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# **Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Thursday, March 6, 2014**

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**Chair**

**Mr. Joe Preston**



## Standing Committee on Procedure and House Affairs

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• (1130)

[English]

**The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)):** We will call our meeting to order. We're getting a bit of a late start and we hope we can get in as much as we possibly can.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Point of order, Mr. Chair.

We are getting a late start and I think all our colleagues know there will be other bells interrupting the proceedings, so my suggestion would be that we extend the hours of sitting beyond one o'clock. Our commitment has been to have Monsieur Mayrand here for an hour and a half. If we could sit until 1:30 p.m. or two o'clock, whatever it takes, that would fulfill our obligation. I'm certainly looking forward to questioning Mr. Mayrand. There's a number of things that all parties and all members have, ideas, questions, comments that we may have, and we want to have that dialogue with Monsieur Mayrand.

That's my suggestion, Chair. Instead of only having 45 minutes or something today because of bells and votes, why don't we just sit longer?

**The Chair:** That's a good suggestion, but we have to ask our guest whether he can or can't. We will be interrupted one more time for bells and votes, it appears, and then we would come back.

Monsieur Mayrand, I don't know how flexible your day is. I have not had a chance to talk to you.

**Mr. Marc Mayrand (Chief Electoral Officer, Elections Canada):** I will be flexible.

**The Chair:** Super. Thank you.

From the opposition side, are we okay if we try our best to be flexible and put the time back in after?

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-  
sor, Lib.):** We're overjoyed.

**The Chair:** I love that.

Mr. Christopherson.

**Mr. David Christopherson (Hamilton Centre, NDP):** I certainly don't feel any kind of joy at this moment. I understand what the government is doing. It looks like they're attempting to repair the damage they've done, because it's very clear there were disruptions and they were meant to be disruptions.

We'll accept the fact that we'll get the 90 minutes today and whatever pieces we can, but I want you to know that if not the letter,

then the spirit of the agreement we had was broken. The intent was, I gave assurances to the government that when the minister was invited here, in exchange for something else, another deal that we had that held, I offered to make sure that the minister came, uninterrupted, no games, no points of order, and we honoured our word.

I thought, Mr. Lukiwski, through you, that we had an honourable agreement and that what should have happened here today was that Monsieur Mayrand should have taken the floor at eleven o'clock, and we should have had our two hours, and we should have had our one and a half hours with him, uninterrupted, exactly the way we gave the minister.

While we have no choice but to accept whatever we can get, make no mistake that the government's intent today was to break the promise in a very dishonourable way, and now they're trying to come back and they're trying to put humpty dumpty back together because they know they've lost all credibility on this.

Make no mistake, Chair, there's been some damage done to our ability to trust one another when we make deals. Not only that, it was a public agreement. I just can't get over the fact—

**The Chair:** Let's—

**Mr. David Christopherson:** I have the floor.

**The Chair:** I'm going to stop you because I asked a question, yes, and I really wasn't looking for a lecture.

**Mr. David Christopherson:** Point of order.

**The Chair:** I didn't hear a point of order.

**Mr. David Christopherson:** Well, now I'm saying “point of order”, so now you do, with respect, sir.

Point of order.

**The Chair:** Before your point of order, Mr. Reid had said “point of order”.

Let's not play these today. We have the circumstances we have—

**Mr. David Christopherson:** Oh, I agree, let's not play, Chair.

**The Chair:** Your chair has no control over the happenings in the House, and I'd like to get the committee going.

We have the witness. I really would love to start hearing from him.

**Mr. David Christopherson:** If I may, Chair, I will be very brief—

**The Chair:** Very briefly, David.

**Mr. David Christopherson:** I will, Chair. I will wrap up. I've no interest in trying to do another lengthy dissertation, trust me. I'm still trying to recover from the last one.

I just want to express how I believe that the spirit if not the letter of the agreement that we made in good faith has been broken and violated. It has done damage, and the government, particularly Mr. Lukiwski, is going to have to go a long way to earn back the credibility and respect they had before the antics of today. The last thing I'll say is this better be the end of it, and we'd better get back to doing the business and honouring agreements when we make them.

Thank you, Chair.

**The Chair:** Then let's get to that.

I'll leave you and Mr. Lukiwski to have that discussion privately.

**Mr. Tom Lukiwski:** Mr. Chair, I have to respond.

**The Chair:** A very short response, then.

**Mr. Tom Lukiwski:** I can assure the member opposite, number one, I take great umbrage that he's pointing out that I have broken this in the spirit. I offered in good faith at the time to hear Monsieur Mayrand for a good hour and a half. My suggestion to extend it is so that we will have a full hour, actually more than a full hour. After the votes finish at 12:30 p.m., we'll probably be back here at 12:45 p.m., and we'll have an hour and fifteen minutes, uninterrupted, plus what time we have now. That will be actually more time than when we had offered. So I take great umbrage at the suggestion that we're trying to break the spirit.

I have always negotiated—you know this, David—in good faith and I will continue to do so; hence my offer here. We will end up having more time with Monsieur Mayrand today, under my suggestion, than we would have had originally.

**The Chair:** Okay, let's end it.

**Mr. David Christopherson:** Is the deal better than the one yesterday? Are you going to honour what you're saying now? You make it sound as though you're all on the side of angels and we're already 35 minutes in.

Let's hear from Mr. Mayrand.

• (1135)

**The Chair:** I think that's a great thought.

Thank you very much.

Monsieur Mayrand, welcome and thank you for coming today. Let's see if we can get started.

I know you have an opening statement, so please let's do what we can do. If you can make it briefer so we can get to questions, that would be great. If you can't, that's fine. Let's go that route and we'll get into rounds of questioning. We'll keep that questioning list in order after we come back so we know where we are and what we're doing.

Please go ahead, Monsieur Mayrand.

[Translation]

**Mr. Marc Mayrand:** Thank you, Mr. Chair.

Bill C-23 is a very important piece of legislation that touches upon practically every aspect of the electoral process. In this regard, it is the most comprehensive reform of the Canada Elections Act since it was completely overhauled in 2000.

I would be less than transparent, and I would not do service to parliamentarians, if I did not share the full extent of my concerns with respect to the measures presented in Bill C-23, as well as those that, in my view, are missing. Of course, there are positive elements in the bill, as well as a range of technical improvements and clarifications that follow some of my previous recommendations. Unfortunately, the bill also includes measures that, in my opinion, undermine its stated purpose and will not serve Canadians well.

Given the limited time available, I will focus on the aspects that I find most problematic. My officials will be available to provide a more comprehensive technical briefing to members from each caucus.

The government has indicated that this bill will serve three main purposes: first, improving service to electors; second, providing clear and simple rules for everyone to follow; and third, most importantly, ensuring fair elections.

In reviewing the bill today, I propose to look at it from the perspective of these three objectives to see whether and to what extent they are met.

[English]

On improving service to electors, when we speak of service to electors, we must be careful not to let this terminology diminish in any way the importance of what is at stake. It is the responsibility of Parliament to provide, and it is my responsibility to administer, an electoral process that is accessible to all who wish to exercise their constitutional right to vote.

Election day should be a time, and it may be the only time, when all Canadians can claim to be perfectly equal in power and influence, regardless of their income, health, or social circumstances. This can only be so if voting procedures are designed to accommodate not only those of us with busy schedules, but also and even more importantly, the more vulnerable and marginalized members of society.

Bill C-23 proposes to modify voter identification rules by eliminating vouching and prohibiting the use of the voter information card, the VIC, as one of the documents that could be used to establish the elector's address. We should keep in mind that it is only since 2007 that the law imposes on electors the obligation to provide evidence of their identity as well as of their address before they are allowed to vote.

Currently, they can do this in one of three ways.

They can present a government-issued piece of ID that includes their photo, name, and current address. In practice, this option is primarily limited to a driver's licence. Approximately 86% of adults in Canada have a licence. This means that approximately four million do not have one, including 28%, or 1.4 million individuals over 65.

Electors who don't have a driver's licence can produce two authorized pieces of ID, one of which must show their current residential address. While there are 38 such authorized pieces of identification, only 13 may include a current address.

Finally, an elector without ID may, subject to certain requirements, be vouched for by another elector who has proper identification.

Experience since 2007 shows that most Canadians do not have a problem complying with ID requirements. For some electors, however, this is a challenge, especially with respect to proving their current address.

Let me give you some examples.

In the case of seniors, it is not uncommon for one of the spouses to drive and to have all the bills in their name. Right now, the other spouse can be vouched for by their partner. Similarly, seniors living with their children often must be vouched for by one of their children in order to be able to vote.

The reverse is also true. Young Canadians often live at home or, as students, move frequently. They sometimes have no documents to prove their current residential address.

First nations electors on reserve also face challenges, as the Indian status card does not include address information.

• (1140)

For many of these electors, vouching by another elector is the only option. Expanding the list of ID documents will not assist them in proving their address.

The Neufeld report estimates that approximately 120,000 active voters in the last election relied on vouching, and we can expect that a significant proportion of them would not be able to vote under the rules proposed by Bill C-23.

It has been pointed out that vouching is a complex procedure and that numerous procedural irregularities were found to have been committed at the last general election in connection with vouching. It is critical to understand that, as recognized by the Supreme Court of Canada, the vast majority of these were strictly record-keeping errors by poll workers documenting the vouching process, and not fraud or even irregularities that could compromise an election. There is no evidence tying these errors to ineligible electors being allowed to vote.

Of course, vouching procedures should and can be simplified, as recommended by Mr. Neufeld. The need to rely on vouching should also be reduced. This is why Mr. Neufeld recommended expanding the use of the voter information card as an authorized document to establish address.

It is worth noting that the VIC is the only document issued by the federal government that includes address information. The Canadian passport, for example, does not include an address. In fact, with an accuracy rate of 90%, the VIC is likely the most accurate and widely available government document. The VIC is based on regular updates from driver's licence bureaus, the Canada Revenue Agency, Citizenship and Immigration Canada, and various other authoritative sources.

During the election period, revision activities at the local level also increase the accuracy of the VIC. This likely makes it a more current document than even the driver's licence, which is authorized by law and used by the vast majority of voters.

The VIC was authorized for voters in certain locations in 2011 based on the evaluation of the 2008 election, which showed that for some electors even vouching is not an available option.

For example, seniors who live in long-term care facilities and who vote on site do not have driver's licences, hydro bills, or even health cards, which are typically kept by their children or facility administrators. By law, they cannot be vouched for by other residents in the same poll who also lack adequate ID, and they cannot be vouched for by staff who do not reside there. In most cases, they can only rely on a letter of attestation issued by facility administrators, combined with another document such as an ID bracelet. Some administrators feel that they do not have the resources to issue such letters and in fact refuse to do so. For electors in that situation, the only document establishing their address is their voter information card.

