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

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**Tuesday, October 16, 2018**

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**Chair**

**The Honourable Larry Bagnell**



## Standing Committee on Procedure and House Affairs

Tuesday, October 16, 2018

• (1535)

[English]

**The Chair (Hon. Larry Bagnell (Yukon, Lib.)):** Good afternoon. Welcome to the 125th meeting of the Standing Committee on Procedure and House Affairs.

Emmanuel Dubourg and Vance Badawey, welcome back.

Martin Shields, welcome to PROC.

In addition to the officials from the Privy Council, Jean-François Morin and Manon Paquet, we have Elections Canada officials with us on very short notice: Anne Lawson, who is the Deputy Chief Electoral Officer, Regulatory Affairs, who's been here many times during the discussions; and Trevor Knight, Senior Counsel, Legal Services.

Thank you both for being here on such short notice. It's amazing. You're always helpful here. I'm sure we'll have some technical questions for you.

In a moment, we will continue with clause-by-clause study on Bill C-76, an act to amend the Canada Elections Act and other acts and to make certain consequential amendments, but first we're going to deal with something regarding clause 331.

Mr. Nater.

**Mr. John Nater (Perth—Wellington, CPC):** Chair, I just want to advise the committee that based on the decisions we made this morning, we will be withdrawing amendments CPC-145 and CPC-189.

**The Chair:** Amendments CPC-145 and CPC-189 are withdrawn.

Ms. Lawson, just for curiosity's sake, while people are making their notes, this has nothing to do with anything we're going to debate now, but have we ever had a polling station with more than 10 polling divisions in it?

**Mr. Trevor Knight (Senior Counsel, Legal Services, Elections Canada):** It's not very common, but yes, we have.

**The Chair:** Thank you.

(On clause 191)

**The Chair:** We're going to start by having John Nater introduce one of the new Conservative clauses, reference number 10008652.

Can you explain this to us?

**Mr. John Nater:** This basically clarifies accounting procedures after the election has closed in terms of the ballot boxes.

**The Chair:** In what way?

**Mr. John Nater:** It's a housekeeping amendment.

**The Chair:** What does it do?

**Mr. John Nater:** Basically, each ballot box is closed and then you do the counting. It's just a clarification. When you have multiple polls at a single station, each box gets closed individually and carried off.

**The Chair:** Are there any comments from anyone not in the Conservative Party? I'm including the officials.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** I'm sorry I'm late. Can I get an update on which number we're on?

**The Chair:** We're on clause 191.

We've also withdrawn amendments CPC-145 and CPC-189 because of decisions we made this morning.

**Mr. Nathan Cullen:** Okay, CPC-189 is much further down the list. I'm following now.

**The Chair:** Do the officials have any comment on this proposed amendment?

Mr. Nater, while people are thinking, do you want to say again what this amendment does that's not done already in the act?

**Mr. John Nater:** Sure. Basically, when you have multiple ballot boxes or multiple stations at a single location, it just clarifies "Immediately after the close of a polling station", in respect of "each ballot box". It's just clarified in that measure. On page 100, line 16, of the actual bill, we're adding that in.

Currently it says:

Immediately after the close of a polling station, an election officer who is assigned to the polling station shall count the votes

We're just saying, at the close of "each ballot box".

**The Chair:** This is a technical amendment, so Elections Canada, feel free to make any comments.

**Mr. Nathan Cullen:** Chair, this is through you to Elections Canada.

First of all, thank you for making yourselves available. Some of these are, obviously, policy debates that we're dealing with as a committee, which we're not asking you or the Privy Council officials to weigh in on. Some of them are just logistical questions. Many of us have been involved in many elections, but not on your side of things, managing the election.

My question on this one, in terms of what John has suggested, is about the practical ability to do what's being proposed under this amendment. Again, I'm not passing judgment as to its merit but its functionality.

Do you understand what's being proposed, and if so, is it practical?

Maybe Mr. Morin wants to comment as well.

**Mr. Jean-François Morin (Senior Policy Advisor, Privy Council Office):** I have a question for Mr. Nater.

I'm sorry. I know it's not usual for witnesses to ask questions.

**The Chair:** Go ahead. He needs the practice.

**Some hon. members:** Oh, oh!

**Mr. Jean-François Morin:** I need a clarification on the amendment.

Am I correct in understanding that the effect of this amendment would be to require that, in the absence of candidates or representatives, at least two electors attend each ballot box?

**Mr. John Nater:** No, that's the next one, amendment CPC-69.

Why don't I read what it says in the bill now and what is being proposed?

**The Chair:** Yes, go ahead.

**Mr. John Nater:** Currently, the bill says:

283(1) Immediately after the close of a polling station, an election officer who is assigned to the polling station shall count the votes in the presence of

We're proposing that it read:

283(1) Immediately after the close of a polling station, in respect of each ballot box established at the polling station, an election officer who is assigned to the polling station shall count the votes in the presence of

We are just clarifying that where there is a polling location with multiple polls, each box shall—

**The Chair:** Mr. Morin.

**Mr. Jean-François Morin:** Thank you, Mr. Nater. I understand that, but at proposed paragraph 283(1)(b) in this proposed section in the bill, there is the part you are proposing to change, which adds “in respect of each ballot box”. Then we go to proposed paragraph (b), which currently says:

(b) any candidates or their representatives who are present or, if no candidates or representatives are present, at least two electors.

Is it, then, your understanding that at least two electors, in the absence of candidates or representatives, would need to attend the counting of the votes for each ballot box in a polling station?

• (1540)

**Mr. John Nater:** What we're saying is that there would be two witnesses for each ballot box rather than for each location. The first part comes into play as well, but in the top part we're just clarifying that it's “each ballot box”, and then (a) and (b) would apply to that.

That's as clear as mud.

**Mr. Jean-François Morin:** Thank you.

Unless I'm contradicted by my colleagues here, within the modernization of the voting initiative proposed by the Chief Electoral Officer, this would include an additional burden of finding at least two electors to stay for the entirety of the counting of the votes. This is just a practical comment on the effect of this amendment.

**The Chair:** Does Elections Canada want to chime in on that?

**Ms. Anne Lawson (Deputy Chief Electoral Officer, Regulatory Affairs, Elections Canada):** Thank you, Mr. Chair. We're very happy to be here today, and we're always responsive to your request to appear before this committee.

I will say, however, that not having expected to be here for clause-by-clause, we have not had a chance to review all of these amendments. We're looking at them as we're here and are trying to understand them and react.

