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**Official Report
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(Hansard)**

Thursday 10 April 2014

**Journal
des débats
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Jeudi 10 avril 2014

**Standing Committee on
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 10 April 2014

Jeudi 10 avril 2014

The committee met at 1202 in committee room 2.

MEMBERS' PRIVILEGES

The Chair (Mr. Shafiq Qadri): Colleagues, I call the Standing Committee on Justice Policy to order. We have some committee business, not witnesses, for today. I will turn it over to Mr. Tabuns.

Mr. Peter Tabuns: Chair, I have questions, through you to the Clerk, about the appearance of witnesses before the committee. Have Peter Faist and Laura Miller been contacted to appear before this committee? Can we be told how they were contacted and when they were contacted? How many times?

The Chair (Mr. Shafiq Qadri): By the way, just to be clear, this is a sort of status update of witness invitations.

Mr. Peter Tabuns: Correct.

The Chair (Mr. Shafiq Qadri): Go ahead.

The Clerk of the Committee (Ms. Tamara Pomanski): We'll start with Peter Faist, and if I miss something, then please ask me to clarify.

A letter was sent out on March 31 to an address that we were given of Mr. Faist's previous condo. That wasn't delivered because apparently he doesn't live there anymore.

I then received, the next day, correspondence from his lawyer, David Shiller, on April 2. We received a response from his lawyer on April 3, saying it was not enough notice for him to come to committee, as I think he is out of province.

I then sent an email on Monday, April 7, to David Shiller, letting the lawyer know, and for him to let his client know, that the committee is very flexible and willing to hear from him and that we do meet on Tuesdays and Thursdays. So I said, "Let me know when your client would be able to come to committee." That was sent Monday.

I hadn't heard back from Mr. Shiller, so I followed up with him yesterday via telephone. We spoke on the phone and he said that he will be getting a response back to me ASAP. So that's Mr. Faist.

Laura Miller: After Mr. Faist said no, in terms of he wouldn't be able to come for this Thursday's morning meeting, an invitation went out to Laura Miller on April 4—I think that was last Thursday. We received a hard-copy letter from her lawyer, Brian Shiller, and that was

actually exhibited in the committee on Tuesday. Basically, the email said that she has moved to BC. She is more than willing to be flexible to meet with the committee, but she is living in BC right now.

Then I sent the same email to her lawyer, Brian Shiller, mentioning that the committee sits on Tuesdays and Thursdays, and, again, "to let us know when your client is available." I received a response from her lawyer via email, the next day, saying that he will speak with his client, he appreciates the committee's flexibility and he'll get back to us ASAP.

Mr. Peter Tabuns: Might I ask, as well, David Livingston—could you tell us about your attempts to contact him and the response?

The Clerk of the Committee (Ms. Tamara Pomanski): I think David was next on your list. After we received the letter from Laura Miller's lawyer, an invitation went to David Livingston on April 7 for this morning's meeting, April 10. That went out via letter, how we always do, at 10:30 in the morning on April 7. We didn't receive a response, and we followed up with a voice mail on April 8 in the morning. We didn't hear back from him.

Mr. Peter Tabuns: And you still have not heard back from him?

The Clerk of the Committee (Ms. Tamara Pomanski): No.

Mr. Peter Tabuns: Of all of those you've talked to or corresponded with, have any offered alternative dates that might work for them?

The Clerk of the Committee (Ms. Tamara Pomanski): No. What I did was, as I mentioned, I went back to Laura Miller's lawyer and Peter Faist's lawyer and said, "Hey, we meet Tuesdays and Thursdays. Let us know. We're flexible." Alex Gair—an invitation went out on April 8 for, again, this morning's slot, and she responded the next day saying that she was unavailable. That was it.

Mr. Peter Tabuns: Okay. Did anyone ask for conditions around their appearance at committee?

The Clerk of the Committee (Ms. Tamara Pomanski): No. I think they were just—Peter Faist's lawyer was just wanting to know when the committee meets, and I said that we meet every week, and then just basically the logistics of it and maybe if travel costs would be covered etc. That was about it.

