech, you get given a whole free extra minute, and you can do that twice. It tries to keep alive the idea of the cut and thrust even when you're watching the clock.

The Clerk of the Assembly (Ms. Deborah Deller): See, I never knew that. Because I've watched, and I've watched members give way and I always wondered why they would do that, but if it gives them extra time, that would be why.

Mr. Liam Laurence Smyth: Yes.

Ms. Lisa MacLeod: So giving way does not decrease their time? If I had 10 minutes on the clock and I gave way to Mr. Leal, and I was at eight minutes, I would get nine?

Mr. Liam Laurence Smyth: Exactly. I would stop the clock for however long it took him to ask his question and then you would get an extra minute as well on top.

Ms. Lisa MacLeod: And there are no minutes taken away from him when he speaks?

Mr. Liam Laurence Smyth: No.

The Clerk of the Assembly (Ms. Deborah Deller): But they're limited to two. The member who has the floor is limited to allowing two.

Mr. Liam Laurence Smyth: Yes. Any further interventions they allowed would cut into their time. It works pretty well, I think, except when we get down below, say, five minutes, because at that point I think members don't have the space to really expand on their ideas.

The Clerk of the Assembly (Ms. Deborah Deller): So the speaking times allocated to members are essentially decided upon by the Speaker within the total time frame of the amount of time there is for consideration of a single bill?

Mr. Liam Laurence Smyth: Yes, or any debate. It's really just a question of carving up the available time between the front bench speeches.

The Clerk of the Assembly (Ms. Deborah Deller): And when you program your programming motions, you said you would allocate time for consideration of a single bill. Do you ever do it for multiple bills in the same—

Mr. Liam Laurence Smyth: Not under this standing order, no. The way the standing order is written, it applies to individual bills. We have in the past had examples of guillotines being introduced on a number of bills in the same day, but the advantage of our current programming is that you set out from the beginning, "This is how long the committee stage is going to take." What we remember from the bad old days is that you used to have to waste 100 hours in committee before the merciful deliverance of the government would bring down the guillotine, and that was so painful, spending 100 hours on clause 1.

The Clerk of the Assembly (Ms. Deborah Deller): Liam, you mentioned that there was discussion right now about the House sitting hours. Can you elaborate on what that's about?

Mr. Liam Laurence Smyth: Yes. We have 650 members and a fairly large country. I know it's not as big as Ontario, but there are some long distances that people have to travel. We meet for most weeks in the year, and politically it's important for people—

Mr. Gilles Bisson: Your country is the size of my riding.

Mr. Liam Laurence Smyth: Exactly. It's politically important for people to live in their districts. It's just a feature of the current political culture. Members of Parliament, particularly those with families, are very stressed by being in two places at once, and there's a great pressure to start the working week late on a Monday, to give people time to get here, and to finish as soon as we can on a Thursday, to let people get away. So the working week gets increasingly compressed into the middle. Nonetheless, members do think that the days could be brought forward and start earlier, so the likely outcome, I think, next week is that we will start off Thursdays even earlier. We may leave Wednesdays more or less as they are, when we start at 11:30 in the morning and finish at 7:30 at night. Tuesdays could well change, because at the moment, like a Monday, we don't start until after lunch and we finish at 10:30 at night. I think that could well change.

Mr. Gilles Bisson: What time do they finish at night?

The Clerk of the Assembly (Ms. Deborah Deller): It's 10:30.

Mr. Liam Laurence Smyth: All our four days have the same length; they just have different start times.

The Clerk of the Assembly (Ms. Deborah Deller): Just a couple of other quick questions. One is, I don't know whether you've had any experience with omnibus legislation. We have here, and certainly in our federal Parliament recently they have. First of all, do you have any experience with omnibus bills? Secondly, if you do, is there any kind of process that allows for any kind of splitting of bills into different parts?

1200

Mr. Liam Laurence Smyth: There was a bill we split, but it was 30 years ago. The New Towns Act was extracted from a very much longer bill. It was taking a long time to go through the House. So technically, I think we can split bills.

I'm not sure I would recognize necessarily what an omnibus bill was. The bills that we see come in different sizes and they have different ranges of purposes. The monster bill last year was the health and social care bill, which was huge. It took a very long time to get through both Houses. I'm not sure I have anything useful to say about the idea of an omnibus bill.

The Clerk of the Assembly (Ms. Deborah Deller): Okay. Lastly, have you explored any electronic means of engaging the public—for example, electronic petitions or the use of teleconferencing for public hearings, anything of that nature?

Mr. Liam Laurence Smyth: Yes, we do a limited amount of teleconferencing, but I think the actual visiting is still very popular. We are very keen on the use of tweeting and our cable channel with live broadcasts. Our website, I think, is an excellent one.

Electronic petitions is an extremely good question, because the government hosts on their website an electronic petitions system with a promise that if you get 100,000 signatures, you'll have a chance of a debate in the House. The Backbench Business Committee—Natascha, again, will find herself under pressure to grant time for debate if it has the backing of 100,000 people having signed a petition.

The Clerk of the Assembly (Ms. Deborah Deller): And how often does that happen?

Mr. Liam Laurence Smyth: There have been about 20—perhaps less—petitions that have reached that threshold. Most of them have had a debate, or at least there has been a debate on a similar issue, which we can more or less say, "It has been debated." It runs the risk of disappointing the public because getting an idea discussed in Parliament is not the same as getting a remedy.

The Clerk of the Assembly (Ms. Deborah Deller): That's right.

Mr. Liam Laurence Smyth: So there are some risks with the idea of the electronic petition, in it being over-sold and underdelivered. But that continues to be a problem.

What Natascha is challenging the government for is to say, "Look, if you want me to deliver on your promise that petitions will get debated, give me some extra time." I think where she's going to find that extra time is, she

will be given the run of Westminster Hall on a Monday night, so a parallel debating opportunity while the House is sitting on a Monday evening, where she can schedule debates on petition issues if there are members who want to discuss them.

The Clerk of the Assembly (Ms. Deborah Deller): Thank you, Liam. It's nice to talk to you again.

Mr. Liam Laurence Smyth: Can I just add one thing I was asked to add by a colleague? It's to say that our current system of electing the Speaker by secret ballot was hugely influenced by what he saw, as a visiting clerk, in Queen's Park sometime in the 1990s. So we owe you a debt of gratitude for one of the most important parts of our procedure. It's something we learned from you.

The Clerk of the Assembly (Ms. Deborah Deller): It just goes to show how we can help each other out if we talk.

