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# **Standing Committee on Access to Information, Privacy and Ethics**

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**Thursday, June 12, 2008**

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**Chair**

**Mr. Paul Szabo**

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## Standing Committee on Access to Information, Privacy and Ethics

Thursday, June 12, 2008

•(1530)

[English]

**The Chair (Mr. Paul Szabo (Mississauga South, Lib.)):** This is meeting 41 of the Standing Committee on Access to Information, Privacy and Ethics. We have a number of orders for the day.

The first order is resuming debate on the motion of Mr. Hubbard and the amendment proposed by Mr. Van Kesteren from the speakers list of the last meeting. Of those members who are here—

**Mr. David Tilson (Dufferin—Caledon, CPC):** Mr. Chairman, I have a point of order.

**The Chair:** Mr. Tilson has the floor.

**Mr. David Tilson:** I move we adjourn.

[Translation]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** Can we debate that?

[English]

**The Chair:** I will call the question of adjournment that Mr. Tilson has moved. It's not debatable. I would ask the clerk to call the vote, please.

(Motion negatived: nays 5; yeas 4)

**The Chair:** The motion is defeated, and we'll resume debate.

Mr. Tilson, you have the floor, if you wish. You were the next available person on the list.

**Mr. David Tilson:** Mr. Chairman, I'd like to make a subamendment.

**The Chair:** Do you have anything in writing, sir, for the committee?

**Mr. David Tilson:** Sure.

[Translation]

**Mrs. Carole Lavallée:** Mr. Chair, point of order.

[English]

**The Chair:** Madame Lavallée has a point of order.

[Translation]

**Mrs. Carole Lavallée:** Are these documents in both official languages?

**The Chair:** No, Ms. Lavallée.

**Mrs. Carole Lavallée:** Well then, he can take his documents back. I didn't say anything last time, but I am not going to wait for the document to be tabled in French. According to the standing

orders, the documents must be tabled in both official languages. If they are not tabled in both languages, they are out of order.

[English]

**The Chair:** Madame, those are our rules—you're absolutely right—but the proposed amendment of Mr. Tilson is very brief, and I believe we could quickly translate the 12 words.

Order, please.

There are just a few words. We have it in both official languages, and I'm going to ask the clerk if he would read the proposed amendment in both official languages.

Is that okay, Mr. Tilson?

•(1535)

**Mr. David Tilson:** Well—

**The Chair:** It's just to get it on the record so we can deal with Mrs. Lavallée's problem

**Mr. David Tilson:** You know, I find this delaying tactic of Madame Lavallée incredible, Mr. Chair. My subamendment consists of four words, and we have now spent five times translating four words into French. I would read the words very slowly and I'm sure the interpreters could pick them up.

I just find this process in the committee becoming more and more bizarre. It gets worse every day.

**Mr. James Latimer (Procedural Clerk):** The words “or in past elections”.

[Translation]

In French, it is proposed that the amendment be amended by adding, after the words *matière d'éthique*, “*ce qui suit: “ou que ces pratiques se sont produites pendant des élections antérieures.”*”

[English]

**The Chair:** Okay.

Now, if I may, if there are any other members who have an amendment or a subamendment they possibly will be wanting to move, it would be really helpful if we could get it in both official languages—and we have people here to help out with that.

I'm going to give the floor now to Mr. Tilson.

•(1540)

**Mr. Marcel Proulx (Hull—Aylmer, Lib.):** On a point of order, Mr. Chair, could we ask the clerk to read the original amendment with this subamendment included, because somehow I must have missed something. It doesn't jibe here.

You're saying that in the third line....

**The Chair:** After the word “parties”, add the words “and...”

**Mr. Marcel Proulx:** So it would read:

and should the Committee find in their investigations similar ethical practices by other parties or in past elections

**The Chair:** That's right. I understand that is his amendment.

Mr. Tilson, you have the floor on your subamendment.

**Mr. Dean Del Mastro (Peterborough, CPC):** I have point of order first, Mr. Chair, please. I've been trying to get in on this point, because it's important—

**The Chair:** Excuse me.

Order, please, committee.

I just want to be sure that people will be able to hear you.

Mr. Tilson, on a point of order.

**Mr. Dean Del Mastro:** It's Mr. Del Mastro. Thank you. I should be so honoured to be confused with Mr. Tilson. He's a member of high standing.

My point of order, Mr. Chair, is on the requirement that amendments and subamendments be made in both official languages. When an amendment is brought forward in the course of committee business, during routine proceedings, it can be brought forward in either language. There is no requirement that amendments be made in writing in both official languages. The requirement for both official languages is for witnesses who are providing documents or for notice of motion being received in order to meet the timeline for committees. Amendments brought forward during the course of routine proceedings are not required to be in both official languages.

**The Chair:** Thank you.

Mr. Del Mastro, you are correct. It's not totally out of order, but in the interest of having all honourable members be able to follow what's going on, it's simply a courtesy to provide everyone the information in the language of their choice, and we're trying to accommodate them.

**Mr. Dean Del Mastro:** With that understanding, I am happy to allow time for a written translation to be done, but I just want to make it clear that it's not a requirement for somebody who wants to move an amendment or a subamendment to present it in writing in both languages.

**The Chair:** Thank you.

**Mr. Gary Goodyear (Cambridge, CPC):** A point of clarification.

**The Chair:** Is there such a thing? No, I don't think so. That's sort of like “I want to ask you a question”.

On a point of order, Mr. Goodyear.

**Mr. Gary Goodyear (Cambridge, CPC):** Mr. Chair, respectfully, there are points of clarification taken on procedural matters, on what's before us if we misunderstand. You could write down “point of clarification”, and you could obviously take time to look that up.

On the note of courtesy, I'm going to respectfully request that if we're going to bend the rules or break the rules or go away from the standing order procedures for courtesy, that the same courtesy be extended to the members when they're making amendments that are perfectly within order, within the rules, and that you extend some courtesy so we can move this committee along.

Thank you.

**The Chair:** Thank you.

Mr. Tilson.

Madame Lavallée, are you okay?

[*Translation*]

**Mrs. Carole Lavallée:** Mr. Chair, I would like to make a comment.

[*English*]

**The Chair:** Okay.

[*Translation*]

**Mrs. Carole Lavallée:** I would like to point out that the Standing orders of the House of Commons stipulate that the documents that are distributed in the committees must be in both official languages. It's not a question of curtsy, politeness or generosity on your part when you do so, it's simply in compliance with the Standing Orders. Your Canadian government decided to be bilingual and to respect both official languages. This is not a delaying tactic. In any case, we know full well that the experts in delaying tactics are on the other side of the table.

This requirement applies to everyone. The documents that I give the committee are in both official languages and I do not do so out of generosity. When you hand out documents, it is only natural that they be in both official languages. It's the least you can do.

• (1545)

[*English*]

**The Chair:** Madame Lavallée, I understand the point. This is kind of in the middle of the road, because actually the document wasn't circulated. It was just given to the clerk.

In any event, I think everyone understands that we're just going to try to be as helpful to all honourable members as we can, within the rules.

I'm now going to turn the floor back to Mr. Tilson to speak to his motion.

**Mr. David Tilson:** I just want to be clear, Mr. Chairman. In the future, are you insisting that subamendments be in both official languages and in writing?

**The Chair:** No. I asked just as a courtesy. It would be helpful, but we would take the time to make sure that it got properly translated and was eventually circulated to the members.

Carry on.

**Mr. David Tilson:** Frankly, sir, I don't—

**The Chair:** I said no. I said no to your question.

**Mr. David Tilson:** —have the resources to do that as a member of this committee.

**The Chair:** Yes, well we do. And we'll get them translated as soon as we can.

**Mr. David Tilson:** You do, except it's my subamendment. It's not the amendment of the table.

**The Chair:** Before it's circulated, we would translate it, sir.

**Mr. David Tilson:** So you're going to delay the meeting so that the matter will be translated into the other language?

**The Chair:** No.

Everybody will get any amendment in both official languages eventually, but we proceed with business because we have the translation. As Mr. Del Mastro laid out there, it is translated when you read it into the record.

Thank you for the clarification. I appreciate it very much.

If you wish, sir...