I'm still not sure that I fully understand the import of this amendment. It doesn't strike us off the top as being a problem, in the sense that we are obviously going to count all of the ballot boxes at the polling station regardless. I'm not sure whether this is meant to add a burden or whether it is just to clarify that each ballot box needs to be properly counted.

**Mr. Nathan Cullen:** Having the presence of two electors is what's being proposed. Is there a circumstance in which ballots can be counted without a representative from the parties or an elector present? Could it be just Elections Canada's officials alone?

**Ms. Anne Lawson:** It could not be, currently.

**Mr. Nathan Cullen:** So that scenario doesn't happen?

**Mr. Jean-François Morin:** Correct me if I'm wrong, as I'm saying this from memory, but I think this was a change brought by Bill C-23. Prior to Bill C-23, there was a maximum of two electors who could attend the vote in the absence of representatives, but we'd have to confirm that.

**Mr. Nathan Cullen:** I wonder whether we can circle back to this one, to allow Elections Canada some time to go through it. Would that be helpful? Is it consequential, Chair? I know we sometimes pause amendments to give witnesses a moment to collect thoughts.

**The Chair:** Is it okay with the committee?

**Mr. Nathan Cullen:** It is unless there is a sequence that puts us off.

**Mrs. Stephanie Kusie (Calgary Midnapore, CPC):** Yes, I think it's fine. I don't think it's consequential.

**Mr. John Nater:** The next amendment we'd have to hold off on as well, then, because they tie together.

**Mr. Nathan Cullen:** Is that CPC-71?

**The Chair:** Is it amendment CPC-69?

We did CPC-69.

We'll stand down clause 191 with all of its amendments. We'll come back to the clause later.

Is that okay with the committee?

**Mr. David de Burgh Graham (Laurentides—Labelle, Lib.):** Just don't forget.

**The Chair:** We'll try to do it at the end of the meeting today.

(Clause 191 allowed to stand)

**The Chair:** Okay, we have new clause 191.1, which is CPC-72.

The vote on CPC-72 applies to CPC-73, which is on page 129 and CPC-75, on page 130, and CPC-78, on page 135, as they are linked by the concept of the ballot reconciliation report.

Can I have the introduction of CPC-72? It's on page 125.

• (1545)

**Mr. John Nater:** Mr. Chair, this goes along with the reconciliation report when you're having multiple ballot boxes at a single polling station. In the traditional past each ballot box has been its own polling station and now we're going to have multiple ballot boxes at a single location. This is providing a reconciliation report for each of those locations.

**The Chair:** Officials, this is one you've had.

**Mr. Nathan Cullen:** This is a scenario in which we have multiple ballot boxes within one polling place. We're now calling it "polling place". You want a reconciliation of the entire polling place done at the end of each voting day, where traditionally it was just each individual polling....

**The Chair:** Okay.

In the past, let's say, we had five lineups. They'd each have their ballot box and you could only vote at your lineup. Now you can have five lineups but people can vote at any of them. You could still have five ballot boxes.

This amendment does what to that?

**Mr. John Nater:** It's a reconciliation for it, so that the number of ballots that are present in the boxes reconciles with the number of ballots that are issued for each poll.

**The Chair:** Okay. I understand—

**Mr. John Nater:** It's a multiple-table situation.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** Does the CEO not already have discretion to figure out how to do this without having it so prescriptively assigned to him?

**Mr. John Nater:** We want to ensure that there is a reconciliation report that is provided to parties. I think this information is important.

**Mr. David de Burgh Graham:** Can the CEO collect information, though?

**The Chair:** Mr. Morin.

**Mr. Jean-François Morin:** Under section 283 of the Canada Elections Act currently, the deputy returning officer shall establish the statement of the vote on the form that is prescribed by the chief electoral officer. Bill C-76 would remove the mention of the "deputy returning officer" and would change it to "election officer", as we've discussed on a few occasions.

The statement of the vote needs to say how many ballots were received at the beginning of the day, how many unused ballots are

remaining at the end of the day, and how many electors voted. Eventually, the results are reported on the statement of the vote.

As I mentioned yesterday, the Chief Electoral Officer still has a requirement under section 533, I think, of the Canada Elections Act, to report the results of the vote by polling division. This is one of the reasons that election officers will have to write the polling division number at the back of the ballot when each elector votes. Under his power to prescribe forms, the chief electoral officer will likely prescribe a form for the statement of the vote that will allow the votes for each ballot box for each polling division to be recorded. Then these numbers will be amalgamated also for the polling station.

In the end, remember that the chief electoral officer always has to report results by polling division, so results will always be available by polling division. Even if the ballots for a single polling division are deposited in, for example, 10 different ballot boxes at a polling station, these results will be combined at the end of the polling day to make sure that the results are available for each polling division.

Was that clear?

**The Chair:** Trevor or Anne, did you want to add anything?

**Ms. Anne Lawson:** No. What was just described is absolutely correct. The statement of the vote provides the reconciliation currently and it will continue to do that under any new system. Even if we're having several polling divisions at the polling station, the statement of the vote is what provides that reconciliation at the end of the day. As my colleague said, the vote would continue to be reported by the PD, the polling division, as required under the law.

**The Chair:** Mr. Nater.

**Mr. John Nater:** Where in Bill C-76 is that guaranteed?

**Mr. Jean-François Morin:** It's actually in the Canada Elections Act itself. It's not in the bill. It's a provision that is not being affected by the bill.

**Ms. Anne Lawson:** The statement of the vote is in the bill, in regard to section 287.

**Mr. Jean-François Morin:** I mean the requirement to publish the results by polling division.

• (1550)

**Mr. John Nater:** It's counted by polling division. What we're looking for here is the reconciliation by polling division.

I'm curious, perhaps through Elections Canada, what assurances Parliament can be provided that with this vote, at any table model, there will be a reconciliation of the votes cast with the ballots issued. What assurances can we be provided of that?

**Mr. Trevor Knight:** The statement of the vote will require a reconciliation for the entire polling station, so the entire school gym. To feed into that, there would need to be documentation to ensure from each count that there is a reconciliation. That isn't provided in itself, but the statement of the vote is there for the purposes of reconciling for the whole polling station.

**Mr. Nathan Cullen:** The question sounds as though this is maybe additive in terms of more accounting and clarity. What we don't want to do is make things so burdensome as to affect the process of counting, reconciling and then announcing voting at any point.

**The Chair:** It sounded as though you said to me it's already done. This doesn't add anything.

**Mr. Nathan Cullen:** I think it is at a broader level.

**Mrs. Stephanie Kusie:** Yes, it's at a broader level.

**Mr. Nathan Cullen:** What I'm hearing John suggest is that it's also reconciled at a more narrow level. Is that right?

**Mr. John Nater:** Exactly.

**Mr. Nathan Cullen:** Then does that become overly onerous for Elections Canada simply to be able to count, reconcile and then produce daily results?