Mr. Liam Laurence Smyth: Indeed. Okay, thank you very much. It's been a great pleasure.

The Chair (Mr. Garfield Dunlop): Mr. Smyth, thank you very much for your time this morning. We really appreciate it. On behalf of the committee, I'd like to wish you well. Have a nice summer. All the best in what happens over in England.

Mr. Liam Laurence Smyth: Thank you very much.

The Chair (Mr. Garfield Dunlop): Folks, we're recessing now till 1 o'clock. It would be nice if everybody could be back at about 10 to 1.

Mr. Gilles Bisson: Before you recess, just for the record, this was very helpful, to listen to this particular presenter by telephone. But I've got to tell you, I came out of this with more questions than when I went in. I think that is part of the argument of why you've got to do this stuff face-to-face. This was helpful—I'm not saying it wasn't—but there's a whole bunch of stuff that you're able to get at if you're able to have people sit down across the table from each other and actually have a discussion in order to try to make sense of some of this stuff.

The Chair (Mr. Garfield Dunlop): Ms. MacLeod had a question as well.

Ms. Lisa MacLeod: I would like to first of all thank our clerk from our committee for making sure that this happened in a very short period of time. You've done an outstanding job.

Second, to echo what Mr. Bisson said, yes, I do have more questions as a result of this. Some very interesting things have happened in other jurisdictions that I think are worth looking at, and I think we have that once-in-a-lifetime moment when we're able to converge together and put forward potentially a consensual report. I think that this committee has worked quite well together and there has been no partisan bickering. It has actually been one of the more enjoyable experiences that I've had as a member here.

I think that we may want to reconsider the possibility of exploring these other systems a little bit more. I would like to speak to those two other groups, the Wright

commission plus also that backbench committee. That's not to say that I endorse that view, but I do think, as the Clerk said, when we speak to one another, we do learn from one another. That's really important to take away from this morning's hearings. So I just wanted to once again thank you, Clerk, for bringing that together and respond to Mr. Bisson's suggestion, because I agree with him.

The Chair (Mr. Garfield Dunlop): Mr. Bisson, you had a final—

Mr. Gilles Bisson: Just very quickly, Nathaniel has been very good this morning. I think he deserves a round of applause.

The Chair (Mr. Garfield Dunlop): All right. Committee, we're recessed.

The committee recessed from 1206 to 1304.

DR. DAVID MCNEIL

MR. ROB REYNOLDS

The Chair (Mr. Garfield Dunlop): Ladies and gentlemen, we're going to call the meeting to order.

Hello folks, are you there?

Dr. David McNeil: We're here.

The Chair (Mr. Garfield Dunlop): Hi. Thank you very much. My name's Garfield Dunlop and I'm Chair of the Legislative Assembly committee. It's a real pleasure to be able to speak to you folks this afternoon.

Dr. David McNeil: You mean this morning.

The Chair (Mr. Garfield Dunlop): Oh, yes, right. It's 1 o'clock here. What is it there; is it 11?

Dr. David McNeil: Yes.

The Chair (Mr. Garfield Dunlop): I understand on the line we have David McNeil and Rob Reynolds.

Dr. David McNeil: Yes.

The Chair (Mr. Garfield Dunlop): Thank you very much. We've been just reviewing the standing orders here at Queen's Park, an all-party committee. There are all three political parties—the NDP, the Progressive Conservatives and the Liberals are all part of this—and we're just looking at our overall standing orders and how we might make changes. We're just getting feedback from different jurisdictions, so we really do appreciate your time today.

I don't expect you have any kind of presentation, so can we go right into questions with you, or would you like to make some comments?

Dr. David McNeil: You might as well go into questions, I guess. If your focus is on the private members' business—

The Chair (Mr. Garfield Dunlop): That's one of the things we found very interesting and we'd like to run by you.

Dr. David McNeil: We can just tell you that there were significant changes made in 1993 when the Liberal opposition was 32 members, and between the government House leader and the official opposition House leader at the time, they came up with a package of pro-

posed amendments to the standing orders, a lot of which focused on private members' business and providing more opportunity for private members to have their ideas put forward, both in terms of bills and motions.

That's a very quick overview, but that's sort of the genesis of the changes that were made in 1993 and that are still with us today in terms of the basics of those changes in the standing orders.

The Chair (Mr. Garfield Dunlop): Okay. Well, I'm going to start out with some questions, first of all from Ms. Lisa MacLeod. She's a Progressive Conservative member, and she'll ask you some questions.

Ms. Lisa MacLeod: Thanks very much, Mr. Reynolds and Mr. McNeil. I gather your House has been back, temporarily at least, anyway, after the election there.

One of the things we're looking at, obviously, is private members' business, but we're looking, of course, at how we can do a little bit better of a job. As you're aware, we're in a minority Parliament here, so all of us have a vested interest in actually seeing the role of provincial Parliament strengthened at this time. That could change, of course, from time to time. We've seen in our past, mostly since 1985, all three of the major parties take office and substantially change our standing orders. So I think we're all looking now at those unintended consequences and how we can have a bit more flexibility in terms of not only debate with private members' business, but also using things and tools like select committees that empower members of the assembly.

We've just had a conversation with Liam Laurence Smyth from the House of Commons, United Kingdom, who informed us that they now have a backbench committee, and they're allotted a day a month or so to actually allow backbenchers from all of the major political parties to set the agenda. So we're listening to an awful lot of interesting things.

There are two issues I'd like to address with you, and I'd just like your perspective.

One is the use of select committees and if in Alberta they tend to be used to empower backbench members to make substantive recommendations on a public policy initiative to the government of the day.

Second, the private members' system that is established in Alberta seemed to pique a lot of our members' interest around this table in how it's used, but also in how many private members' bills actually become law. One of the ones that I believe we saw from your assembly was from a few years ago with respect to third party contributions. So, without looking at the substance of the bill, we understand that a private member's bill did move forward.

I'm wondering if you could give us some general comments, Mr. Reynolds or Mr. McNeil, or both, on those two issues.

Mr. Rob Reynolds: This is Rob Reynolds speaking, and I'll try to address the points that you raised.

With respect to the use of, I believe you said special committees—or select committees—I'm not sure that we have all that many special committees established.

Usually here they are for a specific purpose, like finding someone to—an appointment as Chief Electoral Officer or any other officer of the Legislature.

What Alberta has used more recently have been something that used to be called policy field committees and which are now called legislative policy committees. We actually looked at Ontario's model when they were being established in 2007-08. These committees have a very broad power with respect to reviewing matters within the jurisdiction of certain departments, or matters can be referred to the legislative policy committees for review.