It is essential to understand that the main challenge for our electoral democracy is not voter fraud, but voter participation. I do not believe that if we eliminate vouching and the VIC as proof of address we will have in any way improved the integrity of the voting process. However, we will certainly have taken away the ability of many qualified electors to vote.

[*Translation*]

I will now talk about the second objective of the bill.

A second objective of Bill C-23 is to provide clear and simple rules for everyone to follow. The importance of this objective should not be understated. Clear and simple rules are critical for Canadians to exercise their rights and be confident in the fairness of elections.

Bill C-23 provides for a regime of guidelines and advance rulings. I believe that this is an improvement to the Canada Elections Act. Such regimes exist in other statutory schemes, including in the context of elections, and they can be of benefit to both regulated entities and the regulator.

That said, I regret to say that the current proposals, as drafted, do not provide a workable approach.

• (1145)

Rulings are required within unreasonably short timelines, and there is little rigour imposed on the process, unlike in other comparable schemes. It is imperative that amendments be made to these provisions to allow them to function effectively and achieve their intended purpose.

Bill C-23 also provides a harmonized and simplified regime for unpaid claims and loans. This is another important improvement. However, I must alert this committee to a technical difficulty that could seriously undermine the regime as it applies to nomination and leadership contestants.

This difficulty relates to the act's definition of leadership and nomination campaign expenses. As drafted, leadership contestants could easily and legally exclude most if not all of their expenses and funding from the statutory regime. Unless this loophole is removed, the new loans regime as it applies to leadership campaign expenses will remain an empty shell.

[English]

The third lens through which Bill C-23 must be examined is its impact on the fairness and integrity of elections. Indeed that is referred to in the very title of Bill C-23.

In Canada, electoral fairness has traditionally been understood to mean maintaining a level playing field among parties and candidates by the imposition of strict spending limits. By increasing those spending limits, and most significantly, creating an exception for certain fundraising expenses, Bill C-23 may well compromise the level playing field.

The fundraising exception is of particular concern in this regard. For anybody who has ever seen one, there is no practical way of distinguishing a fundraiser mail-out from advertising, and it takes little imagination to understand that other partisan communications can be dressed up as fundraisers. Just as importantly, it will be difficult if not impossible to enforce in the absence of any obligation to report, or even keep, phone records of the persons contacted.

In terms of compliance, Bill C-23 would subject political parties to an external compliance audit for the verification of their financial returns. External audits are not a bad thing. They may reassure the chief agents of the parties and improve compliance in some instances, as long as proper records are kept to allow for a truly rigorous compliance audit. However, external auditors should be bound by guidelines issued by Elections Canada to maintain the coherence of the system.

Even so, it is striking when looking at provincial regimes that we remain the only jurisdiction in Canada where political parties are not required to produce supporting documentation for their reported expenses. At every election, parties receive \$33 million in reimbursements without showing a single invoice to support their claims. This anomaly should be corrected as I have indicated in the past.

Finally, Bill C-23 would make several changes to the enforcement regime. It would create a number of new offences and increase fines, introduce registration and data retention measures for voter contact services, and place the commissioner of Canada Elections within the Office of the Director of Public Prosecutions.

It is not clear to me how this last structural change can improve the commissioner's work or the confidence of Canadians. It is important for parliamentarians as well as for Canadians to understand that under the current regime, the commissioner enjoys complete independence from the Chief Electoral Officer in deciding whether and how to conduct investigations. The committee may want to hear from the current as well as the former commissioner in this regard.

Nevertheless, the most important issue for me is not where commissioners sit, but whether they have the proper tools to do their job in a timely and efficient manner. In previous reports, both I and

the commissioner have indicated that this is not the case right now and that important changes to the law are required if we are to preserve the confidence of Canadians in the integrity of their electoral process.

In this regard, the bill includes registration and data retention measures for voter contact services, which reflect in part my recommendations.

• (1150)

I am disappointed, however, that the bill does not require a record to be kept of the actual telephone numbers used in voter calls. Without such information, an investigation will continue to be significantly hampered. Most importantly, under Bill C-23, the commissioner still will not have the ability to seek a court order compelling witnesses to testify regarding the commission of offences, such as deceptive calls or other forms of election fraud.

The response of Canadians in the face of the robocall affair has been overwhelming. Canadians rightfully expect that such conduct, which threatens the very legitimacy of our democratic institution, be dealt with swiftly and effectively. Without the power to compel testimony, as exists in many provincial regimes, the commissioner's ability to carry out this investigation will remain limited. All in all, when looking at the proposed changes in relation to enforcement, the bill does not address the most pressing expectations of Canadians for timely and effective investigations.

I will conclude by reiterating the importance of carefully reviewing Bill C-23. As the Chief Justice of Canada wrote, "The right of every citizen to vote, guaranteed by section 3 of the Canadian Charter of Rights and Freedoms, lies at the heart of Canadian democracy."

Because amendments to the Canada Elections Act affect the fundamental rights of all Canadians, as well as the rights of all political parties, it is particularly important that to the fullest extent possible such amendments be based on a broad consensus as well as solid evidence.

I am very preoccupied in this regard with the limitation that Bill C-23 imposes on the ability of my office to consult Canadians and disseminate information on electoral democracy, as well as to publish research. I am unaware of any democracy in which such limitations are imposed on the electoral agency, and I strongly feel that an amendment in this regard is essential.

In my remarks, I have highlighted what I see as the main areas of concern and suggest some ways of improving the measures contained in the bill. With the committee's permission, Mr. Chair, I would like to submit a table that sets out in a more comprehensive way the improvements that I have recommended being made to the bill. I trust that this will assist the committee in its review of the legislation.

Thank you.

**The Chair:** Thank you, Monsieur Mayrand.

I ask the committee's indulgence. I think we will have bells within the next couple of minutes.

**Mr. Tom Lukiwski:** On a point of order, Chair, I have a suggestion for the committee.

We're just down the hall. It's only going to take us two or three minutes to get there. You're right that the bells will begin to ring.

My suggestion is that we give each party at least their first seven-minute round. If we start right away, that should give us plenty of time to complete one round, and then we'll come back after the votes.

**The Chair:** That's where I was going. I have to have unanimous consent to sit through bells, though.

**Mr. David Christopherson:** Agreed.

**The Chair:** I have it.

On the first round, Mr. Reid, for seven minutes.

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** Mr. Mayrand, the problem with there being a lack of integrity to the voter information card and to the address list and the database on which it's based is not something new. It predates your tenure as the Chief Electoral Officer. I raised this matter with your predecessor. I've been on this committee for a long time.

I should stop. Before I go further, for the benefit of the bloggers in the back sitting behind you, it's the voter information card and not the voter identification card. A few of you have been incorrectly saying it's the voter identification card. The letter "I" is for information. It's information about where you should vote. It's not to identify you.

This is relevant because on April 27, 2006, I told your predecessor, Mr. Kingsley, that in the 2006 election I received three voter cards. There is of course only one of me. I was living alone at the time. One came in addressed to Scott Reid, one to Jeffrey Reid, and one to Scott Jeffrey Reid. That's in fact my full name.

It is possible to vote at the returning office. Your name gets stricken off. Scott Reid could be stricken off there. Jeffrey Reid could be stricken off at the advance poll, and on election day, the third name could be stricken off.

For someone as prominent as a sitting MP, that's probably an unwise and imprudent idea, but you see the point. There is such a profound inaccuracy in the voter's list that I had three cards. It's a database issue, but a profound issue.

After that time, I moved. My wife and I received voter cards at our new address which is 211 Montgomery Park Road in Mississippi Mills in one riding. Because I had filled out my address one way, I received a voter card telling me to vote in the Almonte town hall. My wife received a voter card, because we're at Rural Route 1, Carleton Place, for a different riding, telling her to vote in a different riding.

There are lots of errors. I realize one can't use one's own example as proof of a systematic problem, but there is a problem here, meaning that this is not, contrary to your assertion, a reliable system with a lot of integrity.

When you say a 10% error rate, that's the flip of 90% accurate. That's 10%. I'm not sure how many voters there are in Canada, maybe 20 million?

•(1155)

**Mr. Marc Mayrand:** There are 23 million.

**Mr. Scott Reid:** There are 23 million, so that means 2.3 million errors. That would be 2.3 million erroneous cards. That is not, I would submit, something that says this can be regarded as an accurate and reliable piece of information.

Finally, and you don't provide reports on this, I would suggest that the inaccuracy is not spread evenly across the country. It is worse in ridings where there is high movement of people. People change their residences. I can't tell you where this is. I can guess it's in urban areas and that, therefore, there are some ridings, like my own, in which I suspect it is far below 10%, and others in which I suspect it is upwards of 20%, perhaps 25%.

I submit that makes this highly unreliable and facilitates the possibility of widespread voter fraud as one alternative. I'll leave it there. It just seems to me that if this is used as a form of identification, we've opened up the avenue in certain urban ridings for there to be potentially widespread voter fraud and there would be no capacity for you to police it.

**Mr. Marc Mayrand:** Briefly, the accuracy rate of the voter information card after revision stands at 93%, so there's still 7% that may have incorrect information on them.

In the case of your particular situation, when you look at files, you will find that we sometimes use different names or different initials as we input information at different parts. I don't know, but if you were to look at all your pieces of ID, I suspect you might have some with initials and some without. That is one thing. The other thing I'd like to mention is that there are three million people—

**Mr. Scott Reid:** Don't you agree that means potentially if I were not an honest person, this would indicate that I am not—that the card is literally useless?

In fact, with regard to the second example I gave, isn't it a problem when someone is actually told on their voter information card—and in all fairness, this was not you, but actually Elections Ontario; I want to be clear about that—to vote in a riding in which they aren't a resident? That's actually advice to do something that's unlawful, which someone might follow up on with good intentions, not realizing better. Do you see the point I'm getting at, that the information card is a fundamentally flawed tool if used as identification?

**Mr. Marc Mayrand:** Let's be clear here. I've never proposed that the VIC would be the only piece of ID. You would still have to provide another acceptable piece of ID.

Every year in Canada, three million people move. At any point in time, any piece of ID would be out of sync with the information. Even driver's licences may not have correct addresses. That's why we have a revision process that allows electors to update their address, and at some point in time during the election, I would suggest—we could have a debate on this—that the VIC is the most precise piece of ID that electors can rely on to establish their address.