**Ms. Anne Lawson:** I'm not sure how to answer that question exactly. We're talking about the future, so we don't have forms developed at the moment. There's no question that these prescribed forms will be developed to enable what you're describing, which Trevor described, which is a proper count that's reconciled at the polling station level with the granularity that comes from having all of the ballots with their individual polling division numbers on them. As Jean-François said, that granularity will allow for the reporting by the polling division level.

The act provides a framework for that to happen necessarily, in and of itself. There's a certain amount of flexibility allowed for the Chief Electoral Officer to determine how that happens, but that's true in many other places in the act where the CEO is asked to prescribe forms to enable certain things to happen.

**The Chair:** Let's vote on new clause 191.1, which is amendment CPC-72. That also applies to CPC-73, CPC-75 and CPC-78.

(Amendment negated [*See Minutes of Proceedings*])

(On clause 192)

**The Chair:** We will go to clause 192 and amendment LIB-22, which was sequentially already passed. Wait a minute. No.

Sorry. We will go on to discuss LIB-22.

Mr. Graham.

**Mr. David de Burgh Graham:** This is a simple amendment to make sure that if a ballot does not have the poll number on the back, it is not rejected on that basis alone. That's a sensible amendment. It would be a tragedy to lose a vote for that.

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

(Clause 192 as amended agreed to on division)

(On clause 193)

**The Chair:** We go to amendment CPC-73.

Stephanie.

**Mr. John Nater:** We've already done that one.

**Mrs. Stephanie Kusie:** That's right. We did. This is consequential to CPC-72.

**The Chair:** It was defeated.

(Clause 193 agreed to on division)

(On clause 194)

**The Chair:** There was an amendment, CPC-74, but it was consequential to CPC-71. If we're standing clause 191, we will stand this clause too.

**Mrs. Stephanie Kusie:** Yes.

**The Chair:** We're going to stand this clause because it's consequential to the other clause we stood down. We need to do the other clause before we can do this clause.

**Mr. David de Burgh Graham:** Are there others that this affects too?

**Mrs. Stephanie Kusie:** Seventy-nine.

**The Chair:** Okay, so we'll skip that for a little while but come back to it later this afternoon.

(Clause 194 allowed to stand)

(On clause 195)

**The Chair:** Amendment CPC-75 was consequential to CPC-72, which was defeated, so that doesn't pass.

Does clause 195 carry as presented?

• (1555)

**Mrs. Stephanie Kusie:** Clause 195 is agreed to on division, and clause 196 can carry with us.

(Clause 195 agreed to on division)

(Clause 196 agreed to)

(On clause 197)

**The Chair:** We have amendment CPC-75.1.

**Mr. John Nater:** Chair, that clause talks about the early counting of advance ballots. We just put a minimum number of votes required to allow that to happen. I know in the last election that happened from time to time, the reason being there was a large turnout for advance voting. This just provides a number to go with that and then there are the other provisions it's applied to. I believe there are four provisions.

**The Chair:** Are you saying they can count before the poll is closed—

**Mr. John Nater:** Yes, including—

**The Chair:** —if there are more than 500 votes?

**Mr. John Nater:** Yes.

**The Chair:** Whereas before, the authority there was to count before the poll closed, but there wasn't a number? Is that—

**Mr. John Nater:** I believe so.

Perhaps our Elections Canada officials can speak to this.

**The Chair:** Okay.

**Mr. John Nater:** There was an adaptation of the act to allow this to happen in the most recent election. I believe the number that was based on was 500. Perhaps Elections Canada could help us with that.

**Ms. Anne Lawson:** I myself was trying to remember the number, and unfortunately I don't have the adaptation in front of me, so I can't answer this specific question. I don't think we'd take any position on the policy around this issue.

**The Chair:** Right now, the Chief Electoral Officer can start counting at the advance poll, but there's no number to prescribe when he could start. This would prescribe when they could start, basically.

Mr. Morin.

**Mr. Jean-François Morin:** Actually, the act doesn't allow for it currently. The Chief Electoral Officer used his power under section 17 of the Canada Elections Act to adapt the act for the last general election.

Bill C-76 would make it an official rule that the counting of the vote for advance polling can begin one hour before the close of polling on polling day. Traditionally, when this power has been used, it has been when a large number of ballots were cast at the advance polls. I think that one of the rationales for this was that when the results of the votes are made public on election night, often the results for the advance polling stations come out very late because the vote was longer and the number of votes was much higher.

That being said, on page 104 of the bill, in lines 17 to 19 in English, the returning officer can only count the vote at an advance polling station if he "has obtained the Chief Electoral Officer's prior approval" for doing so.

This is an authorization by the Chief Electoral Officer, and the counting is done in accordance with the Chief Electoral Officer's instructions, so this gives flexibility to the Chief Electoral Officer to determine which advance polling stations should see the counting of the vote begin in advance of closing.

**The Chair:** So the present situation is that the Chief Electoral Officer can decide when to allow advance polling up to an hour before. This amendment says he can't do it until there are 500 votes cast.

**Mr. Jean-François Morin:** Exactly. This amendment would restrict it to cases where the number of votes cast is at least 500.

**The Chair:** Mr. Nater.

**Mr. John Nater:** My esteemed colleague behind me, Mr. Church, provided me the adaptation from Elections Canada from the last election.

Subsection 289(4) states:

Despite subsection (3), where more than 500 votes have been cast at an advance polling station, the returning officer may authorize the count of the votes cast at the advance poll to begin 2 hours before the close of the polling stations on polling day.

This amendment is consistent with Elections Canada's adaptation from the last election, in terms of the 500 number.

•(1600)

**The Chair:** Is that what they did with their discretion at the last election?

**Mr. John Nater:** That was the adaptation, yes.

**The Chair:** Mr. Bittle.

**Mr. Chris Bittle (St. Catharines, Lib.):** I don't understand why we're interfering in the discretion of the Chief Electoral Officer. It seems redundant.

**The Chair:** Mr. Nater.

**Mr. John Nater:** I wouldn't say it's interfering. It's making it consistent with his adaptation in the last election. Consistency is always a strong point when you're dealing with elections. You want predictability.

**The Chair:** Is there any further discussion?

(Amendment negatived [*See Minutes of Proceedings*])

**The Chair:** Could the Conservatives introduce their amendment CPC-76, please.

**Mr. John Nater:** This is consistent with the previous amendments that we stood down. It talks about the number of witnesses to observe the count.

