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Chair: Ms. Ruby Sahota

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• (1310)

[English]

The Chair (Ms. Ruby Sahota (Brampton North, Lib.)): I call this meeting to order.

Welcome to the first meeting of the Subcommittee on Private Members' Business. Pursuant to Standing Order 91.1(1), we are meeting to consider the items placed in the order of precedence on February 9, 10 and 11 to determine whether they should be considered non-votable.

You all know the drill. To the members attending in person, make sure you wear your masks, follow social distancing and sanitize before coming in.

We may now proceed to the consideration of the items recently placed on the order of precedence. Unless the subcommittee members choose to proceed otherwise, I will just ask you whether you have any concerns on any particular items, and then we'll just move on to those.

Go ahead, Mr. Barrett.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Thanks, Madam Chair.

With respect to the information prepared by the analysts and the PMBs listed, I have no concerns with any of the items in the package.

The Chair: Thank you, Mr. Barrett. I guess you were serious when you said this could be a speedy meeting.

Mr. Michael Barrett: It's in the spirit of collaboration, Madam Chair.

The Chair: Go ahead, Madame Normandin.

[Translation]

Ms. Christine Normandin (Saint-Jean, BQ): On behalf of the Bloc québécois, I want to say that we have no objection to all bills being considered in order.

[English]

The Chair: Okay, thank you. Madame Normandin and the Bloc have no objections.

I don't know what the order is. I believe Ms. McPherson is next.

Ms. Heather McPherson (Edmonton Strathcona, NDP): I think it was Mr. Turnbull who was first, if he—

Mr. Ryan Turnbull (Whitby, Lib.): You go ahead.

Ms. Heather McPherson: All right. Thanks, Ryan. The NDP has no objections to anything that's been put forward.

The Chair: We're on a roll, then.

Go ahead, Mr. Turnbull.

Mr. Ryan Turnbull: I'm sorry to be the wet blanket, Madam Chair.

I have one key issue that's come to my attention in relation to Bill C-246, an act to amend the Constitution Act, 1867, on representation in the House of Commons. The issue relates to the amending formula that would apply to the bill.

The Privy Council Office and the justice department are advising that Bill C-246 does not clearly violate the Constitution Act, 1867 or the Constitution Act, 1982 because a credible argument can be made that the bill is the appropriate mechanism to effect the proposed constitutional change.

However, it is very likely that the bill is not constitutional because it engages the principle of proportionate representation of the provinces in the House of Commons and therefore would need to be effected by constitutional amendment under the general amending formula—for example, through proclamation by the Governor General following authorizing resolutions from the Senate, the House of Commons and the legislative assemblies of no fewer than seven provinces representing no less than 50% of Canada's population.

I want to raise these issues or concerns. If this bill should be found votable, it's anticipated that the government members will certainly raise some of these arguments during the debate.

The Chair: Thank you.

Maybe we can have our analyst help us out with this one.

Ms. Stephanie Feldman (Committee Researcher): Certainly.

The bill in question specifies in its preamble that it is invoking the unilateral federal amendment procedure under section 44 of the Constitution, which solely requires the adoption of an ordinary law by Parliament for matters in relation to the House of Commons.

I did a bit of research on this point and I would draw the subcommittee's attention to the Fair Representation Act, which was given royal assent in 2011. It amended the same provision of the Constitution that Bill C-246 would amend. This was done by way of the section 44 unilateral federal amendment procedure under the Constitution, so there is a precedent.

The subcommittee is not bound by that precedent, but it could be instructive to the subcommittee. The role of the subcommittee is really to apply the four criteria, one of which is whether the bill is clearly unconstitutional. Perhaps there's an argument to be made here that the bill in question does not meet that high bar, but it would be up to the subcommittee to determine.

The Chair: Yes, absolutely. I think, as Mr. Turnbull has pointed out, there are issues that can be raised regarding this bill. As you've pointed out, our analysts have given us some other issues on other bills as well, but they don't necessarily rise to a level of being non-votable and perhaps can be debated in the House.

Are there any further comments?

Go ahead, Madame Normandin.

[*Translation*]

Ms. Christine Normandin: I just want to add that the subcommittee's role is to take a slightly more liberal approach than what may occur in the House of Commons. I don't think that I heard that the bill was clearly unconstitutional. There's an issue here. However, as soon as the issue comes up, it isn't clearly unconstitutional.

I want to encourage my colleagues to move the bill to the subcommittee stage.

[*English*]

The Chair: Okay.

Could I have the help of members to move the necessary motion, which is that all items recently added to the order of precedence and considered today remain votable?

Mr. Michael Barrett: I so move.

(Motion agreed to [*See Minutes of Proceedings*])

The Chair: Thanks, Mr. Barrett.

The second motion is that the subcommittee present a report listing those items that it has determined should not be designated non-votable and recommending that they be considered by the House.

Mr. Michael Barrett: I so move.

(Motion agreed to [*See Minutes of Proceedings*])

The Chair: Thank you.

Finally, the motion is that the chair report the subcommittee's findings to the Standing Committee on Procedure and House Affairs as soon as possible.

Mr. Michael Barrett: I so move.

(Motion agreed to [*See Minutes of Proceedings*])

The Chair: Thank you.

The meeting is adjourned.

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