Mr. Peter Tabuns: And they're aware that they are a priority concern for people on this committee?

The Clerk of the Committee (Ms. Tamara Poman-ski): I'm sorry?

Mr. Peter Tabuns: They're aware that they a priority concern?

The Clerk of the Committee (Ms. Tamara Poman-ski): I would assume so. I responded back to them right away and said, "Please let us know. We'll work around you. We meet all the time."

The Chair (Mr. Shafiq Qaadri): I think that's asking us to comment on their mindset, so that's a little above and beyond even the Chair's capacity.

Mr. Peter Tabuns: And the Chair has many capacities.

The Chair (Mr. Shafiq Qaadri): It's a rolling skill set, yes.

Mr. Peter Tabuns: I can see that.

Will the Clerk release their emails and letters of response?

The Clerk of the Committee (Ms. Tamara Poman-ski): To the committee?

Mr. Peter Tabuns: Yes.

The Clerk of the Committee (Ms. Tamara Poman-ski): Sure, I can do that.

Mr. Peter Tabuns: Thank you. If we could have that for our next meeting.

The Clerk of the Committee (Ms. Tamara Poman-ski): Okay.

Mr. Peter Tabuns: Mr. Chair, having talked to my colleague—he will address this as well. Our experience with Ornge was a lot of hide-and-seek with witnesses. We're not interested in that. We would like to have people before us expeditiously. We'll be pursuing these people as witnesses and, if necessary, we'll be coming back to the committee with a request for a Speaker's warrant.

The Chair (Mr. Shafiq Qaadri): Which is entirely your right and opportunity. As you know, there's a protocol and proper channels to execute that.

Yes, Mr. Delaney?

Mr. Bob Delaney: I grasp what Peter has been asking. Frankly, the government shares some of the concerns. I think, however, we're going to approach the process deliberately and make sure that we touch all of the bases along the way. If we need to use a Speaker's warrant, we won't be afraid to use it, but we're going to make sure that the process to get there has been impeccable.

The Chair (Mr. Shafiq Qaadri): Just for the committee's awareness, the jurisdiction of the Standing Committee on Justice Policy of the government of Ontario extends to Ontario. So if people are out of that jurisdiction, I don't believe that any call from the Chair, the Speaker, our invitations, browbeating by our Clerk etc. works or can work.

Yes, Mr. Yakabuski?

Mr. John Yakabuski: Thank you, Chair. Precisely that: It sounds great, but a Speaker's warrant outside of the province of Ontario has no legal weight. Great to issue it; it might make somebody look good, but the reality is, it's not going to be effective if that person has

decided that they're not going to appear before this committee, notwithstanding their indication that they're prepared to appear before the committee.

I share Mr. Tabuns's concern that it could be a prolonged cat-and-mouse game. I don't know whether we can do something like this, but I'll throw it out there: They should be requested to appear before this committee and given the specific time and date, and choose. Give the meeting times of every one of our committees and ask, "Which is the first available date that you can be here?" because otherwise it's going to be, "Well, we're prepared to come to the committee. You've thrown out some options." No. They are priority witnesses. These are the central characters in this caper, and I think each one of them should be sent the time and date of our committee meetings consecutively to choose which one they are available to meet us at—

The Chair (Mr. Shafiq Qaadri): Time and date will be offered, if that's agreeable to the committee.

Mr. John Yakabuski: —because otherwise we're going to be bouncing back and forth over and over again, and we may never see them.

1210

The Chair (Mr. Shafiq Qaadri): Understood. Fair enough. Options? Any other—yes, Mr. Delaney and then Mr. Singh.

Mr. Bob Delaney: Why don't we ask the witnesses in question to give us a list of dates? Basically, if they refuse—

The Chair (Mr. Shafiq Qaadri): We've got a happy meeting of minds: our dates, their dates in concord.

Yes, Mr. Singh.