There is no evidence, again, that the driver's licence is more up to date than the voter information card. Again, if you look at the data that's available, you will see that during an election campaign, during the calendar period, you can expect to have 250,000 Canadians who are moving. Many of them will not have had a chance to update their driver's licence for the purpose of voting, but they may have, through revision, updated their address correctly.

•(1200)

**Mr. Scott Reid:** Mr. Mayrand, I wanted to turn to the Supreme Court ruling. You indicated the court ruled that Mr. Opitz, who sits to my right here, had in fact been elected legally and that no fraud had occurred. That is true. It is true because the polls that were looked at were mobile polls, where people cannot simply come in and vote. These are seniors at a closed access residence. The whole vouching issue has nothing to do with that.

The Supreme Court did rule, "The majority...found no proof that administrative breaches of statutory provisions had resulted in ineligible persons voting. On this basis, the evidence before the Court was deemed not to meet the test for annulment of an election.... Nonetheless, the case found that election officers made many serious errors in their duties on Election Day in the 2011 Etobicoke Centre election—

**The Chair:** Mr. Reid.

**Mr. Scott Reid:** —and the Supreme Court made it clear—

**The Chair:** Thank you, Mr. Reid.

**Mr. Scott Reid:** —that such errors in other circumstances could contribute to a court overturning an election."

That is the point—

**The Chair:** We are not going to make this work. We are over time.

**Mr. Scott Reid:** —we are worried about, Mr. Chair.

**The Chair:** Thank you.

We can hope that Mr. Mayrand gets in an answer to that in his time.

Mr. Scott, for seven minutes, please.

**Mr. Craig Scott (Toronto—Danforth, NDP):** Mr. Chair, I wonder if I could give Mr. Mayrand a chance to say anything he might want to in response to what Mr. Reid was finishing with. In particular, the minister likes to talk about a one-sixth error rate with his voter identification cards. He does not like to mention that you need a second piece of ID. He does not like to mention that names and addresses are on these cards.

Is there anything you would like to say about the likelihood that errors on voter identification cards are leading to citizen fraud?

**Mr. Dave MacKenzie (Oxford, CPC):** Mr. Chair, they're not voter identification cards—

**Mr. Craig Scott:** Voter information cards, VICs.

**The Chair:** Thank you.

**Mr. Marc Mayrand:** It would have to be used in combination with another proper piece of identification.

**Mr. Craig Scott:** A citizen would have to turn into a citizen fraudster when, like Mr. Reid, they received these erroneous cards. He'd have to say, "Boy oh boy, I have three cards here and now I'm going to have to go out and make sure that I vote."

**Mr. Marc Mayrand:** There's no perfect system out there, and we're dealing with 24 million people, so yes. The cards invite electors, if they see any errors, to come back to Elections Canada. The number is there. In the future they will be able to go online and correct any misinformation on the card. That's a request that's being made.

**Mr. Craig Scott:** Great.

**Mr. Marc Mayrand:** Again, misusing, misleading, or providing false information about your basic elector information is an offence under the act. There are posters and notifications everywhere that alert Canadians to that situation.

I have one point of clarification. In the Etobicoke situation, it's true there were issues at the long-term care facility. There was vouching there. The vouching was carried out by the nurse who was caring for the patients, the people there. Statutorily, this is incorrect. That's an irregularity. But would anyone dispute that the people who live there, who had been visited by officials, who had been issued voter information cards.... Would anyone dispute that the nurse is a proper person to attest to who lives in the residence?

Again, this is an irregularity, but there is no reason to believe that any of the votes were not cast by perfectly legitimate electors. This is the kind of error we're talking about when we look at the Neufeld report and the various decisions in Etobicoke. That's why the court maintained those votes and maintained the election.

**Mr. Craig Scott:** Thank you, Mr. Mayrand.

No doubt you'll receive questions again on this, so I'll move on.

You referred to your concerns about the change in mandate. The public education component of what Elections Canada can do is going to be replaced by a very narrow provision and with a list of tasks that you only can do and nothing else. How worried are you by losing this mandate, in terms of the health of our democracy? You mentioned that participation is the bigger issue here than citizen fraud. Also, I've asked the minister this twice and he said no both times. Can his suggested section 18 and the existing section 18 sit side by side? Can we retain this and also have the minister's?

•(1205)

**Mr. Marc Mayrand:** That may be an option. That would be for parliamentarians to debate as to the proper approach here.

Again section 18 as revised by Bill C-23 would significantly impair the ability of Elections Canada to communicate with electors. Again, all the research that has been used to support various arguments in relation to Bill C-23 comes from research carried out by Elections Canada and research that was published. It informs parliamentarians and Canadians about issues in relation to elections and how we can make them better.

In my mind it's part of a continuous improvement process. Maybe it could be superimposed, but again there may be a misunderstanding of what Elections Canada does. Most of our activities, I would suggest 99.5% of them, have to be specifically to inform electors about how and where and when they can vote and what their options are. We distribute that piece of information to 23 million electors. It tells them where to go to vote. It tells them what is accessible. They get a householder that tells them again basically the same information. It provides them information on ID, the authorized pieces, and that they need to make sure they bring them to the poll.

**Mr. Craig Scott:** Thank you, Mr. Mayrand.

**Mr. Marc Mayrand:** In other words, I'm not sure what the new section 18 adds, but it certainly subtracts a lot.

**Mr. Craig Scott:** Thank you.

Very quickly as well, you mentioned something that everybody is concerned with: the fact that the government did not see fit to provide a power for the commissioner of Canada Elections to apply to a judge for power to compel testimony. If that were in the bill as a procedural enforcement rule, it would apply to the ongoing investigation into what happened in 2011.

It's not there. It's not available. How important do you see that tool as being, especially when the minister is telling us that the commissioner now has a longer reach and sharper teeth?

**Mr. Marc Mayrand:** To me it's absolutely essential. Canadians are rightfully concerned about the time and the outcome of an investigation. One of key impediments for the commissioner—he has reported publicly on that, and I did too—is that increasingly, people who are not suspect in the case fail to collaborate with the investigators. In most regulatory regimes, the regulator would have that authority, and again, that authority is subject to court supervision.

**Mr. Craig Scott:** The model being asked for tends to approximate the Competition Act model, which has lots of safeguards. Is that correct?

**Mr. Marc Mayrand:** The Competition Act, many provincial jurisdictions, and many other statutes; it's not uncommon for regulatory agencies to have that kind of authority.

**The Chair:** Thank you, Mr. Scott.

Mr. Simms, you have seven minutes.

**Mr. Scott Simms:** Let me stick with that subject for just a moment. The Competition Act does give that power to compel particular evidence. What you're saying is that in the recent happenings of the robocalls issue.... Actually, I'll quote you from a media interview you did. When you were asked about this power to compel witness testimony, you said "likely", meaning that if the commissioner had that power:

...likely, because many people in that investigation refused to talk to the commissioner even if there were no suspects, and I'm afraid to say that this is happening more and more in files investigated by the commissioner.

Commissioners are circling here and people are not providing the testimony, and they know full well that they don't have to do this. You think this is a very vital piece of the Elections Act.

**Mr. Marc Mayrand:** Absolutely, and it's getting more and more common. It's well known now. People increasingly refuse to collaborate with investigators.

**Mr. Scott Simms:** I know the minister will say that police do not have that authority, but in fact, they can get that authority, i.e., wiretaps, which this government endorsed wholeheartedly. So there is that power to do that.

When you spoke to the minister, when you had your meeting, did this come up?

**Mr. Marc Mayrand:** No.

**Mr. Scott Simms:** Did he ask?

**Mr. Marc Mayrand:** No.

**Mr. Scott Simms:** During that conversation, was there anything about specifics that you see that are considered to be fundamental changes to the act in Bill C-23? Was there anything specific?

**Mr. Marc Mayrand:** Nothing more than the recommendations I've put forward in the last several years. The reports were already all public.

**Mr. Scott Simms:** Basically, it's what you have said in the past. There was nothing about what he was about to do.

• (1210)

**Mr. Marc Mayrand:** No.

**Mr. Scott Simms:** Do you think that what the Competition Act holds right now is essential? It's not just that, but also five other provinces have this power, and this has been missing for a long time. Are you certain that this robocalls case would have been handled much better if the referee on the ice actually had a whistle?

**Mr. Marc Mayrand:** Robocalls are another investigation. I don't think it's the only investigation affected by this; it's all investigations being carried out by the investigator. Again, it's not an uncommon authority to provide an agency tasked with enforcing a provision of statutes.

**Mr. Scott Simms:** Nothing was discussed with the minister in your meeting about strengthening, or how does he put it, sharpening the teeth of the actual commissioner.

**Mr. Marc Mayrand:** No.

**Mr. Scott Simms:** No.

Switching gears, you said in your introduction that you are very preoccupied in this regard with Bill C-23. You went on to say that you are unaware of any democracy in which such limitations are imposed on the electoral agency and that you strongly feel that an amendment in this regard is essential regarding dissemination of information.

Could you give us a good example of why this is going to impede your ability and, as you put it, put limitations on you that you are unaware of in any other democratic nation?

**Mr. Marc Mayrand:** Certainly, it would prevent Elections Canada from doing any type of voter education in schools, for example, where we try to instill the sense of citizenship among young Canadians and how it can be fostered. It would limit the ability to share with Canadians the results as to what problems are facing our democracy and how we can hope to address them. I'm concerned that during an election I could not issue a press release alerting electors to certain practices that may happen that they should be aware of.

**Mr. Scott Simms:** Such as the case that happened during the last election?

**Mr. Marc Mayrand:** Think of Guelph in the last election.

**Mr. Scott Simms:** You would not have that ability whatsoever?

**Mr. Marc Mayrand:** I think proposed section 18 as drafted right now would limit that ability.

**Mr. Scott Simms:** Right, we all understand your ability to provide information about where and how and when to vote, but beyond that, there are certain things you have to do, just like any other electoral agency of any democracy. Is that correct?

**Mr. Marc Mayrand:** Absolutely.

**Mr. Scott Simms:** When you talk about all these issues, when you talk to Canadians, do you think it's an advantage to get out there in the nation and see how this works? It's issues like vouching, dissemination of information in places like first nations. You talked about mobile polls. I have a lot of mobile polls when it comes to seniors homes, and a lot of people don't know these rules per se. Do you think it would be a good idea for us to get out there and see first-hand how this works?

**Mr. Marc Mayrand:** That will be up to you as representatives of Canadians to determine how to best get their views on these matters.