**Mr. David Tilson:** I haven't made the amendment yet. I'd like to do that now.

**The Chair:** You have the floor to move your amendment and to debate it.

**Mr. David Tilson:** I would move a subamendment to Mr. Van Kesteren's amendment, that after the word "parties" in the third line, the words "or in past elections" be inserted. So the amendment would then read:

and should the Committee find in their investigations similar ethical practices by other parties or in past elections, the Committee will broaden their investigations to include the study of these ethical practices and make recommendations to Elections Canada as to whether these ethical practices ought to be continued.

**The Chair:** It speaks for itself, you're saying.

**Mr. David Tilson:** Well, no, if I could speak to it—

**The Chair:** It's your motion, sir. You can speak to your motion.

**Mr. David Tilson:** Mr. Hubbard's original motion refers to alleged actions during the 2006 election. We now have an amendment on the floor that refers to potential other issues from other parties, which may or may not be there. If this amendment and the motion carry, we will be looking at all of those matters.

Of course, these allegations are most serious. Quite frankly, Mr. Chairman, if we're going to look at the year 2006, I think it's fair that we would have a complete investigation and look at other elections, other years. I don't know what's fair that we would go back to. I suppose it would depend on what Elections Canada would say when they come to our committee.

If this practice, as has been alleged in the original motion—and I'm saying it's not true, of course—has been occurring for past elections, I think it would be incumbent upon this committee not just to look at the 2006 election, but previous elections. That's really the intent of the motion, because we would be conceivably looking at the practices of members who are still here and perhaps other members over the years. Is this a common practice? Has this just been discovered now? If it's an unethical issue, we have an obligation to do a complete, thorough job and to look at other elections.

• (1550)

**The Chair:** Thank you.

Mr. Del Mastro, please.

**Mr. Dean Del Mastro:** Thank you, Mr. Chair.

Obviously I think the subamendment moved by Mr. Tilson is entirely reasonable on a whole number of different levels, not the least of which is that this practice that the committee intends to look into is not a new one. Indeed, it has been the practice of the Bloc Québécois for more than a decade. Certainly the Liberal Party is well documented, as is the NDP, as using this exact practice, transferring money from central campaigns to regional campaigns for buys and transferring those funds back. I think we've documented that well. I have a great documented case that I'll bring up a little later with respect to the original mover of the motion.

I do think that, obviously, if we're going to be looking into this, if this committee is to have any legitimacy at all, it needs to do so in a fashion that's fair to all parties, that's objective, and that hopes to come out with a conclusion that has some article of truth to it and not just a rag that reeks of partisanship.

I think this is obviously a reasonable subamendment and something that I believe all parties should support. As I said the other night, if all parties truly want to have voters in their constituencies respecting parties and the political system that we have here in Canada, all parties should be prepared to stand by their election financing records and those of their public office holders in demonstrating that if they are going to be in judgment of the Conservative Party, their own record on this is somehow different. Our position is that it's not.

I think this subamendment further seeks to clarify the main motion, as well as the amendment, and should be supported.

**The Chair:** Monsieur Proulx, *si'l vous plaît*.

[Translation]

**Mr. Marcel Proulx:** Thank you, Mr. Chair.

These are certainly interesting topics that we are discussing, but they are not the real problem. The real the problem that the committee wants to study is not the fact that sums of money were transferred from the party's national campaign to another campaign. What we want to study is the fact that expenses were transferred to ridings to allow a national party to exceed the spending limits authorized at the national level.

My colleagues opposite can go on and on about the fact that all parties transfer, have transferred or will be transferring money from a riding to be national party, from the national party back to the riding, a candidate or his or her campaign, but the real problem in this issue is the fact that this money was transferred by only one party, that Elections Canada criticized only one party and conducted an investigation only into that party. In fact, the candidates from that party are the only ones whose reports were not approved following the last election. And that is simply because these transfer methods seemed to have been used to allow this national party to exceed the spending limits authorized by the Canada Elections Act.

My colleagues opposite can put a great deal of energy into telling us that anyone could be accused and that everyone transfers money, but that is not where the problem lies.

In addition, I would like to come back to a question that I raised at the last meeting of this committee, concerning the relevance on the part of my colleagues opposite, of referring to other parties, such as the Bloc Québécois, when it comes to defining the term public office holder. At that meeting, the clerks did not have the text of the Conflict of Interest Act, so I would like to inform the committee that I have done some research.

The Conflict of Interest Act, enacted by section 2 of chapter 9 of the Statutes of Canada, 2006, reads as follows:

“public office holder” means

- (a) a minister of the Crown, a minister of State or a parliamentary secretary;
- (b) a member of ministerial staff;
- (c) a ministerial adviser;
- (d) a Governor in Council appointee, other than the following persons, [...]
- (e) a full-time ministerial appointee designated by the appropriate minister of the Crown as a public office holder.

In this definition, nothing would lead us to believe that a member of Parliament of the Bloc Québécois or of the New Democratic Party is targeted by what we are discussing. I would thus emphatically implore my colleagues opposite not to waste this committee's time by presenting all sorts of scenarios involving the Bloc Quebecois or the New Democratic Party.

As I said, the crux of this problem is not the transfer of funds, it is the fact that a national party could exceed, or did exceed, the spending limits authorized by law.

Thank you, Mr. Chair.

• (1555)

[English]

**The Chair:** Thank you.

Go ahead, Mr. Goodyear, please.

**Mr. Gary Goodyear:** Thank you, Mr. Chair.

I have some concerns, but not of the amendment. Could I just step back? I appreciate members' giving me a moment to get up to speed. This is my first time at this committee.

Members will probably know that we dealt with this subject to a great extent on the procedure and House affairs committee. There was, in fact, a ruling made on the confined motion that it was indeed out of order because the original motion, which has been deemed in order at this committee, is actually far too specific. That opinion was generated by opinions of the clerks, in particular the head law clerk, Mr. Robert Walsh.

A number of analogies were used to convince the chair of that committee that the original motion that this committee was looking at was in fact not within the mandate of the committee because it was too specific in nature. There's enough precedent, Mr. Chair, to rule that in fact that would be the case.

For example, Standing Order 108(3)(a)(vi) says, and I'll quote the Standing Orders, “the review of and report on all matters relating to the election of Members to the House of Commons” is the mandate of the procedure and House affairs committee. That's right from the Standing Orders. As you can hear when I read the quote out of the

book—the bible, as we call it here on the Hill—that's a fairly broad mandate, and it's been written for a specific reason.

**The Chair:** Mr. Goodyear, the committee received the motion of Mr. Hubbard. It was ruled in order. The chair was challenged—

**Mr. Gary Goodyear:** I understand the procedure.

**The Chair:** —and the committee voted to accept the motion as being in order.

So I want to raise with you that to discuss and debate whether what we're doing right now is proper is in fact improper; it's out of order. So I'd ask you to move on to another plane.

**Mr. Gary Goodyear:** Okay.

Well, the situation I want to bring the committee's attention to is that the amendment suggested is perfectly in order because it expands the mandate of the original motion. And despite the numbers and the mathematics of parliamentary committees, rules can easily be broken, Mr. Chairman. We could suggest that the shirt you're wearing right now is not blue. We could, in fact, have a vote on it, and the minutes would reflect that we lost that vote, but anyone watching this committee would indeed see that your shirt is blue.

So notwithstanding the numbers and the tyranny of the majority with respect to numbers, what I'm trying to convince members of is that the amendment actually broadens the original motion and brings it more in line with what the Standing Orders have chosen over the decades in terms of what parliamentary committees should be for.

My concern with not adopting the subamendment is very simple. It's that no one could possibly believe that a parliamentary committee that is made up of different political parties could ever possibly come to an unbiased determination or research on a very specific matter. So to amend the original motion, in my strongest opinion, makes it completely in order.

The second concern I would have in not amending the motion would be the *sub judice* convention. This is an adopted, voluntary convention that protects witnesses and people who are before the courts from any testimony.

Certainly, Mr. Chair, I'm sure you'd agree with me that we've lost the trust that committees will keep confidential even meetings that are in camera. We had a privilege today in the House that raised a very important matter of there being leaked documents from in camera meetings and leaked documents from reports that have not yet been tabled in the House.