1310

Now, there have been some changes since the recent election that were brought in in the brief session that we just had. The membership of those committees has been increased to 25. The number of the committees has been reduced to three. There is nothing presently that's been referred to them. It appears that the government may wish to use these committees for various purposes, so they may be becoming more active soon.

With respect to your question about the private members' bills, David and I were looking there at the sheet, and since 1993, I believe 51 bills have become law. I wouldn't say that all those acts are enforced, because quite often they have a proclamation clause which limits their coming into force and which means that they haven't been proclaimed, because a large majority of the bills that have been passed are by members of the government caucus. That's not to say that they're government bills in any way—I think they're always subject to a very strong debate in the government caucus, which occasionally occurs in the assembly also; I'm just saying that not all of them are enforced.

With respect to the third party advertising bill that you mentioned, I believe it was passed in 2009. It was later repealed, basically, and replaced by a government bill, the Election Statutes Amendment Act, in 2010. Interestingly enough, the member who proposed the bill in 2010, Mr. Anderson, left the Progressive Conservative caucus to sit as a Wildrose member.

Ms. Lisa MacLeod: Was he re-elected? Just out of curiosity.

Mr. Rob Reynolds: Indeed he was.

Dr. David McNeil: Yes, he was.

Ms. Lisa MacLeod: May I just say this as a moment—because we're all from Ontario, we all watched election night and we were all listening to the pollsters. What a surprise on election night. If we listened to the pundits and the pollsters, my goodness, they sure did get it wrong. But it was quite interesting to see.

Just to go back for a moment to proclamations—and not in terms of royal assent. I want to talk about proclamations. We tend to do these an awful lot here, which consume an awful lot of our private members' public business, which would say, "We'd like to proclaim such and such a day"—you know, maybe April 1—"We'd like to proclaim that April Fool's Day," we would all wear a certain colour ribbon, and that's how we would mark that

particular day. We seem to be consumed with that here in the assembly, and it's taking up a lot—I guess, many of us don't view that as a substantive way to move forward with private members' public business. Do you have another way of dealing with proclamations of that kind so that it doesn't consume private members' bills or resolutions of a substantive nature?

Dr. David McNeil: Yes, I guess we really don't have that type of business that really takes place under private members' business. You've got your private members' bills, your private members' motions, and I guess if somebody wants to highlight a particular day, they can do that through a member's statement. But in terms of private members' business and private members' public bills specifically, we really haven't had that type of—

Ms. Lisa MacLeod: But creating a day has not been—that's not used in your assembly.

Dr. David McNeil: We've had a couple that relate to—well, one, the Alberta Get Outdoors Weekend Act, which encourages and promotes the direct and indirect benefits associated with outdoor activity, so there's that one, but that's one of 51, I guess.

Ms. Lisa MacLeod: Yes. How is your private members' business debated? I'm just trying to grab your—we have a briefing note there. I guess you have about 115 minutes of debate?

Dr. David McNeil: Yes. First of all, there's a bill draw. All the private members who want to participate put their names in for the draw and then it's just a random draw, and then there's an opportunity to switch places within the draw. This may take place within each caucus. Let's say that whoever has Bill 201—his or her bill would come up. It's introduced. The same week, it would be debated at second reading for 120 minutes. Then, eight days later, two weeks later, it goes to Committee of the Whole and it has, again, another 120 minutes for debate in Committee of the Whole. Then, eight days after that—

Mr. Rob Reynolds: Four days.

Dr. David McNeil: Yes. It comes up for third reading, and there's 60 minutes of debate on it at third reading. So it's on a forced track, if you will, in terms of the process as it goes through the House.

Ms. Lisa MacLeod: So did you say “forced track”?

Dr. David McNeil: Yes.

Ms. Lisa MacLeod: So I guess the difference with our system here is: A private member, if their bill passes, would have the opportunity to designate which committee it would go to and then it would be up to the government—or I guess it's the committee that would call it, but it would be up to the government to call it out of committee and into third reading. You have a forced track, so you would have 120 minutes of debate. Eight days later, it goes for certain to the committee of the whole, then it goes back into 55 minutes of debate at third reading, and then of course the mover has an additional five. So there actually will be resolution to private members' business in your system.

Dr. David McNeil: Exactly. That's why we've had 51 bills passed since 1993: because of that fixed process.

Ms. Lisa MacLeod: One of the things that I know my colleague—Mr. Balkissoon from the Liberals may have a comment on this, but he and I, and many of us, have discussed it around this chamber. Do you have any criteria that either will eliminate or send back to drafting a bill based on money that that bill may inadvertently spend as a result of the legislation being in place? Are there any safeguards placed on them?

Mr. Rob Reynolds: Of course, we abide by the constitutional provision in section 54 of the Constitution Act, 1867, regarding the royal recommendation, in the sense that any bill that would spend funds or appropriate part of the public revenue, as they say in the Constitution, would be out of order because in our assembly, certainly, only a member of the executive council can obtain the royal recommendation. So basically, private members can't introduce money bills. Having said that, the bill would only indirectly result in expenditures that would have to be budgeted as part of the estimates process and wouldn't necessarily violate the rule on private members introducing money bills. That's probably a bit confusing.

In response to your direct question, what happens is, as parliamentary counsel, we draft private members' bills. I know in Ontario there isn't an equivalent of law clerks, so I believe your bills are drafted by legislative counsel in the department of justice. We draft them ourselves here and review them to see if they actually would violate the royal recommendation, and basically we persuade members and advise them against introducing such a bill. If push really came to shove—and it has never happened—there's a provision whereby the Speaker reviews private members' bills before they're introduced. So we would advise the Speaker, and if the bill was introduced, it would be ruled out of order immediately. But that has never really happened, because they're always headed off before they're introduced.

1320

Ms. Lisa MacLeod: I appreciate that, because I think that's an issue that we have explored in this chamber. That may not have to do with the standing orders per se, but it may be how we refer matters as we draft.

I have another couple of questions with respect—
Interjection.

Ms. Lisa MacLeod: Okay, yes. I'm just finishing on private members, and then I'll go right to you.

Mr. Gilles Bisson: Okay.

Ms. Lisa MacLeod: Mr. Bisson from the NDP will ask the next question.