This replaces proposed paragraph 289(4)(d), talking about those advance ballots being counted prior to the polls closing. This is similar to the amendment we stood down a few minutes ago, about having the presence of at least two witnesses to observe the count.

**The Chair:** This basically says, then, that there have to be at least two witnesses at every ballot box that's counted.

**Mr. Nathan Cullen:** It's the same as before.

**The Chair:** What did we do before?

**Mr. Nathan Cullen:** We stood it down.

**The Chair:** We didn't get to it?

**Mr. Nathan Cullen:** Yes, we were waiting to hear how onerous this would be. We were giving Elections Canada a little bit of time.

**Mr. John Nater:** Mr. Chair, it wouldn't make sense for us to move forward with this amendment if we didn't move.... We wouldn't want a different procedure for these counts versus counts that would occur on election day. Perhaps, then, if it's okay with the committee, we'll come back to this one as well.

**The Chair:** Yes, we'll stand down this whole clause, with the exception of the amendment we've defeated.

(Clause 197 allowed to stand)

(On clause 198)

**The Chair:** We have amendment LIB-23, which may be presented.

**Mr. David de Burgh Graham:** The actual amendment looks simple, but it allows Elections Canada to send bingo sheets to the parties and candidates within six months of the election, which is useful data to have electronically, I think. When I was a staffer I had contracts to enter bingo sheets, and it took a hell of a long time as a campaign staffer. I think it's useful to have them electronically.

**The Chair:** It allows what, then?

**Mr. Nathan Cullen:** It allows automatic transfers.

**Mr. David de Burgh Graham:** Instead of having to go and get the boxes at Elections Canada two weeks after the election and then spend your weekends entering bingo sheets manually, it would have that information sent to all the parties and candidates.

**Mr. Nathan Cullen:** It makes sense.

**The Chair:** Is there any other discussion?

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

**The Chair:** There was an amendment CPC-78, but it was consequential to amendment CPC-72.

(Clause 198 as amended agreed to)

(Clauses 199 to 204 inclusive agreed to)

(On clause 205)

**The Chair:** There is proposed amendment CPC-79. We're going to stand it down, because it's linked to the other three that we stood down already. We'll come back to it.

(Clause 205 allowed to stand)

(On clause 206)

**The Chair:** We're going to discuss amendment LIB-24.

There are some ramifications here. The vote on LIB-24 also applies to amendments LIB-25 on page 139, LIB-43 on page 269, and LIB-59 on page 316, as they are linked together by the definition of "online platforms".

**Mr. Nathan Cullen:** It's just adding a definition clause into the act to be able to know what social media advertising is. It's pretty flat.

•(1605)

**The Chair:** Are you introducing the clause for the Liberals?

**Mr. Nathan Cullen:** No. I'm giving pre-emptive commentary.

**The Chair:** Ruby.

**Ms. Ruby Sahota (Brampton North, Lib.):** I guess Mr. Cullen doesn't find the amendment very exciting, but it's very necessary.

**Mr. Nathan Cullen:** It's electrifying.

**Ms. Ruby Sahota:** It's very necessary. I am defining "online platform" in the act, so that we know, going forward with the other sections, how it's defined.

**The Chair:** Is there any further discussion?

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

(Clause 206 as amended agreed to)

**The Chair:** There's a new clause 206.1 proposed in amendment NDP-17. You should know that the vote on this also will be applied to amendments NDP-18, NDP-20, and NDP-25.

Perhaps Mr. Cullen could describe what this amendment does.

**Mr. Nathan Cullen:** This is one hell of an amendment, Mr. Chair.

**The Chair:** It's bringing some excitement.

**Mr. Nathan Cullen:** Yes, let's liven this one up.

This is the proposed section that we heard about from multiple witnesses concerning the rules that apply for the so-called traditional media when someone, a third party or a political party, takes out an ad, requiring them to identify themselves. Social media have not had these rules applied to them in previous elections, and the application has been inconsistent.

Particularly, the threat to our elections is that people are able to propagate either vote enhancement ads—trying to get someone on an issue or a candidate voting for something—or suppression ads, which we saw actually much more of in the Brexit example, in which people were able to push voters against an idea or voting a certain way, all the while not identifying themselves and identifying who paid for the ad.

It's fundamental to our democracy that when someone pays for ad space—and there are some deep resources on some of these issues among some of these parties—they should simply identify themselves. This does this in the clearest way we could find.

As you noted, Mr. Chair, the application of this goes to other aspects, because it affects other parts of advertising: the pre-election advertising, which is taken care of in amendment NDP-18; and third party advertising, which is in amendment NDP-20, doing the exact same thing: having to identify yourself.

There are other amendments coming, I think Liberal amendments, concerning a repository of ads, so that the social media companies have to keep the ads on hand for some period of time.

**The Chair:** You're saying basically that if someone advertises in a newspaper, they have to say who they are, but if they advertise on Facebook, they don't have to.

**Mr. Nathan Cullen:** Yes. If the Liberal Party takes out an ad saying "we're wonderful", paid for by them, as you well know, or if a registered third party advertiser takes out an ad on the radio, they, too, have to identify themselves. The traditional media, from my understanding—I could be wrong—have to keep a repository of the those ads, which can be then sought back.

The effects of these things are not always identified by voters immediately. If they think there is a problem or something suspicious, it's often even after the election has happened, and you have to be able to go back to this.

I don't believe any of these sections creates such a repository, but I think it is coming.

**The Chair:** Could I get comments from Elections Canada or the PCO?

**Mr. Jean-François Morin:** Section 320 of the act, which is not open in the bill, is the one being considered by the amendment now before us. Section 320 already requires that the candidate or registered party publishing election advertising insert a mention that the message has been authorized.

To the extent possible, the Canada Elections Act and the bill before us have been drafted with the idea of technological neutrality. We try as much as possible not to identify different media of communication, because we want the rules to be applicable as broadly as possible.

When he testified before you just a few weeks ago, Mr. Cullen, you asked the Chief Electoral Officer a question regarding the application of section 320. You asked him whether it was already applicable to the Internet. My understanding is that he said yes.

The risk, when we start to identify various media in the act, is that doing so will raise questions about the applicability of the rule to other forms of communication.



•(1610)

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** Yes, but we're not going to identify people standing on roofs and yelling as another form of communication.

We just went through and identified what social media is within the act. It seemed.... I understand what you're saying, and I don't recall that testimony being that clear, but I'll refer back to it in terms of the Chief Electoral Officer saying that definitely. It seemed to me that much of the testimony we received was that there were in fact two standards; that's why we just went through and defined what a social media platform is.