So my concern is that it's not possible to proceed on the narrow vision of the original motion, and the amended version that has been put forth by my colleague is absolutely in order and actually has to be given a yes vote to restore some of the credibility that has been lost on these committees that continue to proceed based on numbers and on what can't be deemed to be anything less than partisan gain.

No one has anything to lose, apparently. Or is there something to lose? Maybe I'm wrong here. Maybe the other parties would like to respond to this. Perhaps the other parties have something significant to lose, and therefore have some reasonable grounds to restrict this to the Conservative Party.

But we don't need to do that, Mr. Chair. We do need to expand the motion, but we don't need to keep it restricted because we have courts for that. Certainly the justice committee doesn't investigate individual breaking and entering. The justice committee sets up the rules, and the police deal with the break and enter.

In this case we have the courts to deal with individual parties, and pitting one party against another is not the place of parliamentary committees. That's not what the Canadian taxpayer sent us here to do. In fact, Canadian taxpayers pay judges and lawyers. I know there are some lawyers here too. I don't want to be insulting; there are certainly lawyers on this committee. But I can tell you I'm not one of them, and I can't profess to know how to interrogate witnesses properly to get to the truth, the whole truth, and nothing but the truth. And I'm absolutely convinced that's what all members want to do.

So in my opinion, the amendment that's been proposed by my colleague is not just in order, it's something on which it's imperative that we all vote. To vote against it would send a profound signal that we're not interested anymore in parliamentary work, we're not interested in working for the best interests of Canadians.

Clearly, this case is before the courts. It will be dealt with there; that's where it's supposed to be dealt with.

● (1600)

What we need to do here is expand this motion so that we can do the job properly, which is to study the advertising practices under the Elections Act. That doesn't mean those of one particular party, but just the advertising policies. And if they need to be changed, of course we need to change them.

But that can't happen at a committee like this. It's not possible, and Canadians don't believe that either. Canadians don't believe for one second that the Liberal Party is the authority on the Conservatives, or that the Conservatives should be the ones who judge the NDP. That's absolutely absurd. It's an affront to what parliamentary committees are all about and what they've been set up for.

I think, frankly, the reason this has been going on for so long is that these rules were set up decades ago, clearly by individuals who were wiser than most of us, and they work when they're used properly. This isn't working, Mr. Chair, I profess to you. It didn't work at another committee. It's obviously not working here, and guess why? Because these rules were meant to be for the benefit of Canadians, not the benefit of individual political parties who are looking for voting options and ways to get more votes.

I'll just conclude my comments by going right back to my summary. If members look at the folks in their riding and understand what they came here to do, it's not about winning the election. It's about making this country a better country for all of us, and we can do that. But I'll tell you, if we leave this thing to be one party against another party, then we're wasting everybody's time. We all know full well, Mr. Chair, that all parties do these sorts of things. There is evidence. It will come out in the courts. That's where it should be.

We will be using a parliamentary committee of Canada for partisan and political gains. Why? We all know this is being handled in the courts, exactly where it should be handled. If we move forward without this amendment that expands this original motion,

we will be putting ourselves in a place of violating *sub judice*, and that will mean nobody in that courtroom will have a fair trial.

So the vote on this amendment, Mr. Chair, is going to be very simple. It's going to be "Do you wish to continue giving Canadians a fair trial and respect the judicial system of this country?" Yes or no. Are we going to expand this motion so we can look at the act and rule on what is the right thing to do, or are we going to say "No, this is a parliamentary committee and we're all being paid a tonne of money and we have all kinds of advisors and staff behind us, plus interpreters and technical wizards..."? We have all kinds of people right here. This is costing taxpayers a huge amount of money. And guess what? We're going to double that cost, because this is being handled in the courts, where it should be.

This isn't a courtroom, Mr. Chair. We're not trained to be a court. And with all due respect to your talents, Mr. Chair, you're not a judge. And there isn't any way a fair answer can come from an inquiry such as this.

So the motion has to be expanded, if for no other reason than to explain to Canadians that we're here to do the business of Canada, we're not here to do individual party politics. And the only fair thing to do is to respect the judicial system, leave this where it already is, and not jeopardize the witnesses and those people who are going to testify there. Don't jeopardize them.

When you call witnesses here, Mr. Chair, on this small motion, on the original narrow motion—which, in my view, should have been ruled out of order—do you know what you're going to hear? "I'm sorry, I can't comment. It's before the courts." Do you know what you're going to vote for if you don't vote for the amendment? "I want to waste more taxpayers' dollars"—because there is nobody in this room who believes for a second that a witness who is involved in a courtroom is going to answer the question, assuming that we've lost dignity to some point that we don't respect *sub judice* in the first place.

Ladies and gentlemen, it's not the forum. This is not what you were elected to come here and do. If you have to change the rules, then change the rules, but don't sit here and pretend to be in a courtroom. Don't sit here and waste taxpayers' dollars. Vote yes to this amendment, and let's get on with doing the job Canadians sent us here to do.

Thank you, Mr. Chair.

● (1605)

**The Chair:** Thank you.

Mr. Van Kesteren, you have the floor, sir, if you want it.

**Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC):** Thank you, Mr. Chair.

I thank Mr. Goodyear for that explanation as to why this amendment or this addition to the amendment should be allowed.

I am, as you know, the one who moved the original amendment. Much of what Mr. Goodyear has said was said just before I moved this amendment. I thank him for his insight, and I don't know what else I can add to that.

If we take the original motion and zero in on this specific activity, we will do an injustice. We will not only do an injustice to the Canadian people, we'll do an injustice to ourselves too.

There is no question that there is a problem here. We definitely have a problem. If there weren't a problem, Elections Canada would not have investigated. There is a very strong possibility—at least that's what's conceded on our side—that the very judgment by Elections Canada is evidence of another problem, that this issue has to be examined. Some conclusion has to be reached on whether this practice is going to be able to be continued or not. That's what my amendment does.

The amendment basically says we're not just going to look at only the Conservative Party's practices, but we are going to see where that takes us. If that brings us, and I believe it will, to open up all new chapters, we're going to be able to see that there are other similar practices being held.

The most important thing, however, is not whether or not these things happen. We know they happen. We had a member here at the last meeting cite example after example of when it happened and where it happened. The question is, should this practice be allowed?

That's where we can do some really good, serious work. When I moved this amendment, I moved it in all seriousness. I really feel that we can do this. I don't think I want to be part of a committee that just roasts one party. And you know what? If that were another party, and us doing it, it just plain wouldn't be right. I think a lot of you feel the same way.

I want to be able to go to the Canadian public when we leave this place and know that we've done something worth while. This is something worth while. We have done some very worthwhile things in this committee as well. This can add to that.

I like Mr. Tilson's subamendment. It will broaden the scope even further, because there's obviously a history here. There are a lot of Canadians who don't understand just how our political system works, how we're funded by the government, how every vote cast is....

This is going to do something else, as well. It's going to explain to Canadians why we've adopted this system and why we feel that it's a good system—because it is a good system.

I met with a senator in another country. This was a state senator, and she told me that she spent \$2 million for her last election. They meet part-time, and her salary is \$19,000 a year. She was absolutely stunned when I told her what one of our elections costs and how we raise our money and how the government contributes to that. She wondered how it could work, but I assured her it works and it works very well.

I think we're on the right track. We have an excellent system in place, and I want to strengthen that system, not bring it down.

•(1610)

I want to strengthen the whole political system so that all parties can operate in an ethical manner. I don't believe we have anything to hide. It's very possible that we're doing something that we shouldn't be doing. It's very possible that other parties are doing something.

But I do not believe this has been defined in a manner where the committees and Elections Canada have come to grips with this yet, and they have to. They absolutely must come to grips and make a clear statement as to what is allowed, what is legal, what is not legal, and what is ethical, so that we can improve on the system.

That said, since this was my amendment, I am also very much in favour of Mr. Tilson's. I think it's excellent, and not only that, it shows good faith as we vote for this, whether or not all parties are prepared to come to grips and work as a unit, as we've done in the past.

So I would encourage us to accept this amendment and the subamendment. Let's pass the whole thing. Let's get going, and let's do the job we were called to do.

Thank you.

•(1615)

**The Chair:** Thank you, Mr. Van Kesteren, for your thoughtful comments.

[*Translation*]

Ms. Lavallée, if you please, the floor is yours.