I just want to touch base, again, on private members' motions. What I find interesting about your system is that there is a different way you deal with motions as opposed to private members' bills. There, you actually have an opportunity for the Premier and the leader of the official opposition to each speak for 20 minutes, and that doesn't really occur here. We also have three parties. I just find that very interesting: Is this system utilized extensively by your members—motions? I assume that they're not

binding, but to have the Premier or the leader of the official opposition address a private member's motion is quite significant. Can you tell us a little bit more about that?

Dr. David McNeil: Yes. I would say that the standing orders provide them with additional time, if they wish to do so. In the case of the Premier, I can't remember the Premier ever addressing a private member's motion. The leader of the official opposition: probably infrequently, but I would say for the most part that that's not an issue with respect to private members' motions. There are only 60 minutes allocated per week to an individual private member's motion, so typically it's members other than the Premier and the Leader of the Opposition who will be debating those, in the final analysis.

Ms. Lisa MacLeod: So that is outside the 55 minutes allotted for debate.

Dr. David McNeil: No, it's not.

Ms. Lisa MacLeod: So everyone has five minutes?

Dr. David McNeil: Has 10 minutes.

Ms. Lisa MacLeod: So everyone has 10 minutes to do the debate. The mover has five minutes to open and close—

Dr. David McNeil: Ten minutes to open and five minutes to close.

Ms. Lisa MacLeod: Okay. And then there are 55 minutes.

Dr. David McNeil: That 55 minutes includes the 10 minutes for the mover to move his or her motion. The five minutes at the end, after 55 minutes of debate, is for the mover to close debate.

Ms. Lisa MacLeod: Okay. Thanks very much for that clarification. I'll now cede the floor to my colleague Gilles Bisson.

The Chair (Mr. Garfield Dunlop): Mr. Bisson?

Mr. Gilles Bisson: Yes, just a question in regard to—you made the comment that since 1993, there were 51 private members' bills that were passed through the Legislature, which is pretty extraordinary, considering we've probably done about four or five. I'm exaggerating, but not a hell of a lot. But here's the question: We've just heard from a former Clerk of the Legislature here who was a former table clerk in the federal House of Commons. He made a comment that would make the ears bristle of most members, because people have a culture where they want to get their name on a bill and they want to get it passed so that they can be remembered in history. I'm being facetious, obviously, when I say that. His point is that you should not have a second track for legislation. His point was, the government proposes the bills and the government then is able to call the bills and deal with making sure that they're in control of the agenda of the House. The opposition role to propose ideas should not be confused with actually passing bills.

Interjection.

Mr. Gilles Bisson: It's a mouthful, but let me finish, all right? The question is: With your experience since 1993, has this separate legislative track presented any problems legislatively or politically?

Dr. David McNeil: I would say that—and I wrote a paper for the Canadian Parliamentary Review about 11 years ago. I think initially there may have been issues that private members put forward—now, these were, almost in every case, private members from the government side of the House who had ideas that they wanted to put forward, and they weren't being received well or supported very strongly within the cabinet. But they moved ahead with their ideas in terms of a private member's bill and got support from all sides of the House, if you will, to move their ideas forward. In some cases, that ended up in having that legislation passed and proclaimed; in other cases, it led to a change of heart within the government. These private members, in effect, negotiated a deal with minister X to put this idea on the minister's agenda. I think that happened, in some instances, early on in the process. I think subsequently the government developed process where there was a little bit more vetting of these private members' bills that were going forward so that there was at least a lot more awareness of what was happening and what the potential consequences were of some of these bills.

As I say, most of these private members' public bills had been passed have been put forward by private government members and not opposition members, although there have been a few opposition members whose bills have been passed, but also a number of private members' public bills that were put forward by an opposition member and not passed—defeated—but those ideas then appeared, not too long after, in government legislation. So there's a dynamic that goes on with this type of legislation where a private member, whether government or opposition, has an opportunity to influence the process. In terms of a Parliament, it seems to me that that's what it's all about.

Mr. Gilles Bisson: So it's more a function of a House where the large majority of the membership is made up of governing members, unlike a Legislature here in Ontario, where a government is lucky to have 60% of the seats?

Mr. Rob Reynolds: Well, if I might, when the draw is conducted for private members' bills, all private members are entered into the draw. It's not only opposition members; it's government members, which is one of the reasons why there have been so many government members having their bills considered, because it's one for one, really. Each member has an equal chance of being drawn—each private member.

Mr. Gilles Bisson: But I guess the point is that the government may not support the opposition member's bill. It seems to be what happens.

Mr. Rob Reynolds: Yes, but I would also say that, as Dr. McNeil said, I think it would be a mistake to categorize private members' bills from the government side as being government bills, because there's certainly, from our perspective and my observation, a healthy debate about the legislative proposals within the government caucus.

Mr. Gilles Bisson: So, back to my original question— I get the politics of what happens. The question is this: If you've got 51 bills passed since 1993, has the experience been that those bills, having a separate legislative track, actually hinder in some way public policy in Alberta, or is it seen as a positive thing? That's my question.

Dr. David McNeil: I would say that overall it's seen as a positive thing. It's seen as a positive thing by the private members who have the opportunity to put forward their own ideas and get support for them. I've never seen it as being something that is a negative. I think most members would say, "Yes, it's a good mechanism for putting forth ideas into the Parliament."

Mr. Gilles Bisson: I understand that part, but what I'm saying: From a public policy perspective, has having these bills go forward not hindered public policy? That's my question.

Mr. Rob Reynolds: Once again, you're asking us at the Legislative Assembly, and we're concerned largely with the process. I think we would say that it's great to have members involved in actually making public policy. I believe that if you look at 1993, that was part of the impetus for these changes to the standing orders, in the sense that I think private members did not feel that they were as influential in the policy process and that these changes really enhanced the ability of a private member to have influence.

In all frankness, even though we're on the public record, I would say that departments are somewhat perhaps less enthusiastic about private members' bills.

1330

Mr. Gilles Bisson: Okay. I'm going to switch track altogether here and ask you about regulation. Are most of your bills drafted in such a way that most of the details are left to regulation, or is it less regulation and more spelled out in the bill?

Mr. Rob Reynolds: It's really difficult to generalize like that because, generally speaking, I would say that bills introduced by opposition members tend to have fewer regulation sections—

Mr. Gilles Bisson: No, no, stop. Full stop.

Dr. David McNeil: You're talking generally, though.

Mr. Gilles Bisson: No, no, full stop. We're not talking about private members' bills. We're talking about government bills.

Mr. Rob Reynolds: Oh, government bills.