If all this does is alert the social media, especially not the very largest ones.... I think Facebook, Twitter and those ones already have policies in hand and are preparing them for the next election; they've told us such. But I think some of the smaller ones, maybe less known.... Also, we have triggers that are in amendments that are coming. Myspace I think really needs to get their game going—

**Some hon. members:** Oh, oh!

**Mr. Nathan Cullen:** —because they're losing share.

I don't see a harm in naming this, particularly to alert those new forms of media, which an increasing number of Canadians get much of their media consumption from these days.

**The Chair:** We have a big list, but before I go to it, you're basically saying that all the advertising, no matter where they do it, is covered, and you want to alert social media especially.

Mr. Nater.

**Mr. John Nater:** Chair, I'm inclined to support it. Perhaps Elections Canada could provide us an interpretation.

A Facebook post or a tweet that's not boosted or is not promoted with dollar figures is simply a Facebook post that I or someone on my campaign team puts out and wouldn't be captured under this. This would just be paid advertising.

**Ms. Anne Lawson:** That's correct.

**Mr. John Nater:** Okay. If I send out a tweet, I don't have to use my precious characters to say “authorized by the official agent for John Nater”. That's my only concern, and I think that's good.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** I actually forget....

**The Chair:** Okay. We'll go to Ms. Sahota first and then to Mr. Graham.

**Ms. Ruby Sahota:** I have a question for Mr. Cullen.

In the amendment, you're requiring political parties to be clear and to label their advertising as having been done by them.

**Mr. Nathan Cullen:** That's right.

**Ms. Ruby Sahota:** You're saying in the specification that you want to alert social media to this. Is that why you want to do this?

**Mr. Nathan Cullen:** This would be so that social media doesn't accept ads that.... It goes on through NDP-17, NDP-18 and NDP-20 to capture the full range of who would be buying ads. It's that a social media platform.... Again, the large ones I'm actually not as

preoccupied by; I think they have entire legal departments. It's the smaller ones. If the smaller ones accept money to boost an ad and to place an ad on social media that's going to pop up on a news aggregator—if National Newswatch suddenly has ads popping up—and if they don't seek identification of who paid for the ad, they're in violation of the act itself.

This one covers off parties. The next one does third parties in the pre-election. The third one does third parties in the general election. It's just trying to let people know, because we've seen some variance on this—and that's a kind word for it—especially on third party advertising when they're using social media to boost.

What we've heard from witnesses is that there is the ability to use the algorithms to hyper-target voters, and the effect of those ads is much greater than what was taken out in the Toronto Star 20 years ago and said that so-and-so was a great candidate. These are extremely hyper-targeted AI ads that get right into the heart and mind of a voter on the issues they're motivated by. They're powerful. I guess that's what we heard through testimony. This is about identifying when that ad comes to a voter why it's coming to them and who paid for it. I think it's very important for that to come across.

**Ms. Ruby Sahota:** My amendment LIB-25 also deals with creating a regime where there would be a reporting requirement for these platforms so that the platforms will then be aware and the public will also be aware that certain parties are advertising on certain platforms, and how much, and what they're doing with boosting and all of those things.

I think that would probably essentially cover this, because I think what you're trying to do is that you're taking on the responsibility of the party, which already is responsible for putting that tag line on all advertising as is. Right now, they already have this obligation. There's nothing to say that this obligation doesn't exist for social media. It exists for everything, like we've just heard. Are you trying to transfer some of that obligation onto the social media platform that they're putting it on rather than on the advertiser?

•(1615)

**Mr. Nathan Cullen:** It's so that social media is simply aware if they receive any ad that doesn't come with the tag line as to who paid for it that they're part of violating the act, whether it's seen by accepting it so much or how that violation would work, who gets penalized for it—

**Ms. Ruby Sahota:** Are newspapers and other forms penalized? Are they a part of the—

**Mr. Nathan Cullen:** That's an interesting question. If the Star runs a bunch of ads that are political in nature and doesn't identify who paid for them, I'm not sure who takes the hit. Is it the newspaper or is it the person who bought the ad? I'm not sure how the law works right now. Thankfully, I haven't had any personal experience with that.

I see what you're saying. The slight difference is—because we've looked at your amendment, of course—is that you start to get into where the triggers are. I think we have to have a discussion about that.

Again, I can see some very targeted social media platforms that don't have a high number of visitations but have great effect, because they're targeting into the 25 swing ridings that parties have identified into the 25% of swing voters. Sure they get 40,000 hits that week, but the 40,000 are incredibly effective over a much larger site that is scatter shooting across the Internet.

That's a second debate that we'll get to, but this one is very particular: Identify the ad, whether it's coming from parties, third parties; pre-election period, pre-writ or writ period. If you don't, you're in violation.

Again, I actually don't know who gets hammered if that rule is broken currently.

**Ms. Ruby Sahota:** I think it's the party.

**Mr. Jean-François Morin:** It's the party.

**Mr. Nathan Cullen:** Is it the third party as well?

**Mr. Jean-François Morin:** Yes.

Well, there are other amendments we will come to regarding third party advertisement tag line requirements. But in this case, in the case of proposed new section 320, that would be the candidate or the registered party or their agents who fail to identify themselves.

**Mr. Nathan Cullen:** To finish this circle, then, the media itself, whether it's traditional media or social media, don't face a consequence for having accepted political ads without—

**Mr. Jean-François Morin:** No.

**Mr. Nathan Cullen:** Wow.

**Mr. David de Burgh Graham:** You guys remember to [*Inaudible—Editor*]

**Mr. Nathan Cullen:** Did we get to you?

**Mr. David de Burgh Graham:** You guys collectively remembered my question, so I'll give you that.

**Mr. Nathan Cullen:** We prefer mind melding here at committee.

**Mr. David de Burgh Graham:** We've been too long together, Nathan.

**Mr. Nathan Cullen:** So that's the amendment.

We tried to keep them.... I mean, we broke them into parts; yours is more coalesced. But we tried to keep it very straight in asking that the identification be clear, and clear across social media platforms, which we just defined one amendment ago.

**The Chair:** Not to comment on this particular amendment, but any time you do legislation, when it's a broad coverage and you do a

specific one, you then run the danger of giving an excuse to those who aren't in the specific—

**Mr. Nathan Cullen:** Again, I hear that, but we did just go through and define what social media platforms are. It seems like a natural extension. I'm sure someone is inventing right now, or has already invented, the next new social media thing that doesn't exist on computers and transfers directly into our minds.