**Mr. Scott Simms:** I can't blame you for trying, I suppose.

When it comes to the dissemination of information, I know there's been some talk that the Commons and the Senate can compel to do a study, say, on online voting, that sort of thing. Was that discussed with the minister when you had that discussion, or did he just say to you that he didn't feel you should be involved in that type of communication to the public?

**Mr. Marc Mayrand:** No, he never mentioned that.

**Mr. Scott Simms:** He never mentioned it at all?

**Mr. Marc Mayrand:** No.

**Mr. Scott Simms:** Did he mention the fact that he would like to strengthen...reinforce the fact that your only job is to do the communicating of where and when to vote?

**Mr. Marc Mayrand:** The conversation I had with the minister was essentially a one-way conversation. He asked me what the main issues I thought required attention are, and I went back through the various reports that had been published for the last three years, highlighting some of the recommendations that I felt were quite significant.

•(1215)

**Mr. Scott Simms:** Was it a one-way conversation, you to him, and that's it?

**Mr. Marc Mayrand:** That's my view.

**Mr. Scott Simms:** Did you bring up some of the concerns that you had with the bill that you mentioned here?

**Mr. Marc Mayrand:** I haven't talked to the minister about the bill.

**Mr. Scott Simms:** No, I mean some of the general concerns about the commissioner's ability to investigate, your ability to—

**Mr. Marc Mayrand:** That was part of our past reports, yes.

**Mr. Scott Simms:** And all that came up.

**Mr. Marc Mayrand:** I would have to go back to some notes. I can't say for sure if we discussed that, but certainly he did not indicate any—

**Mr. Scott Simms:** More importantly, his concerns about the commissioner going to a separate office.... Independence did not come up from him, no?

**The Chair:** Thank you, Mr. Simms.

**Mr. Marc Mayrand:** No, not in our conversation.

**The Chair:** Thank you.

At this point it probably would be safest if we suspend and go to votes.

We've finished that first round. I don't think there's time to do more than one more person in a four-minute round.

**Mr. David Christopherson:** How much time is it before the vote, Chair?

**The Chair:** Twenty minutes, but I can't do a whole round of any shorts in that time. We're best to save it at this point. We'll go to votes; we'll come back, and we'll run a whole—

**Mr. David Christopherson:** Chair, just to avoid any possible confusion, would you please roll out exactly what's going to happen from the moment we rise here until the end of this meeting?

**The Chair:** Yes. I'm planning that when we get back here, we'll have time to do one whole round, which works out to 51 minutes, if members stay within their talking points. We have finished our seven-minute round, and really we should be going to our four-minute rounds, and we could do that.

I'll leave it to a quick discussion with each party.

**Mr. David Christopherson:** Do we lose the time if we don't do it now, or do we pick it up at the other end?

**The Chair:** I plan on.... We won't finish until we finish what would have been a full round of questioning today.

**Mr. David Christopherson:** A full 90 minutes in total?

**The Chair:** Yes. That's what we'd ask for.

**Mr. David Christopherson:** Whether it happens now, before the vote, or after, as long as the time is not lost.... That's the thing. I think the fewer the interruptions, the better, so maybe if we can come back, and then continue uninterrupted until we're done, it's probably in our best interest.

**The Chair:** That's a wise idea.

**Mr. David Christopherson:** You're telling me that time is the same, that there's nothing lost by going now or later. Is that correct?

**The Chair:** Not provided Mr. Mayrand can stay and unanimous consent to keep talking is there, so I'm okay.

**Mr. David Christopherson:** Okay.

**The Chair:** All right? Then let's suspend.

• (1215) \_\_\_\_\_ (Pause) \_\_\_\_\_

• (1245)

**The Chair:** We'll come back to order.

I'd like to share with the committee that our normal speaking rotation is 51 minutes if we go from top to bottom, including a seven-minute round and then all the four-minute rounds. It's my proposal that we start fresh and that will give us 51 minutes' worth of questioning from here on.

Mr. Reid will be starting for his side. I think he might be sharing with Mr. Lukiwski.

• (1250)

**Mr. Scott Reid:** How much time do we have in total, Mr. Chair?

**The Chair:** Seven minutes for this round. Then we'll go to four-minute rounds.

**Mr. Scott Reid:** Thank you, Mr. Chair.

Mr. Mayrand, as you know, I have been articulating for about a decade now a concern with an overall lack of capacity or competence at Elections Canada, which predates your tenure, to ensure that there is no voter fraud in this country, or even to monitor the extent to which it exists. I'm hardly the only one to do so. A decade ago Duff Conacher was drawing the attention of the Canadian public to the fact that there were about a million irregularities on the voters list. Other individuals have tried to bring this to light by demonstrating that fraudulent voting can take place.

One example was a man named James DiFiore, in 2006, who wrote an article about how he had voted three times in Trinity—Spadina. There's an interesting quote from the article:

I've heard Elections Canada has set up a program allowing people with no fixed address to exercise their democratic right. Shelters are providing homeless citizens with special forms they can use at designated polling stations...I ask a shelter volunteer if I can use the form to cast my ballot even if I live in an apartment. He says the system is set up by Elections Canada to provide every citizen a chance to vote. He hands me a form and instructs me to head to the polling station at 34 Oxford...I simply hand the form to the young lady and say, 'I was told I could vote with this'....She hands me my third ballot of the day and points to a booth behind her. I return the ballot and say I've changed my mind. "Whatever you say", she remarks.

Mr. DiFiore was charged by Elections Canada with having voted fraudulently. He was the only person charged in that election with voting fraudulently. Elections Canada's position is that only one case of voter fraud could be found in the entire country in that election.

In the next election, one case again was found. It was an American exchange student who had voted in order to demonstrate that there was a problem, and had written about it, and again got prosecuted.

As far as I can tell, unless you write an article announcing that you voted fraudulently, Elections Canada doesn't prosecute.

I note that I asked your predecessor how many prosecutions had occurred in the 1993, 1997, 2000, 2004, and 2006 elections collectively, and he said they had to look it up. The answer was eight. Either we only have eight irregularities per five elections, or your office is simply unable to monitor these things when they occur.

Assuming the second one to be true, based on the fact that your office finally responded and did a compliance review to see how you were performing only after the Supreme Court was dealing with the irregularities in Etobicoke Centre, I note that the compliance review, the so-called Neufeld report, states that there were 165,000 cases of irregularities in the 2011 election. That's on page 6 of the final report. It has been suggested by some individuals that these irregularities are minor, technical, or merely administrative, but that is not so. The Supreme Court of Canada said in its ruling, "The term 'irregularities' should be interpreted to mean failures to comply with the requirements of the Act, unless the deficiency is merely technical or trivial."

By definition, any technical, trivial, or administrative non-compliance is outside the 165,000. They made that ruling in October 2012, and Mr. Neufeld in the compliance report used their definition when he came up with that 165,000. I mention this to make the point that there is a serious problem here.

Let me add this point as well. Of that 165,000, 50,736 examples were irregularities in vouching; so about a third were irregularities in vouching. The problem with vouching can be measured a different way. How many cases of vouching actually took place? The answer is that about 140 or so took place. According to the compliance audit, in the 2011 election, 42.4% of vouching was irregular. There's a breakdown of the kinds of irregularities. But again, an irregularity is the kind of thing that can lead to the overturning of an election, something which is of significance. Three of the seven judges on the Supreme Court said that the Etobicoke Centre election should be overturned because of these irregularities.

• (1255)

The other four, who I actually think were correct, said that it shouldn't be because the irregularities, in that particular unusual circumstance of a closed access long-term seniors care residence, could not have caused individuals other than those who were actually living there to have been capable of voting or voting more than once. It was only this fact that caused that election to be saved. This was not the fault of either the Conservative or Liberal candidates who were fighting it out. This was the fault of a set of rules that do not allow Elections Canada to do its job.

That, I submit to you, is what this bill tries to correct via such measures as eliminating vouching.

I'd like your comments on that, please.

**Mr. Marc Mayrand:** On vouching.

**Mr. Scott Reid:** On vouching, yes.

**Mr. Marc Mayrand:** It's true, Mr. Neufeld reports, I believe, 50,000 irregularities or errors. I think he calls them serious errors that may constitute irregularities.

Again, I'll point out that this was thoroughly examined by the courts in Etobicoke and the court at the end of the day said that most of these errors go to procedures, bookkeeping, but there was no reason to doubt the quality of electors. Most of the vouching is taking place in some closed facilities, as you mentioned, but even there we have to appreciate that in the 50,000, it is an irregularity for the nurse at the nursing home to vouch for a resident of the nursing home. That would be considered as a serious error in the scheme of Mr. Neufeld. Again, when the court looked at that, they saw no reasons to invalidate the vote.

In many cases what we see is that in the poll book.... It's a rather complex procedure. When a mother comes in with her son who is voting for the first time and the son doesn't have ID, the mother is allowed to vouch for the son, but in the poll book what you will see reflected, after the officer has validated the ID of the mother, is the officer will simply mark "mother" as opposed to the full name. This is considered a serious error because it's not consistent with the requirements of the act. Again, is there any reason to doubt that the mother was properly identified? No. Is there any reason to believe that the son was not eligible to vote? No. Was there an improper recording in the poll book? Yes, but not enough to warrant an invalidation of that vote.

These are the vast majority of situations we are talking about and Mr. Neufeld is talking about when he talks about irregularities. I hope you will call Mr. Neufeld to explain all these provisions.

**The Chair:** We went well past the seven minutes there, so we're going to have to make sure we stay tight.

Mr. Scott, for seven minutes.

**Mr. Craig Scott:** Mr. Mayrand, thank you for this table, which we have not had a chance to have a good look at. I'm wondering if you would be at all willing to come back, maybe after a lot of other testimony has been heard at this committee, in light of what your officials know and to give us a chance to study this.

**Mr. Marc Mayrand:** I would be happy to come back to explain this table and, depending on how the debates go, maybe offer some other advice or approach to deal with some of the serious problems that the committee is trying to address.

**Mr. Craig Scott:** Thank you.

You mentioned in your brief about the exemption to contact former donors who have given \$20 or more in the last five years. Could you explain whether or not you think this is a justifiable provision, keeping in mind that the provision only refers to it must be contacting former donors. It doesn't say "sole" or "only purpose". Also it refers to \$20 or more and donations up to and including \$20 can be anonymous.

I'm wondering if you could comment on whether that provision should be there.

**Mr. Marc Mayrand:** As I said in my opening statement, it's a new exception for a fundraiser to exclude them from electoral expenses. One of the problems with it is whether it's really deserved or justified. Again, depending on the number of fundraisers or contributors you may be able to spend more than others who have fewer. It creates a bit of a barrier or, as I said, an issue with the level

playing field for those who have.... Think of smaller parties that start which would significantly be put at a disadvantage there.