**Mrs. Carole Lavallée:** Thank you, Mr. Chair, for allowing me to speak.

We are here to debate a motion concerning the ethical practices of certain public office holders. These practices have been challenged, especially with regard to the Conservative Party. The Conservative members are trying to make all sorts of comparisons, especially with the Liberal Party and the Bloc Québécois. They have not yet said anything about the NDP, but they soon will, you can count on that, Mr. Martin.

I would like to point out that the case is not at all the same. First and foremost, the headquarters of the Liberal Party, the Bloc Québécois and the NDP have never, never, been searched. The only time the RCMP entered the offices of a sovereigntist party was to steal the membership lists and that was a very long time ago. I can tell you that story if you are interested.

The people at Elections Canada have never refused to refund our expenses. As you have noticed, they are very strict. Indeed, you are suffering the consequences. In addition, the Bloc Québécois has never exceeded the authorized limit. But that is what Elections Canada is accusing you of in this case, that is, for having devised a scheme allowing you to exceed your spending limit, given that you had too much money at the national level and not enough in the ridings.

I listened to you when it was your turn, Mr. Goodyear, so I would ask that you show me the same respect.



So you transferred money from the national level to the riding associations, which paid the expenses incurred at the national level, which is against the law. You can challenge this before the courts and before Elections Canada and refuse to have the matter studied by House of Commons committees. You have given us another shining example of your constant filibustering and delaying tactics, given that we already had three or four meetings on this same topic. You are wasting time by turning the floor over to one another, and you are going to do the same thing again today.

I would just like to set the record straight concerning the Bloc Québécois. It may have used the in and out method, but never illegally. The illegal method was invented by the Conservative Party, in my opinion. In the case of the Bloc Québécois, the money transferred from the ridings to the national level...

[*English*]

**The Chair:** Order, please.

**Mr. Gary Goodyear:** On a point of order, Mr. Chair, I wonder if the honourable member could explain the relevance of going into the Bloc's in-and-out scheme when we're actually debating an amendment to go in and look at the Bloc's in-and-out scheme by expanding the amendment.

If the member is going to stay on topic, that would be great. We could just vote yes to the amendment. We could talk about the Bloc's in-and-out—

**The Chair:** Order. This is a point of order.

Order, please. I want everybody to hear.

When members raise issues in their presentations, those become relevant to other members when they speak. I can understand, Mr. Goodyear, because you weren't at the last meeting, but this matter did come up extensively. I believe this is the first time Madame Lavallée has spoken on any of this. Without that background knowledge, I can understand that you would be concerned, and you would have been correct. Given that it has already been on the table, I'm going to allow Madame Lavallée to continue.

Be cognizant that we should always try to restrict our comments here to those that are helpful to the committee, and ultimately move towards putting the questions on the various motions before us.

Thank you.

You have the floor.

• (1620)

[*Translation*]

**Mrs. Carole Lavallée:** Mr. Chair, you will have understood that I was responding to charges from the member for Nepean, who was here at our last meeting, when I did not have a chance to speak.

All Bloc Québécois candidates, in a fair and equal manner, had indeed provided money to the National Secretariat. If all ridings provide the same amount; this practice is legal. We collected these amounts in each committee democratically, \$5 at a time. The sovereignty movement is mainly funded through membership cards. Our funding is based on our membership, our activism and our fervour, and not on the wealth of a few major corporations supporting a party which will someday hold office and that they

will be able to lobby in the future. That is the difference when it comes to the Bloc Québécois's in and out.

All candidates have, fairly, taken money from their riding association to send it to the National Secretariat. Faced with a practice that is this fair and acceptable, Elections Canada reimbursed us. Elections Canada never challenged our expenses. No one exceeded his or her limit, especially not our National Secretariat nor riding associations. That is the difference between a party which benefit from the wealth and power of large corporations supporting it and a party like the Bloc Québécois, which is too poor but receives popular support and appeals to activists.

We are talking here about public office holders. As you know, the Bloc Québécois has no public office holders within its ranks and will never have any in Ottawa. Under the Standing Orders of the House of Commons, the Standing Committee on Access to Information, Privacy and Ethics mandate includes:

(vi) the proposing, promoting, monitoring and accessing of initiatives which relate to access to information and privacy across all sectors of Canadian society and ethical standards relating to public office holders....

It is not the Committee mandate to access the Canada Elections Act but rather the ethics of public office holders. That is what we are attempting to do in the case of your exceeding your election's limits.

Certain people said earlier on that I was trying to use dilatory tactics in upholding my francophone's rights and requesting documents and both official languages. This accusation was made by a person who, before we had even open our mouths, had called for the adjournment of our meeting. There should be regulations against people acting in bad faith. It would be rather useful and help us cast aside certain types of argument.

Mr. Chair, I would like to tell Mr. Goodyear that ethical matters are not settled before the courts, but within this committee, as stated in the Standing Orders. This is not about comparing one party to the others, but about dealing with a party's ethical issue.

**The Chair:** Thank you, Ms. Lavallée.

Mr. Nadeau, you have the floor.

**Mr. Richard Nadeau (Gatineau, BQ):** Thank you very much, Mr. Chairman.

At this point, a subamendment is being tabled which distorts the motion. This motion before the Standing Committee on Access to Information, Privacy and Ethics—Ethics, I repeat—calls for an investigation of a troubling situation related to the process for electing candidates who represent the citizens of Canada and of Quebec.

There is an agency which is recognized by all, internationally as well as within Quebec and Canada. Elections Canada has done its work pointing out that there was something unusual going on, that there were problems, that something abnormal had occurred during the most recent federal election. This situation occurred within the party born of the merger between Alliance-Reformists and the Progressive Conservatives, this party is now called the Conservative Party of Canada. There was election overspending of some \$1.2 million. It is absolutely unacceptable for such a situation to have occurred. An investigation must take place.

The Conservative Party, which introduced Bill C-2, The Federal Accountability Act, wanted to be purer than the driven snow. It is incumbent upon the party to be transparent in all regards, in all situations regarding the Canadian federal government, and particularly so when it comes to election campaigns whose purpose is to allow voters the chance to make an enlightened choice about candidates, regardless of the party.

It so happens that some Conservative candidates won by a very small margin. Would illegal fund transfers have enabled the Conservative Party to spend more, leading to some of these wins? No one will ever know. However, one thing is for sure: among the 15 or so Canadian political parties to have had candidates during the most recent federal elections, only one is now being chastised for having, apparently, breached a fundamental rule. There may even have, and we would have to look into this, falsified invoices to justify what cannot be justified.

I have before me a *Globe and Mail* article. Unfortunately, I cannot table it today because it is only in English. I will not table it, but I will mention its content, in French. Staff members, advisors and even candidates for the Conservative Party of Canada had strong reservations regarding the party's way of doing things. You have, no doubt, seen the outcome of it all, Mr. Chairman. This party won a minority government on January 23, 2006. I was there, I saw the news. I am flabbergasted to hear today that unusual things occurred. It is our responsibility, as elected representatives, and as citizens, to do our work within the Standing Committee on Access to Information, Privacy and Ethics—and I'll repeat it again, Ethics—to ensure that, if this did indeed occur, it does not happen again.

•(1625)

That said, we should be upright, rather than try to beat around the bush in an attempt to hide something. In this case, we must prove that certain things did indeed occur. This issue should be dealt with in a responsible manner.

Mr. Chairman, I'm going to name certain people we know: Maxime Bernier, Josée Verner, Lawrence Cannon, Sylvie Boucher, Daniel Petit, Steven Blaney, Jacques Gourdes, Luc Harvey, Christian Paradis, Suzanne Courville, Yves Laberge, Gary Caldwell, Jean-Marie Pineault, Patrick Robert, Gilles Poirier...

•(1630)

[English]

**Mr. Marcel Proulx:** Point of order.

**The Chair:** Go ahead, Mr. Proulx, on a point of order.

[Translation]

**Mr. Marcel Proulx:** Although it may be music to my ear to hear these types of comments, I would like for you to make a determination as to the relevance of naming, in this committee, individuals who are not public office holders.