Mr. Gilles Bisson: Let me just explain very quickly. In Ontario it used to be, some 20 years ago, that very little was left to regulation. The bill would spell out what you wanted done as a minister and a ministry. It was all spelled out in the legislation and very little was left to regulation. We have, over the years, moved to a system where most of the detail of what happens in a bill is left to regulation. My question to you, the first part: Does Alberta leave much to regulation, or is it spelled out in the bill, as a norm?

Mr. Rob Reynolds: Well, once again, the beauty is in the eye of the beholder. I would imagine that here, once again, the opposition parties say that there's too much

left to regulation and I believe the government says it's just the right amount.

Dr. David McNeil: I would say the trend—

Mr. Gilles Bisson: So how many regulations would cabinet put out in a year, roughly?

Mr. Rob Reynolds: You know, I really don't know. We don't control regulations. That's executive council. But generally speaking, yes, there is more, I would say, that is in regulation, or the ambit is broader. But then again, bills are more technical, too, I would say, in a large regard.

Mr. Gilles Bisson: Does the House in any way have a process of approving regulations once they're drafted, or a committee?

Mr. Rob Reynolds: In theory, a regulation could be sent to a legislative policy committee for its review and recommendations prior to it being adopted. That's never happened, really. One regulation has been sent to a policy field committee essentially for review concerning beverage container recycling, and the legislative policy committees do have the ability to review regulations that are referred, but there just haven't been any referred.

Mr. Gilles Bisson: So it has to be referred by the government. There's no mechanism in the standing orders for regulations to be reviewed? There's no mechanism that essentially says—let me ask you this first question: Are all your regulations gazetted?

Mr. Rob Reynolds: Well, I'll give you a lawyer's answer: yes and no. Most of them are gazetted. There are some that don't need to be gazetted—I believe ones under the Public Service Act.

Mr. Gilles Bisson: And once gazetted, does a committee have an ability to call some of those regulations before it in order to review the regulation? Do you have such a process?

Mr. Rob Reynolds: We don't have a process. I mean, a legislative policy committee can, on its own initiative, I believe, look at a regulation, but that hasn't happened.

Dr. David McNeil: We haven't had that experience.

Mr. Gilles Bisson: Okay, all right.

The Chair (Mr. Garfield Dunlop): Okay, Laura?

Interjection.

The Chair (Mr. Garfield Dunlop): I'm sorry. Folks, now we're going to have Jeff Leal from the Liberal caucus ask a couple of questions.

Dr. David McNeil: Okay.

The Chair (Mr. Garfield Dunlop): Jeff?

Mr. Jeff Leal: Thank you very much. It's a pleasure for you to be with us today from Alberta. A couple of questions: How do you handle your estimates in the assembly in Alberta?

Dr. David McNeil: The standing orders now provide for referral of the estimates to what used to be called policy field committees, now legislative policy committees. In this past year, all but I think five departments were referred to one of these, at the time, policy field committees. Five departments were considered in the Committee of Supply. The opposition had the opportunity to designate which departments they wanted to be

considered in the Committee of Supply, a committee of the whole House. The others were referred to policy field committees and considered in the policy field committees, which at that time were sort of 15-member committees, and they had three hours allocated to consider a department.

Mr. Jeff Leal: In the province of Alberta, do you make use of select committees for particular policy topics?

Dr. David McNeil: I would say on a very occasional basis, and what are now called the legislative policy committees can be used for that purpose. On occasion in the past, these policy field committees considered that, and we have yet to see to what extent the new legislative policy committees will be considering policy issues.

Mr. Jeff Leal: In your time since being a table officer in the province of Alberta, how many select committees have taken place?

Interjection.

Dr. David McNeil: Yes, we have to differentiate between ones that look at policies. I've been around for 25 years, so I would say maybe a dozen in 25 years.

Mr. Jeff Leal: My last question: In your standing orders, do you have a specific approach to dealing with tributes for deceased members?

Dr. David McNeil: No, we do not. What happens is, the Speaker, on the death of a member, will do a recognition of that member at the start of a sitting day and invite that member's family members and so on to sit in his gallery and recognize them that way. But we don't have a specific process otherwise.

Mr. Rob Reynolds: This is Rob Reynolds. There's nothing in the daily routine concerning a tribute to members. It's, as David said, by the Speaker at the start of the day after prayers.

Dr. David McNeil: And a member might deal with that during a member's statement as well.

Mr. Jeff Leal: When the Speaker pays tribute to a deceased member of the assembly, do the government and the opposition parties get a specific time allocation to also pay tribute to that deceased member?

Dr. David McNeil: No.

Mr. Jeff Leal: No. Okay, thank you very much. I appreciate your responses.

The Chair (Mr. Garfield Dunlop): Thank you very much, Mr. Leal. Ms. MacLeod.

Ms. Lisa MacLeod: Thanks again, gentlemen, for joining us. It's Lisa MacLeod again. I noticed with your daily routines, one of the things we're also looking at, your routine proceedings, I guess, would be your question period plus your balance of daily routines. It's interesting, because you start with question period and then you do the remainder of the day. We used to do that here, with the exception of the routine proceedings would start a bit, then you would have your question period and then the orders of the day.

That said, I was just very curious: Do you have good attendance after question period for members' statements, petitions and the like, or is it generally that

question period occurs and people start to vacate? We used to do our members' statements before question period here, and now those members' statements as well as ministerial statements and petitions are in the afternoon, while our QP is in the morning. We start the day with question period on Monday, and then we have debate Tuesday, Wednesday and Thursday morning before we have question period at about 10:30.

Dr. David McNeil: Our routine starts with introduction of visitors, introduction of guests; ministerial statements; members' statements. We start at 1:30, and question period doesn't start till 1:50 p.m. In most cases, we might get two, three or four members' statements before we start oral question period.

Ms. Lisa MacLeod: Oh.

Dr. David McNeil: After oral question period, there tends to be a departure of a certain number of members. I would say half the time there's good attendance for members' statements, and half the time probably not as good, because they take place after—

Ms. Lisa MacLeod: So it really is when they're there. Can I ask you a quick question on that? When I first got here as a young buck, I would make very partisan member's statements. As I've gotten older and a few grey hairs on my head, I've sort of alternated to more tributes to my community. I'm wondering, before question period, do you find those members' statements to be far more partisan than the ones that occur after question period?

1340

Dr. David McNeil: I don't think the location in the routine really determines whether they're partisan or not. I think you have a mix of partisan statements and more recognition-type statements.

Ms. Lisa MacLeod: I actually saw a difference here. Admittedly, I've only been here for three terms, but previously, when it was closer to question period, before question period, they were much more partisan than they are now.