The other aspect of it is I don't know how it can be monitored. You don't know when you receive a call whether it's part of fundraising. You don't know whether this expenditure will be claimed or not and how it will be claimed. Electors or people who receive those calls have no way.... I don't have any way, not having access to documents from the parties or anything of that nature. It's not clear to me how we would be able to monitor this provision, certainly in the context of Bill C-23.

• (1300)

**Mr. Craig Scott:** You believe there would be a danger, because it can't be monitored in any easy way, that it could be used to make all kinds of other contacts that are not necessarily related to fundraising.

**Mr. Marc Mayrand:** What I'm saying is that I could not attest as to whether the calls were properly placed; I wouldn't have access to the information to attest to that. Neither do I believe that the recipients of calls would be able to realize whether there was an issue or not.

**Mr. Craig Scott:** I believe my colleague Mr. Christopherson will come back to your lack of power to compel documentation, which is at the heart of why you would not be able to monitor this.

I will turn to the question of clause 108, which would put in proposed section 510.1. I'm going to call it a muzzle on the commissioner of Canada Elections, who is prohibited from disclosing "any information relating to an investigation". The only exception, which the minister points out every now and again, is "information that, in the commissioner's opinion, is necessary to carry out an investigation".

My reading of this is that once an investigation is closed, there is no way for the commissioner, under this provision, to report on the outlines of the investigation and what was learned, short of a criminal prosecution, for example, or even whether or not there was no fraud.

Are you also concerned with this provision? It seems to be a way to tell the commissioner of Canada Elections that anything you might have found in your current investigations, which you're now going to close the books on because you don't have enough investigative powers, cannot be reported. Are you concerned about that?

**Mr. Marc Mayrand:** I think it would prevent the commissioner.... In the past where there were serious issues raised by the investigator, from time to time he would issue either a report or a press release indicating his findings and why. I'm not sure that this will be possible under the new provision in Bill C-23.

Sometimes it's very much to reassure the public that what happened was legitimate. A case that comes to mind is several elections back where there were all sorts of allegations. The commissioner thoroughly reviewed all the allegations and satisfied himself that there was no offence or fraud committed in that election.

**Mr. Craig Scott:** That's also my reading of it. The moment the investigation is closed, the commissioner will not be able to say anything about it.

**Mr. Marc Mayrand:** All the communication under the new regime would be subject to government-wide communication policies, so Treasury Board policy in that regard. I haven't seen any exception in the legislation. You would be subject to those government-wide policies regarding communication.

**Mr. Craig Scott:** There was a time before the changes in the law, in 2006 or 2007, that it was much easier to vote without ID. People often would show up even on election day and register. Although I have not actually read the report, I understand that at one point under that old regime there were very few constraints on ID. You would think fraud would be rampant based on the premises coming from the other side of the table.

There was at least one investigation by Elections Canada into a riding where there were complaints that about 10,000 people had signed up on election day. Did Elections Canada look into that and discover fraud?

**Mr. Marc Mayrand:** That was Trinity—Spadina in 2006.

I believe it was initiated by my predecessor following discussions before this very committee. He commissioned an independent audit to look at all 10,000 cases on polling day registration. There were allegations of people who may have voted twice or were not properly residing in the riding, and all those things.

Navigant was the firm that looked at all 10,000 cases of polling day registration. There were 20 cases where they were not able to trace individuals to a proper address in the riding.

• (1305)

**Mr. Craig Scott:** That was 20 out of 10,000.

**Mr. Marc Mayrand:** Yes, and those 20 cases were referred to the commissioner. Again, there were no charges laid, or compliance agreement laid.

**The Chair:** Thank you.

Mr. Lamoureux, for seven minutes.

**Mr. Kevin Lamoureux (Winnipeg North, Lib.):** The expectations Canadians have are that there would be a consequence, in fact, a timely consequence to a violation of an election law. We are disappointed that this was one of the major issues in dealing with this particular legislation and it failed to address that issue.

My understanding from Elections Canada's perspective is that one of the critical needs to reform our Elections Act is to allow Elections Canada to compel witnesses. In terms of priority changes, based on what you think is in the best interests of Canada's electoral legislation, would you say that the need to compel witnesses is one of the most important things that we need to deal with?

**Mr. Marc Mayrand:** It's certainly the most important one from the point of view of the commissioner. I would also suggest that providing Elections Canada with access to supporting documents regarding the financial transactions of parties is also quite critical.

**Mr. Kevin Lamoureux:** I reflect on the in-and-out scandal, robocalls, cheating, and overspending, all of which have been widely broadcast throughout our country. People get frustrated in the sense

that they don't feel that things are right here. We're not seeing justice or adequate consequences. If we can't or the commissioner can't or Elections Canada can't compel witnesses, is it safe to say we never receive that timely investigation as a result of not being able to compel witnesses?

**Mr. Marc Mayrand:** It certainly hampers investigation. Sometimes it simply delays them. It doesn't stop the commissioner from finally getting through the matter, but it takes extraordinary time and effort. Sometimes it's a wall. You get to a dead end.

**Mr. Kevin Lamoureux:** Mr. Mayrand, is it fair to say that because you don't have that ability, there have been individuals who have been able to, in essence, break the law and get away with it because they don't want to be a witness?

**Mr. Marc Mayrand:** We don't know that, given that we can't compel them, so the investigation's basically stalled in some circumstances. I'm saying that the commissioner cannot come to a conclusion because of the limited tools he has available to carry out an investigation.

**Mr. Kevin Lamoureux:** That's right. You cannot continue to pursue a file, because you cannot get the witness to provide the information necessary for you to continue.

**Mr. Marc Mayrand:** That's correct. Sometimes we find out that there was nothing wrong.

**Mr. Kevin Lamoureux:** For sure, absolutely. I believe in innocent until proven guilty, too.

Other provinces, such as Manitoba, actually have the ability that Elections Canada wants. Is that not correct?

**Mr. Marc Mayrand:** That's correct. I believe there are six jurisdictions. Some have more authority than the basic authority I'm asking for here.

**Mr. Kevin Lamoureux:** When you talk about more authority, some of those jurisdictions actually have the ability to compel without having to go through the courts. Is that correct?

**Mr. Marc Mayrand:** They do, among other things. Some have the same power as an inquiry commission.

**Mr. Kevin Lamoureux:** Right. My understanding is that Elections Canada wasn't even asking for that much power. They were asking to appeal through the court to get a witness to compel. Is that correct?

**Mr. Marc Mayrand:** That's correct.

**Mr. Kevin Lamoureux:** After or prior to the introduction of this bill, did you have any discussion with the minister on that particular issue, on the ability to compel? Did he provide his opinion to you on that issue?

**Mr. Marc Mayrand:** No, but I think he's providing it right now through the bill that's before the committee.

**Mr. Kevin Lamoureux:** That brings me to another point. It's on one of your conclusions, in which you state, "Because amendments to the Canada Elections Act affect the fundamental rights of all Canadians, as well as the rights of all political parties, it is particularly important that to the fullest extent possible such amendments be based on a broad consensus as well as solid evidence."

When you're changing a fundamental law such as the Elections Act, the impression you're giving is that it should be done through a consensus. You should be working with Elections Canada, other opposition parties, and stakeholders.

Is that fair to draw from your conclusion?

• (1310)

**Mr. Marc Mayrand:** Certainly, I think it's a piece of legislation, first of all, that's fundamental to our democratic institutions. It touches the interests of everyone.

**Mr. Kevin Lamoureux:** That's right. You've incorporated that into your conclusion. Does that mean it's safe for me to conclude that you believe that has not been the case in this bill?

**Mr. Marc Mayrand:** I'm putting that in the conclusion, because I'm hoping that through this committee, consensus will emerge as to what the best ways are to reform our legislation.

**Mr. Kevin Lamoureux:** In your opinion, if you can't build that consensus, is it better to allow the bill to pass as is or to go back to the drawing board to attempt to get legislation based on consensus? What's in the best long-term interests of our Parliament or our democracy?

**Mr. Marc Mayrand:** I think that Parliament will have to decide that.

I mentioned today some issues that are quite significant dealing with access to voting by Canadians—

**Mr. Kevin Lamoureux:** I suspect that you're in fairly high demand outside of Canada where you're providing advice on election laws. Would you ever advise that a government should go alone to bring in legislation and pass it through the system?

**Mr. Marc Mayrand:** No. It's a well-known international standard that if you want to be successful in ensuring integrity and legitimacy of your institution, you should seek the broadest consensus possible.

**Mr. Kevin Lamoureux:** So, internationally you would be advocating that we should be getting that consensus, yet here in Canada we don't have that consensus. Do you see some irony there? You can feel free to say "No comment", of course.

I want to go back to the fact that—biggest beef—someone violates an election law, I want to ensure that there's a timely consequence to that violation. If the compelling of witnesses is not in the legislation, I would conclude that it's only a question of time before things get worse for Elections Canada. The moment someone figures it out, as they already have, that they don't have to compel, why would they?

Is that a fair concern?

**The Chair:** Thank you, Mr. Lamoureux.

**Mr. Marc Mayrand:** I think it's very much a part of the reality that the commissioner is living right now.

**The Chair:** Mr. Lukiwski.

It's four-minute rounds now.

**Mr. Tom Lukiwski:** Thank you very much.

I want to go back to the question of vouching again.

The number 120,000 has been used, particularly by members of the opposition and others. That's only an estimate.

**Mr. Marc Mayrand:** It's an estimate based on over—

**Mr. Tom Lukiwski:** How many, according to your records, actually vouched for other Canadians in the last election?

**Mr. Marc Mayrand:** Sorry?

**Mr. Tom Lukiwski:** How many was the actual number, not an estimate? You have all the records.

**Mr. Marc Mayrand:** Yes, but the records are sealed. These are election documents that are sealed.

**Mr. Tom Lukiwski:** Just a minute now. You're saying, according to your rules—

**Mr. Marc Mayrand:** Those are the rules of legislation.

**Mr. Tom Lukiwski:** Are you saying that we cannot then know how many Canadians actually vouched for another Canadian?

**Mr. Marc Mayrand:** Not unless you open the polling bags, which are sealed. There are specific provisions in the statute—

**Mr. Tom Lukiwski:** How did we come up with the number of 120,000?

**Mr. Marc Mayrand:** Because under the statute I have authority, on reasonable grounds, to allow the opening of those bags.

In light of Etobicoke, we went back and said that we need to understand better what's going on here, and I authorized the opening of 1,000 bags from across the country. I think it's a fairly solid sample that tells us the issues about the irregularities or errors, as well as the number of people who were vouched for. That's where the 120,000 comes from.