However, until we are aware of it, if the elections commissioner has the broad power, great, if we identify social media.... As we heard again from witnesses, the power of these is not what we're used to when it comes to political advertising. It's just not the same animal.

**Ms. Ruby Sahota:** I know I'm beating the same drum, but what we risk are clever lawyers and those afterwards, when they're trying to defend themselves—

**Mr. Nathan Cullen:** [*Inaudible—Editor*] on social media.

**Ms. Ruby Sahota:** Yes.

You're going to have them argue that the other platforms, if they do violate...by saying, "Oh, it doesn't really matter, they're just concerned about this area." They've specifically said that you have to have a tag line for social media, but we've never defined that you have to have it for any of the other specific platforms.

That's what I think the chair is getting at. We may make it seem that this is more important than the other ones, and then violators for the other ones maybe don't get in as much trouble. So to keep it consistent—

**The Chair:** Let's hear from Mr. Morin.

**Mr. Nathan Cullen:** I'm trying to think of what these other things —

**Mr. Jean-François Morin:** For the sake of debate, I would just like to add that the definition of "online platform" that was just adopted following Ms. Sahota's amendment would not apply to this section here, because we are not using that exact expression.

With regard to the risk that I was referring to earlier, this amendment would add the following proposed text to existing section 320:

The authorization shall also be clearly visible in all election advertising messages transmitted by means of the Internet or any other digital network.

What I meant by saying that we were trying to craft the legislation in a technologically neutral way is that by saying here that this tag line should be clearly visible when it is transmitted by the Internet, it raises the issue that if we just post signs on the street, then they don't have to be clearly visible on that sign; they can be written in font 1.1, and we'll need a magnifying glass to read it. Right?

• (1620)

**Mr. Nathan Cullen:** Does that work?

**Mr. Jean-François Morin:** I'm sorry?

**Mr. Nathan Cullen:** Does that work? That's a really innovative idea.

**The Chair:** Your suggestion is that it's already covered globally, and that this could be problematic if it were....

You're not as enthusiastic about this.

**Mr. Jean-François Morin:** When we state one rule for one specific media, and when we interpret the law in the aftermath, it always raises the question that if Parliament was that specific for a specific media, well, maybe they thought the others were not important, or that a different rule would apply to other media. That's the concern I was trying to convey earlier.

**Mr. Nathan Cullen:** In terms of the definition piece, Chair, at the very end, where we seek a definition, we could simply modify this to include reference back to Ruby's definition that we just passed for social media platforms, if that's the concern. When we drafted this, we didn't have that, so it was impossible to make them sync.

I mean, I'm not going to die on this hill. If we think we're getting to something that will effectively do what we want it to do, then let's get at it. I remain a bit concerned, though. I like discretionary powers for Elections Canada, but I just don't know—no offence, present company included—if we've kept pace with the effectiveness.

Let's put it this way: The British and the Americans absolutely did not keep pace with the effectiveness of dark money and advertising on the social media platforms that had demonstrable effect on the outcomes of their most recent votes. I would be encouraged, but a little surprised, if Elections Canada were so much dramatically better than their British or American counterparts. I know we all share information. The effort here is to become more and more transparent with the messages Canadians are getting, pre-writ and writ, on what we generally refer to as social media platforms, as defined by Ruby earlier.

**The Chair:** This particular one is specifically the parties and the candidates, right?

**Mr. Nathan Cullen:** That's right, but again, the three of them hang together.

**The Chair:** Right.

Mr. Nater.

**Mr. John Nater:** Chair, I appreciate Mr. Cullen's suggestion. Perhaps we could work the definition from Ms. Sahota into this. I'd be happy with that, but I don't really want the committee to waste its time redrafting that if it's something that's not acceptable.

**Mr. Nathan Cullen:** We've had the discussion. Folks can weigh in on it, and like it or not like it. Then we can move on.

If folks are going to like it, then I would suggest kind of a weird vote where this conditionally passes and we do include the definition of social media platform that the committee just passed.

Does everyone understand what I'm suggesting?

**Ms. Ruby Sahota:** Yes: online platforms.

**Mr. Nathan Cullen:** Correct: online platforms. Thank you.

**The Chair:** Okay?

**Mr. Nathan Cullen:** Yup.

**The Chair:** Is it okay to vote on this?

**Mr. Chris Bittle:** Sure.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** That is applied to NDP-18, NDP-20 and NDP-25. That was a new clause, so that particular new clause does not exist now.

Clause 207 has no amendments.

(Clause 207 agreed to on division)

(Clause 208 agreed to)

**The Chair:** New clause 208.1 is being proposed. LIB-25 is consequential to LIB-24, which passed. New clause 208.1 has already passed because it's consequential.

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

**The Chair:** There are no amendments to clauses 209 and 210.

(Clauses 209 and 210 agreed to)

(On clause 211)

**The Chair:** There's amendment CPC-80.

If the Conservatives could explain this amendment, that would be great.

•(1625)

**Mrs. Stephanie Kusie:** Essentially, it's clarifying that multi-riding opinion polls cannot be released on election day when voting is open in any of the regions polled. I think that's fairly clear in terms of the possibility of the polls influencing voters as they go to polls within the regions that have been polled.

I just think this type of influence is something we don't want to see within our electoral system. I'll leave it at that.

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** I'm just trying to understand the scale.

Is this within an electoral riding? Is this in the neighbouring area? You refer to "geographical areas". What do you mean? Do you mean one riding over?

**Mrs. Stephanie Kusie:** I would say more than one riding.

**Mr. Nathan Cullen:** If the Scarborough polls were coming in, would you want to limit the release of Scarborough North before Scarborough East is finished and reported? All their polls are closing at the same time.

**Mr. John Nater:** It's basically any polls or any ridings where the —

**Mrs. Stephanie Kusie:** It's polls relative to the region.

**Mr. John Nater:**—surveys happen. If there was a certain poll in Scarborough South—is there a Scarborough South?—and Scarborough—Guildwood was still open, you couldn't release that poll on election day in that riding if they were surveyed from that riding, where the sample was taken from.

**The Chair:** [*Inaudible—Editor*] Nathan said on the same day, at the same time.

**Mr. John Nater:** Yes, but you couldn't release a poll.

If you had a regional poll with multiple ridings, you wouldn't be able to release that poll on election day. It's similar to how you can't release other national polls on election day.

**Mr. Nathan Cullen:** I'm sorry. I misunderstood. I thought this was a vote count of some kind.

**Mr. John Nater:** No.

**Mr. Nathan Cullen:** This is just public opinion polls.

Thank you.