You have, I guess, a comparable sitting timetable to us. I think you're about 21 weeks; we're about 26. I think we sit more than any other assembly in Canada with the exception of our House of Commons. I do notice, however, that we have a substantial amount of debate time for government orders as well as private members' business compared to your assembly. I'm wondering how that's utilized. Do you have a firm adjournment at 6 p.m. every evening?

Dr. David McNeil: We have a firm adjournment at 6 p.m. every evening, but the possibility exists for us to return at 7:30 and sit for any number of hours.

Ms. Lisa MacLeod: Is that normal? Does that happen frequently?

Mr. Rob Reynolds: Well, it's not as infrequent as perhaps we might have thought. We don't sit evenings unless, of course, we do. Generally speaking, towards the end of session, as it winds down, there's more of a likelihood to sit in the evening. The general rule is, we don't sit in the evenings, but what happens is, usually the

government House leader introduces a motion which sort of reverses the onus in the sense that it then becomes—the rule is, they'll sit in the evenings unless there's a motion that they won't sit. I'd say that's usually during the last two weeks of the session.

Ms. Lisa MacLeod: Okay, that's comparable to where we could end up. I don't think we've done that in a while, and even if we have, it was just such a good time that I've forgotten about it.

Just briefly, how many—I guess the better way to phrase this is, in terms of government business, what are the rotations? Presently, we have an hour for each political party to do a leadoff, and then we go into 20-minute rotations and then down to 10. I'm not noticing a lot of debate time in your schedule, and I'm wondering how you accommodate that, or do you have a different set-up for debate?

Dr. David McNeil: Well, other than private members' afternoon, if you will, on Monday afternoon, and if we sit Monday evening—that would be government business—Tuesday, Wednesday and Thursday afternoons and Tuesday and Wednesday evenings, if we sit, are all allocated to government business. On Tuesday and Wednesday, you'd have roughly three hours of government business debate, and then on Thursday, you'd have an hour and a half of debate time on government business.

Mr. Rob Reynolds: This is Rob Reynolds. There's no set rotation for who speaks under government business. There is when they're considering estimates, but not in general debate. Obviously, the mover goes first. Generally speaking, someone from the official opposition or another opposition party goes second. Then it just depends on who wishes to speak. The Chair tries to recognize people from each side of the House.

Ms. Lisa MacLeod: We're just having a little bit of difficulty hearing you, sorry. I guess we're really concerned about what your rotation is like and if there are time limits to the amount of debate that they have. For example, we have two-minute hits at the end of each member's speech, if you will. Is that similar?

Dr. David McNeil: The mover in a debate, let's say, on second reading of a bill or on a motion will have 20 minutes, and the second person speaking will have 20 minutes to speak. Then after that, it's 15 minutes to speak, and then there's a five-minute question-and-comment period. The first two members don't have the question-and-comment period, but they have 20 minutes. All members after that have 15 minutes with the opportunity for a five-minute question-and-comment period.

Ms. Lisa MacLeod: So is there a limit to the amount of people that can speak to a piece of legislation if it's put forward by the government?

Dr. David McNeil: No, only the limit that you can only speak once at second and third reading, unless there are amendments on the floor or—

Ms. Lisa MacLeod: So every member, with the exception of the mover and the seconder, would have an ability to speak for 15 minutes with five minutes of Q&A?

Dr. David McNeil: Yes.

Ms. Lisa MacLeod: So the person with the 15 minutes, how are the questions and comments, that five minutes, how is that allocated? Does the speaker actually have an opportunity to respond?

Dr. David McNeil: Oh, yes. You might have a back and forth between one member and the person who spoke for 15—

Ms. Lisa MacLeod: And that's within the five minutes, though?

Dr. David McNeil: That's correct.

Ms. Lisa MacLeod: Oh, I see. So it's a 20-minute total. Okay.

Generally, in that situation, can more than one bill be called a day in your scenario?

Mr. Rob Reynolds: Sure.

Dr. David McNeil: That's totally up to the government in terms of—if they call a bill, they may want to debate it for an hour and then adjourn debate on it and call another one. That depends—

Ms. Lisa MacLeod: Can they call the bill the next day?

Dr. David McNeil: Sorry?

Ms. Lisa MacLeod: If they were debating government bill X on Tuesday, can they call it again on Wednesday and Thursday?

Mr. Rob Reynolds: Yes. We don't have any restriction or time limits before they can call a bill. If something is introduced one day, it can be called for second reading the next day. We don't consider Committee of the Whole as a separate reading, so Committee of the Whole can be called the same day that a bill receives second reading. Then third reading would be the next—we don't print a third reading version of the bill.

The Chair (Mr. Garfield Dunlop): Okay, we've got a couple more questions here. Mr. Moridi.

Mr. Reza Moridi: Thank you, Mr. McNeil, for appearing before this committee from beautiful Alberta.

Dr. David McNeil: Pas de problème.

Mr. Reza Moridi: I have been at your Legislature many, many years ago, 20 years ago, and I remember that wonderful location in your Legislature where you stand at that particular location, and if the fountain is working, you feel like you're under the shower. Do you still have that very important and significant location in your Legislature?

Dr. David McNeil: We do. The magic spot.

Mr. Reza Moridi: Yes, the magic spot.

Mr. McNeil, I understand that you sit four days a week, from 9 to 6. Am I right?

Dr. David McNeil: No. We sit from 1:30 to 6 on Monday, Tuesday, Wednesday and from 1:30 to 4:30 on Thursday.

Mr. Reza Moridi: So basically you sit a half day, four days a week?

Dr. David McNeil: Correct.

Mr. Reza Moridi: How many weeks per year do you sit?

Dr. David McNeil: Well, that's variable.

Mr. Reza Moridi: Just on average.

Dr. David McNeil: The calendar calls for beginning around the middle of February and ending at the beginning of June, but we don't usually—then the fall sitting is the last week in October, November and the first week of December.

Mr. Reza Moridi: So in total, how many weeks would that be?

Dr. David McNeil: I would say probably on average, 15 weeks, 16 weeks.

Mr. Reza Moridi: Sixteen weeks per year.

Mr. Bas Balkissoon: And half days.

Mr. Reza Moridi: And half days.

Mr. Jeff Leal: Let's all switch parties and head to Alberta.

The Chair (Mr. Garfield Dunlop): Let Mr. Moridi finish, please.

Mr. Reza Moridi: Thank you very much, Mr. McNeil.

The Chair (Mr. Garfield Dunlop): Thanks, Mr. Moridi. Mr. Bisson, have you comments?