[English]

**The Chair:** Thank you, Mr. Proulx. You raise a good point.

Throughout much of our work, even back in the Mulroney work, most people thought that members of Parliament were public office holders, because it sounds right, but in fact the definition under the Conflict of Interest Act says cabinet ministers—but now it's

ministers—secretaries of state, parliamentary secretaries, and order-in-council appointees. Members of Parliament are not public office holders.

Our mandate, and in fact the motion before us, is in order only to the extent that it relates to the activities of a public office holder as defined.

Mr. Nadeau, I would simply just offer that explanation to you and hope that you will keep it in mind as you continue your presentation.

[Translation]

**Mr. Richard Nadeau:** Very well.

Mr. Chairman, Mr. Proulx, I thank you very much for this clarification.

Nonetheless, the names that I mentioned are those of people who took part in the federal election which began on November 28, 2005 and ended in 2006, at around 9 p.m. on January 23 which, I should add, is Carole's birthday. During this long election campaign, lasting some 56 days, these people were candidates for a party, which was indeed the Conservative Party of Canada. This is why it is extremely important not to confuse the issue and especially not to try to downplay my colleague's motion, Mr. Hubbard, the member for Miramichi, New Brunswick. It is very well targeted.

The situation was not reported by the Liberal Party of Canada, the Bloc Québécois, the New Democratic Party or the Conservative Party itself, but by Elections Canada. This is an internationally recognized authority which foreign governments turn to for resources and knowledge which can assist them in running democratic elections. This very important authority, recognized and accepted by all, ensures respect for federal elections and the election process as a whole. Everything must take place in compliance with the law for elections to occur.

This authority noted that unacceptable even dishonest methods were used. Whether or not this issue goes before the courts we, the members of the Standing Committee on Access to Information, Privacy and Ethics have the responsibility to look into the matter. If it can be said that there is one process which lies at the very heart of the Canadian system of government, it would have to be that which allows democracy to flourish, in other words the electoral process.

People within the governing party are directly affected by this situation, in that they are members of the Conservative Party. They must certainly receive orders from on high, down low and elsewhere in order to try to draw attention away from the matter. The Standing Committee on Procedure and House Affairs, I believe, had to deal with these types of issues.

Because this is an important opportunity for us to be involved in the democratic process, we want to make sure that Mr. Hubbard's motion will stand as worded, along with the amendment that was made. We want to delve into the heart of the matter.

Thank you, Mr. Chairman.

•(1635)

[English]

**The Chair:** Merci.

Mr. Proulx, you have the floor.

I'll just alert members that following Mr. Proulx, I have Mr. Del Mastro, Mr. Tilson, Mr. Martin, and Mr. Goodyear.

[*Translation*]

**Mr. Marcel Proulx:** Thank you, Mr. Chairman.

I would like to reiterate some facts which led this committee to discuss ethical considerations for public office holders, which are defined under the Conflict of Interest Act and may be audited by this committee.

The Royal Canadian Mounted Police searched Conservative Party offices. In order to obtain a search warrant, Elections Canada had to state in no uncertain terms before the courts that misleading statements had been made by various organizations and individuals within the Conservative Party. I do not want to name them all; I do not know if there are 66 of them or 100.

As I mentioned when my colleague Mr. Nadeau was speaking, some of these individuals are members and are not subject to an audit by this committee. However, other people appearing on the list are public office holders and the subject of the RCMP's allegations, the RCMP having executed a warrant on behalf of Elections Canada.

This is a very serious matter. If public office holders are found to be guilty, they would be liable to imprisonment. We are not only talking about election overspending, but about the fact that public office holders may end up in jail and lose their right to sit as members.

The Conservative Party...

[*English*]

**Mr. Dean Del Mastro:** Point of order.

**The Chair:** Mr. Del Mastro, on a point of order.

**Mr. Dean Del Mastro:** The member has just made a statement that's factually incorrect. Nobody's going to wind up in prison on this.

**The Chair:** Order.

In fairness, you know that you cannot debate on a point of order. That is debate, sir.

Your point has been made.

Mr. Proulx.

[*Translation*]

**Mr. Marcel Proulx:** Thank you, Mr. Chairman.

I'd like to reassure my colleague. Obviously, it is not only the idea of being automatically banished that is at stake here, but if these allegations are proven to be correct and criminal charges are initiated, it may be that an individual would be liable to jail.

The Conservative Party, in order to defend its public office holders and others has alleged that the RCMP warrant was intended to collect information which could be used in a civil action between the Conservative Party and Elections Canada. Well, we all know that that is false. Documents which were seized during this seizure are absolutely not meant for one or several civil trials. The RCMP does

not operate that way. In fact, it is more of a quasi-criminal investigation under the Canada Elections Act.

Mr. Tilson's subamendment, which would apply to the amendment introduced during our last meeting by Mr. Van Kesteren, implies that all parties were involved in this funding scheme which led a national party to exceed the national spending limit permitted by Elections Canada. That is patently false. Not all parties were involved in this scheme.

Mr. Chairman, you have more experience than most of us—I am not trying to say that you are old, but you have a great deal of election experience—and you know very well that after each election, Elections Canada audits the books of all the candidates and all the parties involved in the election. Following the January 2006 election, the Conservative Party was singled out by Elections Canada which found that certain Conservative Party candidates, including public office holders, had made false statements and were involved in the scheme. Elections Canada was referring to Conservative Party candidates only, and not to candidates from other parties. The truth must be told and we cannot accept having anyone say that all parties were involved in this way.

Finally, the Conservative Party alleged that the investigations and searches carried out by the RCMP were an Elections Canada vendetta against it. I would point out that that is really stretching the truth. I do not see why Elections Canada, which has always enjoyed a stellar international and national reputation, would have chosen to exact revenge on the Conservative Party, especially given the fact that the new head of Elections Canada, Mr. Marc Mayrand, was appointed by the Conservative Party, and that Elections Canada carried out the investigation and called on the RCMP to execute the search warrants.

For all of these reasons, I want to make it very clear that I have no intention of voting in favour of Mr. Tilson's subamendment, which would apply to Mr. Van Kesteren's amendment, because that would essentially muddy the waters and dilute the audit which the committee seeks to carry out on public office holders.

Thank you, Mr. Chairman.

• (1640)

[*English*]

**The Chair:** Thank you very much.

Mr. Del Mastro, please.

**Mr. Dean Del Mastro:** Thank you.

As a matter of fact, Mr. Proulx actually entered into a little bit of my argument for me, which I appreciate a great deal, because I certainly have a number of questions related to Elections Canada, which is why I think this subamendment is so important, and why the scope has to be expanded. He pointed out that this is the only time they've ever done this, and that's true. He pointed out that we think that they're applying a double standard and that they're not being fair to our party. That's true.

Let's look at why we think that's true, Mr. Chair, because, quite frankly, we need to look only as far as the sponsorship program. We look at it, and we see no investigation by Elections Canada. Over \$360 million was stolen. Over \$40 million is missing. Money went to Quebec ridings.

•(1645)

**The Chair:** Order, please.

Mr. Proulx on a point of order.

**Mr. Marcel Proulx:** The line is very thin, Mr. Chair. However, there has never been any proof that that amount of money was stolen, whether it be by a political party—

**The Chair:** The point is—

**Mr. Marcel Proulx:** I said the line was thin, Gary. It's up to him to decide.

**The Chair:** Thin on what, sir? Thin on relevance, are you saying?

**Mr. Marcel Proulx:** Yes.

**The Chair:** Okay.

**Mr. Dean Del Mastro:** It's very relevant to the amendment. I'm talking about past elections and Elections Canada.

**The Chair:** Colleagues, I agree with Mr. Proulx that there's a fine line here. Let me explain it.

Dealing with what Elections Canada did or did not know or do, either in the particular in-and-out situation or in the sponsorship, or in any other proceedings or investigation or finding that they had, our motion is not to report or opine on the activities of Elections Canada. That's not part of the main motion, amendment, or subamendment. The issue for us is in regard to Elections Canada's report, its findings, the 2006 election, and the candidates—in fact the Conservative candidates at this point, as it says in the motion.