**Mrs. Stephanie Kusie:** It's not a counted poll. It's an opinion poll.

**The Chair:** It's a public opinion poll.

**Mr. Nathan Cullen:** So you can't put a public opinion poll out into a region on voting day.

**Mrs. Stephanie Kusie:** That's correct.

You can't when the voting is open, not until after the region's polls have closed.

**Mr. John Nater:** Exit polls would be an example, which we don't do as much here in Canada. You wouldn't want to have an exit poll released before that riding is closed.

**Mr. Nathan Cullen:** Got it.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** In talking about surveys and polls, XKCD had a great comic about 12 years ago saying that the area code of your phone number indicated where you lived in 2006. When you're doing surveys, it can be anywhere in the country now. The numbers no longer have any geographic coordination.

Mr. Morin, what is the effect of this in real terms? It seems that it would be exceptionally difficult to figure out what's going on in this circumstance.

**Mr. Jean-François Morin:** My understanding of this motion is that really it would apply only to opinion polls for which the target population was located across provincial boundaries, between the maritime provinces and Quebec and then between British Columbia and the rest of the country, because if you look at section 128 of the Canada Elections Act.... That's the current section. It's not in the bill. It's not being amended by the bill. That's the provision that provides for hours of voting on polling day. Canada has had staggered voting times for quite a long period now. Most polling stations in the Atlantic region close at the same time, and then all polling stations from Quebec to Alberta close at the same time, and then British Columbia closes, I think, half an hour later.

I'm sorry, Mr. Chair, I don't know exactly when Yukon closes. I think Yukon closes with British Columbia.

•(1630)

**The Chair:** That's another reference to the most beautiful riding in the country.

This is basically so you can't release polls on election day that are in that area, right?

**Mrs. Stephanie Kusie:** Yes. That's how someone could potentially influence voters who had not yet voted within the region. Again, when you take away the logistics of it, I think the intent is pretty clear.

**Mr. David de Burgh Graham:** But it says from which the sample of respondents was drawn, not where it was intended to be drawn. If you called somebody in B.C., you just messed up your whole thing if you're in New Brunswick. You don't know where they're coming from. That's why I said it's an enforcement nightmare.

**Mrs. Stephanie Kusie:** Yes, but it's not fair if there's a poll in Scarborough that is released as the results for Canada, and it could potentially affect the electors in Skeena—Bulkley Valley, for example.

**The Chair:** Is there a reason you just didn't say, “no surveys allowed on election day anywhere in Canada for anything”?

**Mrs. Stephanie Kusie:** I'm not sure why we didn't. Well, surveys are used for a number of reasons, so perhaps there would be situations where surveys would be useful on election day, or I guess not in contravening the tampering of public opinion, but this is not the case here, so....

**The Chair:** Mr. Nater.

**Mr. John Nater:** It may be an interesting conundrum here, but I want to point out that, as the bill stands now on page 108 it says:

328 (1) No person shall cause to be transmitted to the public, in an electoral district on polling day before the close of all of the polling stations in that electoral district, the results of an election survey that have not previously been transmitted to the public.

When it says in here “in an electoral district”, a conundrum could be that a national survey could be released in Perth—Wellington once the polls have closed, but the polls in B.C. have not yet closed.

**Mrs. Stephanie Kusie:** That's what I just said.

**Mr. John Nater:** That's the conundrum of it as it is written right now. I'm happy to release any polls in Perth—Wellington if....

**The Chair:** Do the election officials have any comments on this?

**Mr. Trevor Knight:** No, I don't think we have any comments on this.

**Mrs. Stephanie Kusie:** Then what is not clear? It's your concern about....

**Mr. David de Burgh Graham:** Honestly, I fail to see the purpose of this in reality. I understand in theory, but in reality I see this as a pain in the butt to enforce, and it doesn't really accomplish anything. That's the short version. I appreciate what you're trying to do, but I don't really agree with it.

**The Chair:** Right now, Mr. Nater, you're saying that a national poll could be released in Perth—Wellington and then someone could transmit it to B.C.

**Mr. John Nater:** In theory, as it's written.

**Mrs. Stephanie Kusie:** In theory, that's true.

**Mr. John Nater:** With social media, it's pretty easy to transfer information.

**Mrs. Stephanie Kusie:** Yes, when you put it that way, it could be very consequential. I know Mr. Cullen is very interested in broad-sweeping, large-platform consequences, as we have seen in other locations in the world. I hear what you're saying about the enforcement, but I just think about how influential it could be for any party.

**The Chair:** Mr. Nater, if that line you read was just applied, that you couldn't put out any surveys on election day until all the polls in Canada were closed, would that close the loophole?

**Mr. John Nater:** I would say so, yes.

**The Chair:** If there is no further discussion on this particular amendment, we'll go to a vote.

•(1635)

**Mrs. Stephanie Kusie:** I want it recorded just for future fun, so if something happens where an opinion poll is released and we see broad-sweeping consequences, we can see if this ever mattered.

Thank you.

**The Chair:** Okay, and some opinion polls can't be released, as Mr. Nater outlined.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

(Clause 211 agreed to on division [*See Minutes of Proceedings*])

(Clauses 212 and 213 agreed to)

**The Chair:** Amendment CPC-81 proposes new clause 213.1.

Just so you know, the vote on this will also apply to CPC-147 on page 271 of the amendments, as they are linked by reference.

Also, if this amendment is adopted, LIB-47 cannot be moved, as CPC-147 and LIB-47 amend the same line.

Do you want to introduce this, Stephanie?

**Mrs. Stephanie Kusie:** This was apparently Professor Pal's suggestion to extend TV, radio and publication price protection rules to social media advertising.

Perhaps our witnesses could clarify the protection rules that are in place presently for TV, radio and publications. I'm assuming that they are not.... Most probably it has something to do with their being

static throughout election periods, perhaps, so that they're not inflated, and this would extend to social media as well.

**The Chair:** Mr. Nater.

**Mr. John Nater:** It's the idea that in a radio ad you can't charge a Conservative Party or a Liberal Party more or less based on which political party it is. That has to be offered at the same rate, at the lowest possible rate available, as follows:

a rate for an advertisement in a periodical publication published or distributed and made public in the period referred to in paragraph (a) that exceeds the lowest rate charged by the person for an equal amount of equivalent advertising space in the same issue of the periodical, publication or in any other issue of it that is published or distributed and made public in that period.

It has to be the same rate, the same lowest possible rate, within that publication.