Mr. Gilles Bisson: Well, no, not comments, I have questions. Boy, without my glasses, it's hard to read my own handwriting.

I have a couple of questions. You have one day where you do private members where it's a 120-minute debate, but then you have your Committee of the Whole every eight days, and you do that for 120 minutes. How do you work that into your legislative schedule?

Mr. Rob Reynolds: This is Rob Reynolds here. That only relates to where a bill is. So it's in the sense that you go to second reading and have up to 120 minutes of debate, and if that bill passes second reading, then the bill would go to Committee of the Whole eight days later—no later.

Mr. Gilles Bisson: I understand it has to be voted on and passed to get to Committee of the Whole. I get that concept.

1350

Dr. David McNeil: We schedule private members' business on Monday afternoons from 3 to 6, typically. The first two hours would be private members' bills and the last hour, from 5 to 6, is for private members' motions.

Mr. Gilles Bisson: But how do you schedule in your Committee of the Whole?

Dr. David McNeil: Well, it's just done in order of precedence in the sense that if a bill receives second reading, under the standing orders it must come up within eight days, so when that limit is reached, we call Committee of the Whole.

Mr. Gilles Bisson: Instead of calling forward another private member's bill.

Dr. David McNeil: Yes.

Mr. Gilles Bisson: So you do it on the same day. Okay, now I get it. You have a 120-minute debate, then you have a motion, so essentially you deal with a motion and a bill on whatever day that is—

Dr. David McNeil: On a Monday, yes.

Mr. Gilles Bisson: On a Monday, and if you get second reading on that bill within eight days, your private member's slot becomes a Committee of the Whole. Gotcha.

Dr. David McNeil: That's right, yes.

Mr. Gilles Bisson: Okay. Deferred votes: Do you defer all your votes, or do you just do them as they happen?

Dr. David McNeil: We do them as they happen.

Mr. Gilles Bisson: Do you have the ability to defer?

Dr. David McNeil: Not specifically.

Mr. Rob Reynolds: Not really. There is a provision for private members. A member could ask that a matter be delayed, but that has never actually been used.

Mr. Gilles Bisson: Okay, so essentially, once you're finished second and third reading, the vote happens at the end of the debate and it's not deferred.

Mr. Rob Reynolds: Yes, sir.

Mr. Gilles Bisson: Okay. The other question is, as far as the business of the House, is that a negotiation between the House leaders? How do you determine what actually—I know the government has the right to call what it wants, but is that through a negotiation with the House leaders or do you have some sort of programming motion? How do you deal with it?

Dr. David McNeil: That's typically done through negotiation among the House leaders.

Mr. Gilles Bisson: The culture there: Is it that the government comes in and reads essentially the order of the House next week? Or is there actually a discussion where the opposition gets an ability to affect what the agenda of the next week will be?

Dr. David McNeil: Again, that would be typically a discussion among the House leaders. There is a provision on the Thursday for the official opposition House leader to ask the government House leader, "What's the projected government business for next week?" The government House leader will sort of recite, "This is what we plan to do." Typically, that is based on a discussion with the House leaders—

Mr. Gilles Bisson: Does that make it binding, that the government has to deal with the orders of the House in that way the following week?

Dr. David McNeil: No.

Mr. Rob Reynolds: No.

Mr. Gilles Bisson: So it's a suggestion, essentially.

Dr. David McNeil: Yes.

Mr. Rob Reynolds: It's our understanding—this is Rob Reynolds—that perhaps there might be subsequent discussions amongst House leaders with respect to the business and it may be further amended the following week. The projected government business is not engraved in stone.

Mr. Gilles Bisson: Okay. Do you guys use programming motions at all?

Mr. Rob Reynolds: No.

Dr. David McNeil: No.

Mr. Gilles Bisson: Do you use time allocation?

Dr. David McNeil: Occasionally.

Mr. Rob Reynolds: Well, the government occasionally uses time allocation, yes.

Mr. Gilles Bisson: Is it the norm or is it infrequently used?

Mr. Rob Reynolds: I would say it's used occasionally. It's not a given by any means.

Mr. Gilles Bisson: And why is that? Is it because normally they can come to an agreement with the opposition as to how much time on various bills and what committees it goes to and all that?

Dr. David McNeil: I would say, generally speaking, yes.

Mr. Gilles Bisson: And is it prescribed that ministry X has to send their bills to a specific committee? Or does the government get to pick what committee it goes to?

Dr. David McNeil: Well, for the most part, the bills are not sent to committee. For the most part, they're considered in Committee of the Whole.

Mr. Gilles Bisson: Wow.

Dr. David McNeil: I would say only on an occasional basis does a bill get referred to one of these now-called legislative policy committees, and that can be done after first reading or second reading. But that has not happened very frequently.

Mr. Gilles Bisson: So you don't do much in the way of public hearings where people come in and make presentations about what they like, dislike etc.

Dr. David McNeil: Infrequently.

Mr. Gilles Bisson: Back to my original question, then: If it's, again, infrequently that you use time allocation, in your standing orders, is it just a question of closure, as per British parliamentary rule, or is it a standing order that says, "After so many hours of debate, closure can be sought and got by the government by a majority vote in the House"? How does it work?

Mr. Rob Reynolds: Well, pretty much how you outlined it. I mean, the government can give notice of a time allocation motion. It can be passed but it can't be used until bills receive some reading in—

Mr. Gilles Bisson: Sorry, I didn't hear the last part. It hasn't received second reading, you said?

Mr. Rob Reynolds: No, it has to receive some consideration. If you want to move it at second reading, the bill has to have already come up for second reading and be debated slightly. Then they move time allocation and the government sets the number of minutes or hours for debate.

Mr. Gilles Bisson: So the set time before a time allocation motion is used, by rule of thumb, is what? Five, six, seven, eight, 10 hours of debate?

Mr. Rob Reynolds: I wouldn't even venture a guess—

Dr. David McNeil: I wouldn't say there is a rule of thumb.

Mr. Gilles Bisson: Okay. That's it for me.

The Chair (Mr. Garfield Dunlop): Okay, we have another question here from Mr. Leal.

Mr. Jeff Leal: Garfield, Mr. Bisson asked my question about time allocation versus program motions, so I'm good.

The Chair (Mr. Garfield Dunlop): Are there any other questions by members of the committee? Ms. Deborah Deller, the Clerk of the Legislature has some questions.

Dr. David McNeil: Oh, no.

Mr. Rob Reynolds: Debbie? No.