Our objective—and I hope members will move back to this—is not to find either wrongdoing or no wrongdoing on the part of any party, but rather to identify and determine if any of this that occurred, given the facts that we know, triggered any ethical undertakings or responsibilities. So to keep within our mandate, it is simply to determine if these actions meet the ethical standards expected of public office holders. We have to do that for one very simple reason: otherwise it would be out of order under the mandate of this committee.

The amendment by Mr. Van Kesteren expands that to some extent. So should any information or investigation find it relates to other parties, we're going to expand the scope. So there's a flow.

Mr. Tilson's subamendment says that with regard to this, we're not going to restrict it to just the 2006 election, but rather to past elections.

The root of all of this is the ethical requirement and whether all the steps that are required of public office holders were taken in accordance with the ethical guidelines—if you read them—to the highest possible standard. I understand Elections Canada is involved here, but we cannot, as a committee, opine on whether Elections Canada has done anything correctly or incorrectly.

I want Mr. Del Mastro to continue, but I think just for the purposes of members' further interventions, it would be most helpful to keep the ethical root of this in the context of your argument. Okay?

Carry on, Mr. Del Mastro.

**Mr. Dean Del Mastro:** Thank you, Mr. Chair.

I'm actually getting to that, and I think what I'm speaking to is very relevant, since we're talking about expanding the scope. The subamendment talks about expanding the scope to include past elections. Obviously, if you're going to talk past elections, you have to talk sponsorship, and you have to talk about the illegal money, cash dollars, that flowed into Quebec ridings in Liberal associations. It's very relevant, and we should be looking into it. We don't know if there were even reports.... Well, I must assume that there weren't reports that indicated this money was spent on the campaigns, because, hopefully, Elections Canada wouldn't have provided rebates on stolen money. Therefore, we should be looking into this, expanding the scope to look at and see what the practice of those public office holders was.

We know that there were crimes committed. Unfortunately, none of the real perpetrators have ever been called to justice, in my opinion. But if we're going to look at this and we're going to look at—

**An hon. member:** That's false.

•(1650)

**The Chair:** Carry on, Mr. Del Mastro.

We're doing just fine, and everybody does know the rules, that you should speak only when you're recognized by the chair.

**Mr. David Tilson:** Civilized behaviour.

**The Chair:** I understand sometimes that everybody would like to jump in, Mr. Tilson—

**Mr. David Tilson:** Sorry.

**The Chair:** —but if we can restrain ourselves we'll give the honourable member an opportunity so he can be clearly heard and understood by all.

Please continue, sir.

**Mr. Dean Del Mastro:** Thank you.

The subamendment speaks to past elections. This is why it's so important. If we're going to look into this and look at the ethical conduct of public office holders, if we're going to talk about how they conducted themselves during an election and whether it was ethical, why are we looking to shine the light simply on one group or a few people? Quite frankly, I think there are people here sitting in judgment, and people sitting in our House of Commons, who may well not be fit to judge them, based on the ethics of some of the things they may have done.

We need to look into this. If it was wrong, or if others have committed wrongs, then let's shine the light on it. If they haven't, then fine; the report will reflect that.

The original motion, which is what the amendment and subamendment speak to, talks about refused reimbursement. I would really like to know, first of all, if there was reimbursement paid on money that was not.... You see, the Conservative Party raises money from its grassroots supporters. Millions of people across the country donate small amounts of money, and we're well supported. I think that's well known; it's a matter of record. People stand up for this party. They send in their money in volumes that no other party can possibly hope to compare to. We invest that money into elections, to put the truth out on what the issues involved in an election are. So we want to look at why reimbursement was refused.

I would like to know if there was stolen money reimbursed. Would anybody else like to know that? Isn't that relevant, that not only was taxpayers' money stolen, but that potentially more money was reimbursed on the back of stolen money? Isn't that interesting?

That's why the subamendment to the amendment, which expands this, is so critically important. It would absolutely confound me.... And I'm sorry that Mr. Martin left, because he's been a champion on this for his party. We don't agree on everything, but he has been a champion on this issue. Surely to goodness he would support this subamendment to the amendment based on that fact alone. If we're going to try to get the truth, if we're going to try to stand in judgment of any party, all parties should hold themselves to a standard and say "Here's what we do, and we think you haven't met that bar." If the other parties are going to say that, then they had better be prepared to demonstrate exactly where the bar is in their party.

I have more information that I will bring up shortly—and I do have to step out shortly. But I think if any party is going to stand in judgment and say "We don't believe you've met the bar", then they'd better establish that bar. I think other parties are saying "Oh, no. We don't want you to see what we do, because maybe we're not proud of what we do. But we want to look at what you do." It's surprising.

•(1655)

**The Chair:** Mr. Tilson, you're next on the list, if you want the floor.

**Mr. David Tilson:** Yes, I do.

Mr. Chairman, Mr. Proulx has indicated how he intends to vote on the subamendment, the amendment, and the motion. I can tell you, I'm going to be voting against the motion, but the principles that have been put forward by Mr. Van Kesteren and the principles that have been put forward by me I support. This may sound contradictory. It's a difficult issue when you can support an amendment and a subamendment but not the main motion, but that's the way it goes.

Mr. Proulx mentioned other investigations, and he talked about a criminal investigation by the RCMP and raiding the offices of the Conservative Party of Canada. That fits into a little bit of what I'd like to talk about with respect to the matters that are before us.

There is an investigation by Elections Canada, which is how, of course, the RCMP made its investigation. There is a lawsuit by the Conservative Party of Canada against Elections Canada. For all we know—and we don't know unless someone admits that they've made a request—there may well be an investigation by the Ethics Commissioner on this matter. She's not supposed to tell us if she

is having an investigation on some request for an ethical matter, allegations against a public office holder. She's not supposed to do that. I suppose it's free for a member who made the request to do it, although he or she is taking a chance on doing that, but it's possible.

Without blinking an eye, I can see three real investigations that are under way and one potential investigation. That's one of several reasons I am opposed to the initial resolution brought by Mr. Hubbard.

Now, I know, Mr. Chairman, I'm probably skating on thin ice, that you want me to speak directly to the subamendment, but all these other comments were made by their members, and I think it's fair that I respond to those who were responding to my subamendment.

I'd like to talk about that, because I remember when the Conservative Party was in opposition and we were asking questions of the Liberal Party on the scandal. One of the answers was, "Well, let Mr. Gomery do his work." The former minister stood up day after day—he did a great job, I'll have to say—and he had the script down pretty good. Of course, we were asking him a lot of questions, but he kept saying, "Let Mr. Gomery do his work."

The member from Nova Scotia, the former minister, Mr. Brison, would make those comments, and of course what he was referring to was the issue of the fear of prejudicing the Gomery proceedings, that the House in dealing with those issues would prejudice the Gomery proceedings. In other words, would there be harm or injury as a result of the House of Commons discussing, either in question period or in some resolution, what Mr. Gomery was doing in his inquiry?

The Liberal government of the day refused to answer those types of questions, generally specific questions, because they were afraid it was going to prejudice the Gomery proceedings. So I think it's fair for us to look at these proceedings and determine whether or not....

•(1700)

I know, Mr. Chairman, you've said this motion deals with the ethical standards expected of public office holders, and that's different. Well, you can make a pretty good argument that it's not different, and I intend to make what I hope is a pretty good argument that it's not different.

It's true that the courts, whether in the civil proceedings of the Conservative Party of Canada or potentially in criminal investigations by the Royal Canadian Mounted Police, may be looking at legal matters, at civil or criminal matters. It has been suggested that we're going to be dealing strictly with ethical matters and ethical standards, but there's no question in my mind that matters will overlap. Matters involving these civil proceedings by the Conservative Party of Canada versus Elections Canada or the criminal investigation—and I don't know whether it's finished or whether they're still under way—by the Royal Canadian Mounted Police or proceedings by the Ethics Commissioner will overlap. They're bound to overlap; matters of law will get into the picture.

Presumably we're going to have the Ethics Commissioner here. Quite frankly, I doubt if she'll want to tell us anything, because for all we know, she's going to have an investigation on this matter under way, and it may be an investigation of other parties. It may be an investigation of the Liberal Party. Notwithstanding the presentation made by Mr. Proulx, it may be an investigation of the New Democratic Party or the Bloc Québécois. It could be. We don't know that.

Ms. Carole Lavallée: Impossible.