**Mr. Tom Lukiwski:** Okay.

I understand also in Etobicoke, since you mentioned it, someone had been multiple vouching, vouching for more than one person, which is illegal. Is that correct?

How many of those cases in the sample size of 1,000 that you talked about did you find that multiple vouching took place?

**Mr. Marc Mayrand:** I don't have that number with me, but I could provide it to the committee if needed.

**Mr. Tom Lukiwski:** The point is the potential for fraud with vouching is obviously there. You have stated you think that it's a fairly precise system, but certainly the potential for vouching is there if one person in Etobicoke was found.

**Mr. Marc Mayrand:** Again, we have to be very careful. It doesn't meet the standards; I agree with that, definitely. It doesn't mean that the individuals were not legitimate electors.

Again, an example that was brought to my attention recently is a co-worker did vouch for several electors. That's not appropriate. But it was recorded. The electors were well identified, well qualified, resided where they voted, and their vote was certainly perfectly legitimate. Again, was the proper procedure followed? No, but I think there's a step, and that's what the Supreme Court is saying. You cannot equate an irregularity with an illegal vote, and that's what we have to be careful of.

• (1315)

**Mr. Tom Lukiwski:** I appreciate that. My only point is that clearly, wherever vouching takes place, perhaps the majority is above board, but the potential for fraud is there. You must admit, sir, that the only true way to get rid of the potential for fraud under those cases is for proper identification to be provided at the polling station by the individual.

**Mr. Marc Mayrand:** I'm not questioning the need for identification. However, we have—

**Mr. Tom Lukiwski:** Well, those people who are being vouched for don't have to present identification.

**Mr. Marc Mayrand:** Many of them would have ID, but they would not have an address. That's a problem in this system, a standard Canadian address.

**Mr. Tom Lukiwski:** When I say “identification”, I mean eligibility: name, address.

**Mr. Marc Mayrand:** They're citizens. They're 18 years old. That's what they need to show to be able to vote, and that they reside in the riding.

**Mr. Tom Lukiwski:** Correct.

**Mr. Marc Mayrand:** Again, to assure that...sorry.

**Mr. Tom Lukiwski:** The only way to absolutely guarantee that is proper identification being presented at the polling station. Is that correct?

**Mr. Marc Mayrand:** I think there are other ways. We have to be careful, because in the next election if those rules go through, you will see in your riding how many people will be sent away, and that will be an issue, I believe.

**The Chair:** Madame Latendresse, for four minutes.

[*Translation*]

**Ms. Alexandrine Latendresse (Louis-Saint-Laurent, NDP):** Thank you, Mr. Chair.

First of all, I find it odd and disappointing that my colleagues opposite are talking about potential fraud only whereas there were real cases of fraud that should be investigated, and this bill still does not provide the tools to solve those real cases that occurred in the last election.

You were quite clear on this in your presentation, but I still have some questions about the voter information cards. Can you confirm that you or Elections Canada have not recommended that voter information cards no longer be accepted?

**Mr. Marc Mayrand:** The legislation authorizes Elections Canada to establish the list of acceptable forms of identification. Following the first election where the new identification rules were in place, we did a test and we used the voter information card in some very

specific places, such as reserves, shelters, long-term care facilities and student residences. Evaluations showed that almost 68% of those people used the voter information cards. We found no indication of fraud or other offences, and people told us—including the administrators of shelters and long-term care facilities—that the cards made voting easier. Voters and administrators appreciated it.

Given the issues with proof of address, not proof of identity, Elections Canada was very transparent in its plan—we have in fact repeatedly mentioned it before this committee—to use the voter information cards with some changes to allow voters in general to confirm their addresses when they vote by showing another piece of identification. For instance, a person with a passport—whose legitimacy could hardly raise any doubts—who showed up with a voter information card could legitimately vote whereas, today, the individual must be vouched for or go home.

**Ms. Alexandrine Latendresse:** You are basically saying that, even in the rare cases where a mistake may have been made, a person who received two cards with different information could not simply go and vote, unless they have another piece of identification, which could have been forged or could contain the wrong information.

**Mr. Marc Mayrand:** The person will have to produce another piece of identification that, indeed, could also be fraudulent.

You know, as long as we don't have a national identification or citizenship card, we must accept the risks inherent to our system. One of the current challenges has to do with the fact that there is no national identification card. Some countries have adopted a similar system, but Canada chose to rely on various cards issued by various authorities and each of those cards is subject to some risks. I feel that Parliament accepted this level of risk by adopting the system currently in place.

• (1320)

**Ms. Alexandrine Latendresse:** You mentioned the places where the voter cards were accepted in the last election. Can you confirm whether Elections Canada was planning on adding polling stations on campuses and in Aboriginal community centres in urban areas to make voting easier?

**Mr. Marc Mayrand:** That is correct. We will set up specific polling stations in community centres, in what are known as friendship centres and on various campuses across Canada.

**Ms. Alexandrine Latendresse:** Our Conservative colleagues were therefore aware that there would be more and more polling stations on campuses and in those other places, correct?

**Mr. Marc Mayrand:** We have been very transparent on that issue. We have had detailed discussions at the meetings of party advisory committees. All parties know about this initiative.

[*English*]

**The Chair:** Thank you.

Mr. MacKenzie, for four minutes.

**Mr. Dave MacKenzie:** Mr. Mayrand, you talk about compelling witnesses. I spent 30 years in policing and investigated crimes from petty thefts to homicide. Police officers don't have that power. My colleague across the floor talked about wiretaps. Wiretaps are not compelling. I know in the Criminal Code terrorism is one of those sections. I don't think we would equate this to terrorism.

Now I know the CRTC has penalized the sitting member for Guelph and the sitting member for Ottawa Centre for the improper use of the telephone. They don't have that ability. They were able to do their job with respect to penalties.

The other area I have a concern with is you already had, in my understanding, the evidence of a large illegal donation to one of the parties, and all that was demanded was the payment back of it. Somehow there seems to be a difference here. That didn't take any compelling testimony. You were able to obtain that. I would say to you, sir, for the most part police officers do their jobs investigating large crimes, including homicide, gangs, and everything else, without that availability.

Do you not think there's something missing in the picture? I'm sure if we were to bring in legislation that said everybody is compelled to tell the police everything they know about a crime, my colleagues across the floor would go ballistic.

**Mr. Marc Mayrand:** Let's lead with the illegal contributions, something that you mentioned in your statement. My guide is the statute, nothing else. The statute provides that when there's an illegal contribution, you have 30 days to return it before there's an offence. That's what happened. Again, there's no offence in that—

**Mr. Dave MacKenzie:** And that's okay?

**Mr. Marc Mayrand:** No, but I just want to clarify that because I'm hearing from time to time that we seem to have—

**Mr. Dave MacKenzie:** But you're raising the issue about the \$20 contributions. That was several hundred thousand dollars.

**Mr. Marc Mayrand:** It's the same thing. If the contribution is returned, well, we need to look at the statute. You wrote the statute, not me.

**Mr. Dave MacKenzie:** Okay, fair enough.

**Mr. Marc Mayrand:** The statute says that when there's an illegal contribution—

**Mr. Dave MacKenzie:** Have you asked for that change? That there would be a penalty for that large—

**Mr. Marc Mayrand:** No. That's the law. I think it has been applied uniformly to everyone. Every time there's an illegal contribution, we send a notice—

**Mr. Dave MacKenzie:** I appreciate that, sir, but you have suggested many changes. Would you have suggested that change?

**Mr. Marc Mayrand:** It seems to have been working. If Parliament decides that it wants to have different rules to deal with illegal contributions, we can have that.

**Mr. Dave MacKenzie:** But that's not a suggestion that you would have made, that large, illegal contributions—

**Mr. Marc Mayrand:** That's not something I have put forward. It's the minister who hasn't raised any issues in terms of administering

the regime. We have applied it consistently. If you feel that it should be amended, yes, please, of course, and we can have a discussion.

In terms of testimony, I want to reiterate that many regulatory agencies have that power. One of the things that I have conveyed, especially in 2010, is there is an assumption here, which I resist entirely, that those who participate in the political process should be treated as petty criminals when they get offside. I don't think so. Most people are honest and are trying to do their best in complying with very complex rules.

That's why, in the past, I've advocated a system of administrative penalties. I am pleased to see that the bill has responded to this with regard to overspending, which now provides administrative sanctions. I think that's the way of the future for the regime.

But in any regulatory regime, people accept to play by certain rules, and they are held to a higher standard than petty criminals. That's my view and—

**Mr. Dave MacKenzie:** Higher than a murderer, sir?

**Mr. Marc Mayrand:** —it's not unusual, and again many provincial jurisdictions have the power to compel and have the power to produce those documents. The CRTC can expect a safe presumption of documents.

Again, all I'm asking for are powers that are similar, not extraordinary or certainly not new, relative to what exists in many regulatory regimes.

• (1325)

**The Chair:** Thank you.

Mr. Richards, you have four minutes.

**Mr. Blake Richards (Wild Rose, CPC):** Mr. Mayrand, in the last election, can you tell me how many ridings where the difference between the winning candidate and the second place candidate was less than 10% of the vote, or less than 7% of the vote? Would you be able to tell me exactly or give me at least a rough idea?

**Mr. Marc Mayrand:** A few, but I don't have an exact number. I can come back with that, or it can be checked on the website—

**Mr. Blake Richards:** Would you have a guess?

**Mr. Marc Mayrand:** I'd prefer not to mislead the committee, but there's more than one, no doubt.

**Mr. Blake Richards:** It's quite a few more than one, I'm sure.

**Mr. Marc Mayrand:** Yes.

**Mr. Blake Richards:** In fact, it's probably enough to make a difference in who formed the government or whether there is a majority government.

**Mr. Marc Mayrand:** That I don't know.

**Mr. Blake Richards:** If you look at the last several elections, there would be a potential for there to be quite a significant difference in the result of the election had there been a 7% or 10% swing in the votes.

The reason I ask that is I'm troubled by some of the previous responses that you've given. I've been troubled by some of your testimony earlier when we talked about both vouching and the voter information cards.

In the case of vouching, you talk about there being an approximate number, 120,000. There was a sample done of some.

Certainly when you look at it, there is definitely the potential that there could have been ridings where significant numbers came from certain ridings, and it could have made a difference on the result of the election if someone engaged in vouching engaged in voter fraud.

Also, when I look at the voter information cards, your numbers suggest there is about a 10% error rate on those cards. I've actually heard numbers that are even greater than that in terms of the error rate, that it's maybe as high as one in six on those voter information cards.