Mr. Jagmeet Singh: I want to put a couple of things on the record to make it clear where our position is: (1) With respect to the Speaker's warrant, there's certain protocol and certain procedures that must be followed first and exhausted first, and we will certainly ensure that those are exhausted before we move to the next step; (2) there is a certain power of moral persuasion if you are aware that in the province of Ontario, a Speaker's warrant is issued—

The Chair (Mr. Shafiq Qaadri): Moral suasion.

Mr. Jagmeet Singh: And persuasion.

The Chair (Mr. Shafiq Qaadri): Suasion.

Mr. Jagmeet Singh: Sure—it has the ability to leave an impression on someone that they should appear before the committee, that the entire represented officials of the province, the majority of them have voted for it and have voiced their concerns. That has a very strong impact, and we want that to be known.

Finally, an outstanding warrant being issued would also have the effect that if anyone was to enter into the province of Ontario, they would then be under the jurisdiction of that warrant. So people visiting Toronto or coming into the province would be captured by that warrant.

For those reasons, it is quite compelling, it is quite important, and we will certainly proceed to that next step.

The last point is that in the case of Dr. Mazza in Ornge, he was responsive, but was avoiding actually

appearing before committee. He responded through his lawyer, saying that he was ill. Eventually, having received a number of responses but not actually a commitment to attend before committee, we took the next step. That is something that I'd also like to draw attention to, that simply responding without any sort of affirmative action to appear before the committee is not sufficient. We would like that to be noted as well.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Singh. Your request for the committee to inflict moral suasion will be executed.

Just for the committee's benefit, these are the requirements, or I guess the parameters, of a Speaker's warrant. I would just read them for you.

"Invite a witness to appear

"(1) Should a witness refuse the invitation outright, every effort should be made to reasonably accommodate scheduling in additional invitations sent out. Then the committee should pass a motion by majority that the witness must appear;

"(2) This is formally indicated to the witness and the committee awaits a formal response. Again, every effort should be made to reasonably accommodate scheduling and all subsequent steps should be agreed to by a majority of the committee;

"(3) If after several requests (at least two) to formally have the witness appear, the committee is frustrated in their efforts, then the committee may decide by majority vote to report the situation to the House in a committee report;

"(4) The committee report summarizes the numerous steps the committee has undertaken to have the witness appear and requests that a Speaker's warrant be issued for the appearance of the witness on a specific date and time and location."

Then, of course, it takes on a life of its own, essentially out of our jurisdiction.

Ms. Thompson.

Ms. Lisa M. Thompson: Is it possible to get a copy of what you just read out?

The Chair (Mr. Shafiq Qaadri): It is eminently possible. Mr. Tabuns.

Mr. Peter Tabuns: Could we have clarity as to who actually serves and enforces such a warrant?

The Clerk of the Committee (Ms. Tamara Poman-ski): It would be the Sergeant-at-Arms, not the police. I think that was quoted somewhere, but it's the Sergeant-at-Arms.

Mr. Peter Tabuns: It's the Sergeant-at-Arms. All right.

May I just go on to say that, in raising this, we are trying to send a very clear message to these witnesses. We are not going to go through what we went through with Ornge. As Mr. Singh has said, we're not going to have people playing around for an extended period. We want them here, we want them testifying and we want them soon.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Yakabuski.

Mr. John Yakabuski: On the matter of the ability to persuade a witness to appear before this committee, I would ask that the committee request that a letter from Premier Wynne be sent to Premier Christy Clark in British Columbia, indicating the importance of Laura Miller's testimony before this committee and that Premier Clark would use her powers of moral suasion to encourage Ms. Miller to abide by the request of the committee for her to appear.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Yakabuski. Speaking on behalf of our team here, I think we'll have to digest that particular request and its various nuances before we agree.

Mr. John Yakabuski: Fair enough. It's on the record.

The Chair (Mr. Shafiq Qaadri): Any further comments before we adjourn? The committee is now adjourned until next week. Thank you, colleagues.

The committee adjourned at 1215.

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