Mr. David Tilson: Well, don't get me going on you, Madame Lavallée.

Mr. Chairman, certainly the various proceedings, I would submit, would be prejudiced.

This matter has been studied by the House of Commons in the past, and a report came out in 1977. It was from the special committee on the rights and immunities of members. They made the report on the very topics we're talking about. I'm reading from the report; it was about:

...the rights and immunities of members of the House of Commons, to examine the procedures by which such matters are dealt with by the House and to report on any changes it may be desirable to make

Then the report, Mr. Chairman....

**The Chair:** Order, please.

Madame Lavallée, unfortunately your conversation is also being picked up by the microphone, so let's be careful about side conversations interfering with a speaker.

Mr. Tilson, carry on, please.

**Mr. David Tilson:** Mr. Chairman, the report got into the whole issue of members getting involved—which could prejudice proceedings—and of why there should be no discussion on matters that are before the courts. They spent a great deal of time on that.

The report goes on—I'm not going to refer to all of it, but I'll just refer to a couple of sections from the 1977 report of the special committee:

Members are expected to refrain from discussing matters that are before the courts. No distinction has ever been made in Canada between criminal courts and civil courts for the purpose of applying the convention. It has also had application to certain tribunals other than courts of law. The purpose of the convention is to protect the parties in a case awaiting or undergoing trial and persons who stand to be affected by the outcome of a judicial enquiry. It exists to guarantee everyone a fair trial and to prevent any undue influence prejudicing a judicial decision or a report of a tribunal of inquiry. .... The convention has consistently been applied in criminal cases.

Hence Mr. Proulx's comment that this matter has been investigated by the RCMP. I don't know whether they are doing that or not. He's raised it, so I guess there's a possibility. They're the ones who raided the Conservative offices. So this committee has to consider that.

In 1942 the Minister of Justice was asked whether it was the intention of the government to withdraw charges against two persons. The Speaker maintained that a matter before the courts is outside the purview of the House.

We are going to be investigating—to use your words, Mr. Chairman—matters of ethical standards expected of office holders. Those matters will be discussed in the civil action, possibly the criminal action or criminal proceedings, which have been mentioned.

We don't know whether there are going to be any, but it seems as though there's a possibility. And they will be discussed also, indeed, if there's an investigation by the Ethics Commissioner.

I do not think there is any doubt as to the rule. It has always been the practice of the House, and it is the rule that a matter that is the subject of a judicial inquiry is outside the purview of the House during the course of the proceedings. I do not see how it is possible for one to raise the question by asking the Minister of Justice whether he intends to withdraw the charges, because upon those grounds would probably rest the argument in court when the proceedings were being held.

The rule is clear that no such question should be asked. I do not believe it should be raised when the matter is now before the courts. Hence, Mr. Brison, when he was minister, followed that principle. It would be most improper for members of the crown to answer questions on matters that were before a judicial inquiry. The same analogy, I would submit, Mr. Chairman, applies here, which is why I don't agree with Mr. Hubbard.

In 1948 Mr. Diefenbaker was speaking on the freedom of the press, and he was interrupted by the Speaker, who cautioned him not to refer specifically to a relevant case in which a reporter was involved before an Alberta court:

I did not raise a point of order. I just wanted to ask the co-operation of the hon. member. He will understand that it is disagreeable for the Speaker to interrupt anyone making a speech, especially the very good speech the hon. gentleman is making. But I have to do my duty. In reference to the case in question, which, if not discussed, at least was mentioned, we must assume that the judges of our courts will apply the law as it should be applied. If the hon. member wishes to discuss freedom of the press I have no objection, but I would ask him to be very careful not to discuss a matter which is now pending before the courts.

So it goes, on and on, Mr. Chairman. I just have a couple more to refer to the committee, because our investigation will be examining the very matters that are the subject of at least two court proceedings, possibly an inquiry by the Ethics Commissioner, and possibly investigation by the Royal Canadian Mounted Police.

All of these matters that come out of this 1977 report by a special committee say, just as Mr. Brison said, and most people accepted—I'm sure the Liberal caucus will accept it, as it was their member who said it—that it would be improper for members of Parliament to discuss matters that are before the courts.

● (1705)

Here's something else from the 1977 report:

No settled practice has developed in relation to civil cases. The convention has at times been applied and on other occasions it has not. In 1938 it was invoked in order to prevent reference to an action for damages by shareholders of the Grand Trunk Railway. The convention was then applied by the Speaker:

"I think the Minister of Justice has pointed out clearly that this matter is before the courts at the present time. Therefore I hold that the hon. member is not within the rules of the House in carrying on a discussion of this matter."

Mr. Chair, the only other one I'd like to refer to...actually, there are two. One gets a little closer to the present time, as to why I don't support Mr. Hubbard's principle or the principle of the opposition, particularly, in supporting what they want to take place.

The convention has been raised recently in relation to a civil case, and of course we do have a civil case. We have a case where the Conservative Party of Canada has a civil action against Elections Canada, and it's incumbent upon us not to prejudice.... I know my friends say "Oh well, that's the Conservatives. There they go again." But we do have an obligation not to prejudice civil or criminal actions.

I'll continue with this report:

The convention has been raised recently in relation to a civil case. The member seeking to ask a question, Mr. Elmer MacKay, had himself been served with a civil writ of summons and a statement of claim alleging libel by a company which was associated with the matter under investigation. The chair had doubts about allowing Mr. MacKay's question because the matter was before the courts:

"I am, of course, always reluctant to interfere with the right of hon. members to pose questions."

And of course that's what we'll be doing in these proceedings, Mr. Chairman. We're going to be posing questions to witnesses on matters that are before the courts. We may say they won't be, because they involve ethical standards, to use Mr. Hubbard's words, expected of public office holders. But I tell you, directly or indirectly, questions will be asked that will involve those particular actions.

It goes on:

"There is, however, one rule we have followed, particularly in the putting of questions to ministers, namely that ministers ought not to be asked to comment on a matter which is before the courts. ...yesterday the hon. member for Central Nova was at pains to indicate that he had been served with a writ which he described to the House which involves an action before the courts and which affects the member personally as well as the company to which he has just alluded. I really think the hon. member ought to refrain from questions relative to the matter now."

This is my final one. You've been very patient in allowing me to proceed with these. I will just do one more, Mr. Chairman.

As I said, I recommend that members look at this, because it goes on for pages, talking about why, when matters are before the court, proceedings in the House of Commons or committees should not prejudice or interfere in those hearings. I would submit that's exactly what's going to happen if we proceed with the motion that was put forward by Mr. Hubbard.

It says—and remember, this report is from 1977, so that's about as recent as I can get:

A 1971 ruling of Mr. Speaker Lamoureux makes this clear:

"It seems to me logical, as hon. members taking part in the discussion have indicated, that we should take this view, otherwise the whole legislative process might be stopped simply by the initiative of a writ, or legal proceedings in one or other of the courts of Canada..."

Doesn't this sound familiar, Mr. Chairman? We seem to have debated this just recently.

"I suggest to hon. members that the citation which applies is that which can be found in *May's 16th Edition, p. 400*, that a matter, while under adjudication by a court of law, should not be brought before the House by a motion or otherwise, but that the rule does not apply..."

And that's what we have right now. We have a motion. We have a motion before this committee, Mr. Chairman.

• (1710)

I'm not speaking on a point of order; I'm speaking in debate. It would be most inappropriate for this committee to get involved in something that is going to potentially prejudice the proceedings

undertaken by the investigation that is under way by Elections Canada—the lawsuit that is undertaken by the Conservative Party of Canada against Elections Canada, and possibly an investigation by the Ethics Commissioner. Also, there may be something that, if not going now, could start.

One of the members of this committee could, unbeknownst to us, start an investigation or request that an investigation be made by the Ethics Commissioner, which would be working along at the same time that we're doing our investigation. They may choose not to, but it could happen.

And more importantly, there may be an investigation—as Mr. Proulx had suggested—by the Royal Canadian Mounted Police. I have a lot of trouble, as I said. I'm supporting the amendment of Mr. Van Kesteren and the subamendment that I put forward, but only out of the fear, I must say, that the motion might carry.

Most opposition members that are before us have indicated they are going to support that motion, and therefore I would support the subamendment on that basis.