Then in response to one of Mr. Reid's questions you indicated that once some of the revisions were done, that error rate would only be about 7%. The reason I ask the question about the 7% or the 10% is that I would suggest to you, sir, that they would be quite significant, the number of ridings that would have been at a result of less than a 7% difference.

There is a potential here for someone who seeks to engage in fraud to influence the results of quite a few ridings in this country, and therefore influence the result of the election, based on fraud. I was quite concerned that you didn't see there was a problem with a 7% to 10% or more error rate in those cards. That was quite a concern to me, sir.

I look at the issue of the cards, the duplicates, or the error rates. When your predecessor looked at the 2000 election and realized there was almost a million more eligible voters who were leading into the 2000 election than actually was the case, he said, "A voter information card is just that, a voter information card. This card does not mean that you were entitled to vote more than once."

With an error rate as high as there is, I would certainly agree that this card should stay as just that, the voter information card.

I really think you should give some thought to that, sir, as to whether the voter information card really is reliable enough to be considered as an accepted form of ID. I really ask that you give some thought to that.

What I'd like to ask you about, however—

**The Chair:** You have about 20 seconds.

**Mr. Blake Richards:** I would just ask that you give that some thought because I really do believe a 7% to 10%, or possible even greater error rate is a concern. I think you should be concerned about that, sir. That's why this bill is doing something to correct that issue.

**Mr. Marc Mayrand:** We continue to make our best effort in looking for opportunities to continually improve the list.

As I mentioned earlier, it's accurate 93% of the time, not one in six.

Again, at the end of the day, what this committee has to decide, and Parliament, is whether in the absence of any strict evidence of

significant abuse of the system, it is worth disenfranchising several thousand electors. That's the balance in the system that we have to take. I'm suggesting that if we are really concerned about the fraud in the system—

• (1330)

**Mr. Blake Richards:** I would beg to differ with you, sir. I think that what we do is correct—

**The Chair:** Thank you, Mr. Richards. Your time is finished too.

**Mr. Blake Richards:** [*Inaudible—Editor*] I think there are 39 forms of ID that are acceptable. I think most Canadians, in fact, I'm sure all Canadians, would be eligible for those.

**The Chair:** Mr. Richards, thank you.

We'll go to Mr. Christopherson for four minutes. I know you can do it in four minutes.

**Mr. David Christopherson:** Thank you very much, Mr. Chair. I'll do my best.

Thank you for your attendance today, Mr. Mayrand. May I just express how disappointed I am that you didn't get a more respectful reception. You should have. You deserve that.

I would also, for the record, urge any Canadians who are watching this to be aware that they can access the committee Hansard online, and they can read every word of the testimony that's being given here today, because it's the first opportunity to hear the real facts and a counterweight to the spin we've been getting from the government from the day they introduced this bill.

I don't have a lot of time, but if I may, Chair, before I move to my point, as I promised during my brief remarks the other day, I said I would move a motion to allow independents to have a presence here in the same way that we did when we studied the BOIE. I'd like to move a motion that's exactly the same language, except for the specific access.

It's a simple motion, Chair.

**The Chair:** I'm not trying to stop you, but we were going to do a bit of committee business at the end of the meeting.

**Mr. David Christopherson:** Well, I was hoping it would allow them to have a question in this round. If you would afford them a quick opportunity, then we don't need to do this.

**The Chair:** It will take one of the parties on the list to give them a spot.

**Mr. David Christopherson:** I'll be glad to do that. I'll offer up one of our spots to one of the independents.

Then at the business time I'd like to move a motion to make that permanent for the continuing study here, because the one thing that's not here in this process is fairness. Fairness dictates that the people who are in the House of Commons who don't belong to a political party should have an opportunity to have input here. We're going to move that motion and, yes, I will relinquish one of my speaking spots so they can do that today.

I want to move now directly, Mr. Mayrand, to the comments you made. I quote from page 8 of your brief where you say:

...it is striking when looking at provincial regimes that we remain the only jurisdiction in Canada—

—meaning the federal jurisdiction—

—where political parties are not required to produce supporting documentation for their reported expenses. At every election, parties receive \$33 million in reimbursements without showing a single invoice to support their claims. This anomaly should be corrected, as I have indicated in the past (and as was recognized by a motion in the House of Commons).

In March 2012, two years ago, I moved the following motion and it was supported unanimously by the House:

That, in the opinion of the House, the government should, within six months, table amendments to the Elections Canada Act and other legislation as required that would ensure that in all future election campaigns: (a) Elections Canada investigation capabilities be strengthened, to include giving the Chief Electoral Officer the power to request all necessary documents from political parties to ensure compliance with the Elections Act....

That was supported unanimously by the government. They're over a year and a half late with their legislation and, to the best of my knowledge, that power is still not in here.

As I understand this, sir, and correct me if I am wrong, all parties, including my own, submit 33 million dollars' worth of claims for taxpayers' money and they don't have to provide any documentation and you can't make them provide that documentation, and that power which the government agreed in a motion to say they would include in a bill is not in here.

Do I have it correct, sir?

**Mr. Marc Mayrand:** The only point of correction is that it's \$66 million of invoices reimbursed at 50%, which determines the reimbursement to be \$33 million.

**Mr. David Christopherson:** Ah, I like corrections when it strengthens my hand. Usually it goes the other way.

We're talking about \$66 million being submitted, of which \$33 million of taxpayer money is reimbursed.

So we have a situation in Canada where \$33 million of taxpayers' money is given out to political parties with no receipts. Is that right?

**Mr. Marc Mayrand:** That is correct.

**Mr. David Christopherson:** Do you have the power to say, "Well, I don't see any receipts here, folks. Would you mind just providing me with some receipts to back up your numbers?" You do not have the power to compel that kind of documentation.

**Mr. Marc Mayrand:** No.

**Mr. David Christopherson:** Why do you need it?

**The Chair:** Mr. Christopherson, thanks.

**Mr. David Christopherson:** I made my point.

**The Chair:** Mr. Lukiwski, you have four minutes, please.

**Mr. Tom Lukiwski:** I want to make one comment.

Prior to our last discussion, Mr. Mayrand, we were talking about how my contention is that if people are compelled to provide proper ID as opposed to vouching, the potential for fraud would be lessened. I think that's quite obvious. You responded by saying if we did that, then people in my riding would be turned away because they didn't have the proper ID. If you recall, sir, and I'm sure you do, in the act, it requires that the advertising that Elections Canada does is to tell people where, when, and what ID to bring in order to vote. That's why we put it in there, so people would be informed and

would bring the proper identification. I agree with you, sir, that lots of people who have been vouched for probably had the proper ID, but they just didn't know. That's all we're doing here.

My question is simply this. This was before your time, but it goes back to the 2006 election where we had an incident in northern Saskatchewan. A Conservative candidate, Jeremy Harrison, who was the incumbent at the time, was leading throughout the evening in all polls. With one poll remaining, all of the newscasts were reporting that Mr. Harrison had won the election because he was up by about 600 or 700 votes. Three and a half hours later, the last poll came in—it was a northern riding on a reserve—with a 105% voter turnout and every single ballot was in favour of the Liberal candidate. Obviously, there was a request to the commissioner to do an investigation. He came back to this committee. I remember asking him why he didn't find what seemed to me to be obvious fraud. His response was that they didn't think so because they were, first, encouraging the first nations people to get out and vote and so that 105% was a good thing since they didn't know how many people lived on the reserve to begin with; and second, it's not unusual to have 100% voting in favour of one candidate since he was well-known and a former chief in a band close by.

My concern, sir, is if the investigations come back with that kind of result, I don't know what we need to do other than what we're purporting to do in this act, give the commissioner of elections clear autonomy and independence—because he currently reports to you—and more authority to impose greater penalties and greater fines, including jail time, so that we can try to crack down on those fraudulent occurrences that we do know about.

Finally, sir, I will simply say this in response to a conversation you had with Mr. Reid, where Mr. Reid pointed out that over the last several elections there have only been eight prosecutions. That's quite true, but how many instances of fraud have occurred that have not resulted in prosecutions? The ones Mr. Reid was referring to were people who deliberately voted twice, who deliberately flouted the election law and told people about it. I just have to say, sir, that I believe there are—I wouldn't say widespread; that's an exaggeration—many more cases of fraud that we do not know about, and many of them come down to the fact that there's vouching, or poor rules, set up or at least administered by Elections Canada.

The clearest, cleanest, and most effective way to ensure that voter fraud does not occur is to make sure that people coming to a polling station have proper identification, not a VIC, but a name and address in proper form. That is the only way to ensure that voter fraud does not occur, sir. That's clearly what we're suggesting in this legislation in allowing voters to have a choice of 39 different types of documents. Only one of those 39 requires an address on it; the other two need to have names.

I've made the point before that if someone wants to bring testimony here saying they were prevented from voting because they couldn't comply with the 39 documents, I would suggest they probably weren't planning to vote in the first place.

• (1335)

**Mr. Marc Mayrand:** I think I gave you an example earlier in my opening remarks.

**Mr. Tom Lukiwski:** Yes, I recall that, sir. I think there are many examples that have not been brought forward because we don't know about them.

**Mr. Marc Mayrand:** No, I mean the people who still cannot provide proper ID, people for whom their only solution is vouching.... If we are so concerned, and let's think for a minute that we are, isn't there a responsibility for Parliament to ensure that Canadian citizens have access to proper ID and address documentation?

**Mr. Tom Lukiwski:** I agree with that. I also agree that there's a responsibility of Parliament to ensure that the sanctity of a vote is observed, and that there's no fraud.

**Mr. Marc Mayrand:** Again, I think I mentioned—

**Mr. Tom Lukiwski:** While we cannot perhaps be perfect, sir, perhaps we can put in a system that makes it the best practices. To me best practices means ensuring that proper identification is presented at the time of voting, and a VIC card is not proper identification, in my view.

• (1340)

**Mr. Marc Mayrand:** Again, for some electors that means they won't be able to vote.

**The Chair:** I've given you the two rounds here, so you're still going.

**Mr. Tom Lukiwski:** I didn't realize I had the second round. Thank you very much.

**Mr. David Christopherson:** *[Inaudible—Editor]*...I have a problem.

**Mr. Tom Lukiwski:** Thank you, again, Mr. Christopherson, for another erudite comment.

Let's talk again about compelling of documents. I'd like to know a little bit more about why you feel you need the power. Please correct me if I'm wrong, but there is a section in the act that refers to the filling out of returns by parties, candidates, is there not? I do believe that some place in the act it states that you as the CEO need to be satisfied that a party provides the information required and the information is accurate. If you are not satisfied, it is my understanding that you can withhold reimbursement right now. If that's the case and you already have that power to withhold reimbursements to parties or candidates without the need to compel documents being produced, why do you need that power? If you're not satisfied, sir, you don't have to compel documents to withhold repayment to a candidate or a party. Until you are completely satisfied you can keep that money. That's a pretty good incentive for candidates and parties to comply completely with the act.