The Clerk of the Assembly (Ms. Deborah Deller): Hi, guys. Hi, Rob. I just have a couple of questions, really. First of all, thank you very much for doing this. We really appreciate it. We're trying to get a sense of some of the more unique aspects of procedure in some of our fellow jurisdictions.

David, in your article on private members' business that you wrote some years ago for the Parliamentary Review, you made mention of the fact that maybe there was an obvious question—given that the success rate for government members' private members' bills passing was high—that maybe the bills were reflective of the wishes and intentions of the government of the day. You argued later that that didn't seem to be the case, based on the kinds of bills that were getting passed. Would you say, this many years later, that that is still true?

Dr. David McNeil: I would say there's sort of a balance between those where maybe the government wants to put the ideas forward but they don't want to do it directly—if I was venturing a guess, I'd say it's sort of half and half. Some are those that I think are ideas promoted by the government, and the other half are those that are individual members' ideas that aren't necessarily on the government's policy agenda.

The Clerk of the Assembly (Ms. Deborah Deller): So is there any pre-vetting of private members' bills put forward by government members in the government caucus?

Dr. David McNeil: There is, yes. It's interesting; initially there wasn't, I don't think, and there were a few surprises that came up because of the fact that they didn't realize initially what the implications were of this kind of process. I think now there is a process in place where there is some degree of vetting. We're not really—

The Clerk of the Assembly (Ms. Deborah Deller): Privy to that.

Dr. David McNeil: —privy to the details of that, as to how that's handled.

The Clerk of the Assembly (Ms. Deborah Deller): Do the opposition parties do it too, do you think?

Dr. David McNeil: Well, they do in terms of—because of the random draw of names. I think that the opposition parties like to get their sort of primary legislative ideas put forward. So there's a lot of trading off within the caucuses—the opposition caucuses. If somebody gets a prime draw, there's probably some influence brought to bear on that individual as to either what legislation they bring forward or the leader brings forward, or somebody else who has a particular hobby horse and is identified

with a particular idea ends up bringing a particular piece of legislation forward.

The Clerk of the Assembly (Ms. Deborah Deller): Then my next question is really quick. It's just on estimates. Did I understand correctly that between legislative committees and Committee of Supply, all ministry estimates are considered?

Dr. David McNeil: Yes.

The Clerk of the Assembly (Ms. Deborah Deller): And how much time would be allocated to each ministry? Or is it just as much time as is required?

Dr. David McNeil: Three hours.

The Clerk of the Assembly (Ms. Deborah Deller): Three hours for each ministry in committee?

Dr. David McNeil: Yes.

The Clerk of the Assembly (Ms. Deborah Deller): Okay. That's it for me.

Dr. David McNeil: Thank you.

Mr. Gilles Bisson: Hang on, don't disappear. Don't hang up that phone.

Dr. David McNeil: We won't.

The Chair (Mr. Garfield Dunlop): Mr. Bisson has a question.

Mr. Gilles Bisson: I wouldn't want you to. You said something that intrigued me and then one of my colleagues started talking to me and it just floated away from my thoughts. What was it I wanted to ask you? The two questions you had—one was about private members and the other one was?

The Clerk of the Assembly (Ms. Deborah Deller): Pre-vetting of bills.

Mr. Gilles Bisson: Oh, yes, the pre-vetting of bills. So I take it the experience is that if an opposition member gets drawn in one of those number one/number two spots, the reality is that, unless it's really a make-me-feel-all-warm kind of bill, the government just votes against it at second reading, right? That's kind of the practice?

Dr. David McNeil: I would say that's the general practice, yes.

Mr. Gilles Bisson: All right. You've answered the other part. Okay, thank you.

The Chair (Mr. Garfield Dunlop): Any other questions, anyone from the committee?

Well, look, guys: Rob and Dave, thank you very much for your time this afternoon. Is it still morning out there?

Mr. Rob Reynolds: No, it is now noon.

The Chair (Mr. Garfield Dunlop): Okay. Well, good luck with the football season. I see you beat the Argos the other day.

Mr. Rob Reynolds: We were as surprised as you were.

The Chair (Mr. Garfield Dunlop): What happened to your Ricky Ray? Anyhow, have a great summer. Again, we really appreciate your time today. Thank you very much.

Dr. David McNeil: Thank you very much. It was a pleasure, Mr. Chair. And good luck to the Leafs.

The Chair (Mr. Garfield Dunlop): Okay. And to the Oilers.

Mr. Gilles Bisson: I think Calgary has a better chance.

The Chair (Mr. Garfield Dunlop): Thanks, guys. Bye-bye.

Okay, folks?

Mr. Bas Balkissoon: We're adjourned?

The Chair (Mr. Garfield Dunlop): I think so. Until tomorrow morning at 9:30. We'll be meeting at that point with Norm Sterling, Peter Milliken and Saskatchewan in the afternoon, and Sean Conway at 2 o'clock.

Interjection.

The Chair (Mr. Garfield Dunlop): We'd like to ask the subcommittee to hang in for a few minutes. Thank you.

The committee adjourned at 1401.

CONTENTS

Tuesday 3 July 2012

Subcommittee report	M-193
Standing orders review	M-193
Mr. Claude L. DesRosiers	M-193
Mr. Liam Laurence Smyth	M-203
Dr. David McNeil; Mr. Rob Reynolds	M-213

STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY

Chair / Président

Mr. Garfield Dunlop (Simcoe North / Simcoe-Nord PC)

Vice-Chair / Vice-Présidente

Ms. Lisa MacLeod (Nepean–Carleton PC)

Mrs. Laura Albanese (York South–Weston / York-Sud–Weston L)
 Mr. Bas Balkissoon (Scarborough–Rouge River L)
Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Mrs. Donna H. Cansfield (Etobicoke Centre / Etobicoke–Centre L)
 Mr. Steve Clark (Leeds–Grenville PC)
Mr. Garfield Dunlop (Simcoe North / Simcoe-Nord PC)
 Mr. Jeff Leal (Peterborough L)
Ms. Lisa MacLeod (Nepean–Carleton PC)
 Mr. Jonah Schein (Davenport ND)

Substitutions / Membres remplaçants

Mr. Reza Moridi (Richmond Hill L)

Also taking part / Autres participants et participantes

Ms. Deborah Deller, Clerk of the Assembly

Clerk / Greffier

Mr. Trevor Day

Staff / Personnel

Mr. Larry Johnston, research officer,
 Legislative Research Service
Mr. Peter Sibenik, procedural clerk,
 Journals and Procedural Research Branch