If they insist on proceeding with the motion, which I hope they don't, particularly after what I've just read to them, I hope they would consider, at the very least, supporting the subamendment that I have made and the amendment that I have made.

Madame Lavallée made a number of statements that I would like to address. She indicated that the allegations that are being made both in the House and in this committee by members of the government aren't the same. They're not the same as what's gone on in the past by the Bloc Québécois or the New Democratic Party, or the Liberal Party. That's what she said.

How does she know that? That's something that an investigation would find. If we proceed with an investigation properly, we should determine whether they are the same or whether they aren't the same.

Through you, Mr. Chairman, to Madame Lavallée, you should have no fear of investigating that issue, because if you've done nothing wrong, then you shouldn't have anything to fear.

When you say it's not the same thing, I don't know. I'm willing to bet you don't know. I haven't heard you say whether you know. I'm simply saying that those are matters that would come out in an investigation.

We can play games with who is a public office holder or not. You know the NDP had the Honourable Bob Rae, and he's a public office holder. Believe it or not, you and I sat in the Ontario legislature, and we in fact have a public office holder who has just joined us, because she was a cabinet minister in Mr. Rae's government.

Mr. Lucien Bouchard is a public office holder.

So there are issues.

• (1715)

**The Chair:** Order.

**Mr. David Tilson:** I won't go there, because it's only going to—

**The Chair:** You know what? It's interesting. Again, it's the definition of what a public office holder is—

**Mr. David Tilson:** I don't want to provoke members, so I'll just stop that line.

**The Chair:** —and it is cabinet, parliamentary secretaries, order in council appointees. Past cabinet and all of that other stuff may have been public office holders at one time, but you do not continue for life, once you leave that office. That's just so everybody understands.

**Mr. David Tilson:** I could debate that with you, Mr. Chairman, but I'm not going to, because I don't want to provoke people here.

Then she made another interesting statement. She said the Conservatives have too much money. What in the world does that mean? How relevant is that towards the subamendment, amendment, and motion? That has nothing to do with anything. Yes, we've raised a lot of money from individual people. Mr. Del Mastro explained how that has gone on. I don't know why she'd say that, because that has absolutely nothing to do with anything with respect to these proceedings.

Another thing she said was that the Bloc has never done anything illegally. Really? Well, let's have an investigation and find out. Let's have Elections Canada come and explain why the Bloc Québécois has not been investigated.

If you haven't done anything illegally, you shouldn't have....

Mr. Chairman, I apologize.

**The Chair:** You have to be careful.

**Mr. David Tilson:** You're right, I'm getting into the provocation. I understand that, Mr. Chairman. But these are things that she said and which I can't let go with nothing being said. She did say the Bloc never did anything illegally. Well, it's being alleged by Mr. Hubbard in his motion that only the Conservative Party of Canada did something illegally. The Bloc Québécois, the New Democratic Party, and the Liberal Party—they're pure. Well, maybe not the Liberal Party.

I'm simply saying if that's what you say, then you shouldn't have anything to fear by not only investigating the other parties, but by going back into past elections.

You see, you knew I'd return to the subamendment, Mr. Chairman.

• (1720)

**The Chair:** I was just getting to the point where I might want to suggest that repetition was starting to set in.

**Mr. David Tilson:** I have returned to it.

I think the comment was made by Madame Lavallée specifically that ethics is not decided before the courts. That's true. That gets back to the issue that this committee, it is being alleged, particularly by members on the government side, is only going to be dealing with ethical standards. But by goodness, the law certainly is, the law as to whether something is illegal.... And both Madam Lavallée and Mr. Proulx, even in their submissions with respect to this motion, have used the word "illegal". So we're veering from it.

I could bet your bottom dollar that if the members for the Canada Elections Act come before us, we're going to be using those questions and we're going to be veering from the words "ethical standards". Hence they will be prejudicing, Mr. Chairman, the various groups I'm talking about—the lawsuit and the investigations.

Certainly civil actions will deal with all kinds of things. They'll deal with....

All right; you're always.... You're sometimes right, Mr. Chairman. Maybe I could move on to Mr. Nadeau. And he's an excellent fellow, I might add. He has said that Elections Canada has said that the Conservative Party has done something that is improper, and he is very careful not to use the word "illegal". God bless him.

How does he know that? That's what the investigation is all about. Therefore, is he suggesting that we're going to do the same investigation that Elections Canada is doing? Will that be involved in the lawsuit between the Conservative Party of Canada and Elections Canada? Is that what he is saying? If he is, you can bet your bottom dollar the proceedings in this committee will be prejudicing those legal proceedings.

I'm having trouble reading my writing here. I won't be long.

Oh, this was an interesting one. Mr. Nadeau said he has evidence that staff and officials from the Conservative Party of Canada had strong reservations as to what was happening. He's giving evidence, for heaven sakes. How does he know that? You know, the only way those proceedings are going to take place is if we proceed with these hearings, and that's what is going to be going on in the lawsuits. That's what is going to be going on in the lawsuits of the civil action by the Conservative Party of Canada and the investigation by Elections Canada. He's just confirmed that we're going to be duplicating what is going on in these other proceedings, and there will be very strong prejudice to all of the parties involved.

He should be careful who he's making those.... I hope he doesn't go outside and make statements that certain staff and officials of the Conservative Party of Canada have said certain things. He should be very careful. It's very dangerous—through you, Mr. Chairman, to Mr. Nadeau—to do that, because there have been recent goings-on, particularly in the Liberal Party, and all of a sudden you have a libel action.

Let's leave it with the courts. Let's leave it with the civil action. Let's leave it with the criminal proceedings. Let's leave it with any investigation by the Ethics Commissioner. Let's not bring it into this committee.

Again, he used the words several times that improper means were used by the Conservative Party of Canada. Again, how does he know that? That's what is going to be determined by the courts. That's what is going to be determined by the action of the Conservative Party of Canada against Elections Canada. A judge is going to decide that. That's what is going to be decided in an investigation by Elections Canada and possibly by the Ethics Commissioner.

I'm almost finished, Mr. Chairman.

• (1725)

**The Chair:** That's repetition.

**Mr. David Tilson:** What, that I'm almost finished?

**The Chair:** Yes.

**Mr. David Tilson:** I really mean it.

**The Chair:** You're going to mean it this time—okay.

**Mr. David Tilson:** Absolutely.



Mr. Proulx said that actions were carried out by one party and one party alone, namely the Conservative Party of Canada. He has no evidence about that. That's why the amendment and the subamendment, going back—not only the broadening of the proceedings for the amendment and the subamendment—would establish that the Liberal Party of Canada and the Bloc Québécois and the New Democratic Party weren't involved in those things.

That's what you're saying: you're saying that you're different. Well, you know—

**The Chair:** Don't speak directly, please.

**Mr. David Tilson:** Okay. I'll look at you.

He's a good man to look at, but I'll look at you. I'll look at you. You're absolutely right; I won't look at him any more.

I'm finished, Mr. Chairman.

**The Chair:** Order.

Just a moment. I have something to say.

Mr. Tilson, thank you for your presentation and the cases. I've asked the clerk, and I think I'd like to see these.

**Mr. David Tilson:** It's from April 29, 1977.

**The Chair:** This point about the potential of prejudicing another proceeding also brought back to my memory that while the sponsorship inquiry was going on, the public accounts committee

was doing an investigation of the sponsorship. I don't know whether they dealt with it, but I'm going to want to inquire or to find out how they rationalized doing that concurrent with an existing proceeding.

Thank you for the point. I think it's quite relevant.

Go ahead, Mr. Proulx.

**Mr. Marcel Proulx:** Yes. I wanted to move adjournment, Mr. Chair. It's nearly 5:30. This meeting was scheduled from 3:30 to 5:30.

I move that we adjourn.

**An hon. member:** But we want to go on.

**The Chair:** Are you moving a motion?

**Mr. Marcel Proulx:** Yes. I'm moving adjournment.

**The Chair:** The motion is not debatable; I have to put the question right now.

Do you want a recorded division, colleagues? We will have a recorded division, please.

(Motion agreed to: yeas 11; nays 0)

**The Chair:** Thank you, colleagues.

We are adjourned until Tuesday, when we are resuming debate on the subamendment.

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