**Mr. Marc Mayrand:** That's an interesting interpretation you're putting forward.

**Mr. Tom Lukiwski:** It's not an interpretation, sir. It's in the act, is it not?

**Mr. Marc Mayrand:** Yes.

The act is very clear for candidates that they have to produce supporting documents, but not for political parties. What I've been asking is we have a similar responsibility for political parties as for candidates and, in fact, for EDAs, the same.

**Mr. David Christopherson:** You voted for it, but you didn't put it in the bill.

**Mr. Tom Lukiwski:** Thank you, David. I didn't realize it was your turn, David.

Finally, Mr. Mayrand, let me just say this. There are over 165,000 documented cases of serious errors in the last election by your own officials. We're going to a new election in 2015 with brand new boundaries and over 30 new seats. We're talking about the integrity of the system. People obviously need to be assured that voting is conducted in a fair manner in Canada. They also have to be convinced and assured that the administration of those elections from your office is done in an efficient and accurate manner.

What do you plan to do to try to rectify over 165,000 serious errors that occurred in the last election, knowing that we are going into a new election with brand new boundaries and a set of brand new challenges?

**The Chair:** Thank you.

Mr. Lukiwski's time is up. Perhaps we can get an answer during the next round.

Mr. Bellavance, Mr. Scott has given you his round. It's great to have you here again. You have four minutes.

*[Translation]*

**Mr. André Bellavance (Richmond—Arthabaska, BQ):** Mr. Chair, I am also happy to see you and the members of the committee again.

Mr. Scott, thank you for giving me a few minutes of your speaking time.

Mr. Mayrand, thank you for your testimony. It has allowed the committee to discover the Conservatives' new obsession: rooting out fraud. Since they came to power in 2006, I have never seen them as vocal as they are right now.

We all agree that fraud is and must remain the exception and that we must minimize the risks. However, we must make voting easier for anyone eligible to vote, which is your responsibility as Chief Electoral Officer. There is no such thing as zero risk.

Some Conservative colleagues said they had received three voter cards. I am 49 years old and I have been voting like everyone else since the legal voting age of 18, and I have never received three voter cards. Also, since I have been in politics, no one has ever told me about such cases. Having to show another piece of identification will probably solve a lot of the problems caused by multiple voter cards.

I know fraud can happen, but I think the government is using those cases as an excuse to introduce a bill tailor-made for the Conservatives in the next election.

Mr. Mayrand, this bill restricts your ability to consult with the public and political parties. The information that you see as your duty to provide before and during elections is very important and relevant. The bill also limits the power of the Commissioner of Canada Elections to conduct investigations.

Today's questions are about fraud. Will limiting your powers help root out fraud in any way?

• (1345)

**Mr. Marc Mayrand:** I think I mentioned this in my opening remarks. Some aspects of the legislation are very useful and beneficial, such as the creation of new offences and new penalties. However, the bill would be much better if it also looked at the tools the commissioner needs to conduct investigations.

You can create all the offences and penalties you want. However, if investigators do not have the tools to discover the truth, they will not be able to enforce the provisions of the legislation.

That is what I am trying to point out to the committee so that it can, once again, think about allowing the commissioner, under judicial oversight, to compel witnesses to testify, not as suspects, but as individuals with relevant information in an investigation.

**Mr. André Bellavance:** My understanding is that the Conservative government's Bill C-23 is putting up barriers in the way of the commissioner of elections. They will not help you in any way to root out fraud.

**Mr. Marc Mayrand:** At any rate, they do not meet the expectations expressed by the commissioner in previous reports.

**Mr. André Bellavance:** Over the years, you and your predecessors have always made recommendations to improve the Elections Act. The political parties also participate in this exercise.

To your knowledge, have you previously heard of a government conducting an exercise like this, imposing its view of the Elections Act without you or your predecessors—

[English]

**The Chair:** Thank you, Mr. Bellavance.

[Translation]

**Mr. André Bellavance:** My time is already up? I don't often come here and I would like—

[English]

**The Chair:** Time flies when you're having fun.

If you would give a quick answer, Mr. Mayrand, and then we'll finish up and go to committee business.

**Mr. Marc Mayrand:** I think the most important aspect is that this committee conducts a full review of the legislation and provides possible amendments to the bill.

**The Chair:** That's our role.

Thank you for coming today, Mr. Mayrand. Thank you for putting up with the break for votes, and thank you for putting up with all of us today. We will allow you to go.

I'd like to spend just a couple of minutes on committee business, please, if we could. I think I can make this reasonably quick.

The witness lists that we talked about for the study, we asked for them to come in and we'll ask for them to keep coming in as you get ideas for more.

We will move on trying to put together some scheduled times. Obviously, we try to put witnesses at the table who are

complementary to each other, at least some multiples. If you'll allow, as we have in the past, the clerk and I will look at the witness lists as they come in and attempt to do that.

Mr. Christopherson, we spoke the other night that if we needed extended meetings or alternate meetings, we wouldn't hold ourselves just to the Tuesday and Thursday, 11:00 a.m. until 1:00 p.m. timeframe, and it's not my intention to do so. Based on what we have, we'll make sure that that happens.

Please, keep your lists coming in so that we can get that done. We'll also make it a habit of sending you briefs as we receive them, too, so you're getting all that information as it happens.

Mr. Christopherson, you talked about a motion. I think we can get away with doing exactly what we did today. If someone was to surrender their spot when it's wanted, then that works.

**Mr. David Christopherson:** No.

**The Chair:** Okay.

**Mr. David Christopherson:** There's a little difference. If you don't mind, Chair, I'd prefer to go through them all.

Thanks.

**The Chair:** Let's have it then.

**Mr. David Christopherson:** Mr. Chair, I move that members of Parliament, in relation to the study of Bill C-23, who are not members of a recognized party, designate a participant for the questioning of witnesses; that the routine motion with regard to the questioning of witnesses be modified for this study only in the third round in order to allow the designate member the possibility to ask questions; and that the motion, as follows, in the third round, 'For the third round, four minutes be allocated in the following order: members of Parliament who are not members of a recognized party have the first spot, second the NDP, and third, the Conservative'.

This is consistent with the process that we used when this committee studied BOIE. To the best of my knowledge, it's word for word, other than situation specific.

• (1350)

**The Chair:** The third round is a Conservative, a New Democrat, and then Conservative. Are you asking to add an independent at the start to that?

**Mr. David Christopherson:** Yes.

**The Chair:** Not eliminate one other, but add that to that spot.

**Mr. David Christopherson:** Correct. As we did with the other study.

**The Chair:** If that's what we're asking, are we all clear on the motion? Are there comments on the motion, and kind of quickly, please?

**Mr. Tom Lukiwski:** Quickly, I'm not prepared to say yea or nay yet, because this is the first time I've heard of it. I would like to deal with it immediately when we come back after the break.

**The Chair:** I'll make it the first thing for the meeting when we come back.

**Mr. David Christopherson:** Yes, I can live with that, Chair.

**The Chair:** Okay. Is there anything else from a committee business point of view?

**Mr. David Christopherson:** Very quickly, Mr. Chair, correct me if I'm wrong, but the motion that passed the other night said that we would complete clause-by-clause study on May 1, and yet my understanding is that a notice has gone out saying that we're going to start it on May 1. That leaves the impression that we're going to start and end clause-by-clause study in one day.

I'm assuming that can't possibly be true, so I'm just seeking clarification, Chair.

**The Chair:** My understanding of the motion was that we would complete it by May 1, so obviously, with some anticipation—

**Mr. David Christopherson:** But was there a notice sent out that said we would start clause-by-clause study also on May 1? This would suggest there's one day to do the whole bill.

**The Chair:** We'll live to the motion that we passed, that it would be completed by May 1, so you'll need to bear with us. We'll need to back that up as to how many days we can anticipate for clause-by-clause study, because according to the motion, it finishes on May 1, or is deemed to be completed on May 1.

**Mr. David Christopherson:** Was there a notice sent out that said we would start clause-by-clause study on May 1, or am I misunderstanding? That's all. I'm not in attack mode yet; I'm still seeking information, and I may not need to...

**The Chair:** Yes, the motion is that it starts and ends on that day. Of course we could start it earlier, but it must end on that day.

**Mr. David Christopherson:** Okay, well, we have a notice that says it starts. Maybe if I could, through you, just to see where...if we don't have a problem, I don't want to make one, but if we have one, I'm going to make a big one.

I'm asking, I guess through Mr. Lukiwski on behalf of the government, whether or not it's the government's intention that we do clause-by-clause study all in one day.

**Mr. Tom Lukiwski:** I'm not sure, David.

**Mr. David Christopherson:** Okay. Will you get back to me?

**Mr. Tom Lukiwski:** No, no, no, I'm saying that half facetiously, because I'm not sure if my credibility is sufficient for you to take my answer at face value.

**The Chair:** Now, now, now, let's—

**Mr. Tom Lukiwski:** We will get back to you.

**Mr. David Christopherson:** Well, you' have a good point.

**The Chair:** Again, the Tuesday we return we'll make sure that we clear that one up. It's my intent that it read "must be completed by" that date. So you're right. There would be some anticipation as to when it would have to start in order for that to happen.

Is there anything further on committee business? You're giving the clerk and the chair a bit of work to do starting tomorrow morning on some scheduling on this. As soon as we can, we'll share with you what we think the scheduling will look like. We'll be willing to accept some of your corrections, perhaps, if you think I've gone wrong, but this will not be an easy task to schedule this number of witnesses in that amount of time.

Mr. Scott.

**Mr. Craig Scott:** Just quickly, Mr. Chair, we appreciate the amount of work that will be going into this and we have been holding back, just trying to make sure we have as focused a list as possible, so I'm hoping we can get it to you by either the end of today or tomorrow.

**The Chair:** Well, we're going to start on it pretty early tomorrow morning, so please do whatever you can to help us. As I said, I will accept suggestions all through the study, if you think of somebody else, and we'll do our best to try to include him or her. Of course, as you all know from the past, when you submit your lists, not everybody you love loves to come here, and some are busy in other places. We'll make sure we schedule the best we can.

All right? Thank you.

We are adjourned.

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