**The Chair:** What are you reading from?

**Mr. John Nater:** This is from the actual Canada Elections Act, not Bill C-76. It's the Canada Elections Act for that provision. It's basically that for social media there can't be a differential pricing. It's applying to that the same rules for the lowest rates for radio and TV, so you're not going to have the phenomenon where certain entities may be getting preferable rates that aren't available to the rest.

**The Chair:** Anne?

**Ms. Anne Lawson:** I'm just nodding in agreement. That's correct.

**The Chair:** This would be a useful amendment to extend the equality to social media, basically. Is that what you're proposing, Stephanie?

**Mrs. Stephanie Kusie:** Yes. I think it's very forward thinking. Could we perhaps get some commentary from the government as to what they make of this?

**The Chair:** Mr. Bittle.

**Mr. Chris Bittle:** I don't have much in the way of commentary. I don't remember hearing much in the way of evidence on this. Are there differential rates? Have we talked with the social media companies about this? Is it enforceable?

•(1640)

**The Chair:** Mr. Nater.

**Mr. John Nater:** This again is from Professor Michael Pal's testimony before our committee back in June. I believe he's from the University of Ottawa. He made a recommendation similar to this and said that there should be an equivalent provision within the Elections Act dealing with social media versus the rules we have in place for radio, TV and print advertising.

**Mr. Chris Bittle:** Are there different rates, though? Can I get a rate that's different from Nathan's?

**Mr. John Nater:** Well, I think that for a lot of the issues, for anyone who's ever posted a Facebook ad, there are different rates depending on how you boost and what your geographical area is. If you have someone boosting in certain areas, it's going to be different from boosting in other areas.

It's an equivalent rate, so that you're not going to be charged more based on any arbitrary factors.

**The Chair:** It would still be equal for everyone. If you boost—

**Mr. John Nater:** Potentially, but—

**The Chair:** —differently, you get a different rate.

**Mr. Nathan Cullen:** Correct me if I'm wrong, but traditionally it was applied to newspapers and radio to not give preference to a party over another.

**Mrs. Stephanie Kusie:** Exactly.

**Mr. Nathan Cullen:** The question is, is there a similar application that needs to happen with social media? A social media company of any description could simply just like someone better and give a party preferential pricing. Am I right in that assumption? I'm thinking that none of us—

**Ms. Anne Lawson:** I'm sorry. We don't have anything to offer on that in response to that question.

**Mr. Nathan Cullen:** Okay.

**The Chair:** Mr. Bittle.

**Mr. Chris Bittle:** I think this might have been a better question when Facebook and Twitter were here, because it's the algorithm. I'm always happy to bring them back. We had fun.

**Mr. Nathan Cullen:** I'm sure they'd be happy to come back.

**Some hon. members:** Oh, oh!

**Mr. Chris Bittle:** Yes. We only threatened to summons them once—or twice, maybe.

**Mr. Nathan Cullen:** Twice.

**Mr. Chris Bittle:** I understand what it's getting to, but just in terms of its being an effective law.... For Facebook, Twitter and social media, it's an algorithm that's determining the price we pay. It's not the role in terms of the others.... You call up your ads manager, and your ads manager is your buddy, and he or she is going to give you a better rate, and that—

**Mr. Nathan Cullen:** But why not?

**Mrs. Stephanie Kusie:** You can't adjust the algorithm anytime you want.

**Mr. Nathan Cullen:** The paying I've seen is that a number of clicks-through and whatnot is the charge, but if somebody, for political reasons, said, "I'm going to charge this party half the cost for a click-through of this party", I don't know why that couldn't be done. There's nothing—

**Mrs. Stephanie Kusie:** Then why write the algorithm?

**Mr. Nathan Cullen:** Well, that's another topic.

If we're ill-equipped for this, imagine how ill-equipped we are for talking about algorithms here. We've made it illegal for The Globe and Mail to charge preferential pricing. I think there's a natural extension to say that we should make that similarly true for Twitter

—not the formula they use to charge; it's just so their formula during election and pre-writ is consistent.

**The Chair:** Mr. Nater.

**Mr. John Nater:** Chair, just to clarify for the committee, this is the testimony we heard from Professor Pal on this subject:

Second-last, on social media platforms, there is a new offence in the bill in terms of how social media platforms or advertising platforms generally should not be able to sell space to foreign entities. I think that's a very positive move. I would just draw the committee's attention to the current rules in the Elections Act that are imposed on TV broadcasters. They cannot charge more than the lowest basically available rate to any political party seeking to advertise. What this effectively means is that it gives political parties a right to have advertising time at a reasonable rate, but it also means that the same rate has to be charged to all political parties.

Political advertising is now happening to a great extent on Facebook. There is nothing in the current Elections Act or in Bill C-76 that would prevent Facebook, through what they call their "ad auction system", from charging differential rates to different political parties. The current rule for broadcasters is in the Elections Act for a reason. There's no principled reason why that shouldn't also apply to social media advertisers, which may have commercial interests at heart when they're making decisions about their algorithms.

That was a recommendation he made and I think it—

**The Chair:** Who made that recommendation?

**Mr. John Nater:** That was Professor Michael Pal from Ottawa U.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** You can ask Mr. Morin for his comment. He has his hand up anyway.

**The Chair:** Mr. Morin.

**Mr. Jean-François Morin:** Thank you, Mr. Chair. I just have a few comments.

First of all, I recognize that section 348 of the act currently provides what it does for broadcasting and published advertisement, and you are right in saying that this doesn't apply to social media. As I was explaining earlier, this is very media specific and therefore, it doesn't apply to the media that aren't included in that.

My second comment is that I'm clearly not an expert in how social platforms charge their clients for their various ads, but one thing I would like to counter is the argument that there is nothing in the Canada Elections Act that regulates how parties are charged for their media placements on online platforms. My colleague Trevor will be able to correct me if I'm wrong, because I haven't worked in this specific area for a long time, but if a specific online platform were to sell its advertisement space for a price below the commercial value of that advertisement space, that would constitute a non-monetary contribution to the political entity, which would already be illegal in the act.

In many of these cases, my understanding is that the price of media placements on online platforms varies according to a kind of auction mechanism. My understanding is also that this auction mechanism is fine, to the extent that, for example, the CPC or the Liberals are not specifically advantaged or specifically disadvantaged by the algorithm. To the extent that the same algorithm is applied to all political entities that take part in this auction, and the fact that they are a specific political entity does not have the affect of reducing the price, then I don't see specific problems in terms of political financing rules.

• (1645)

**The Chair:** Before we go back to Mr. Graham, you said if the price was lower, but if Facebook didn't like the Liberals and it charged them twice as much as everyone else, that would not be caught in the act as it now stands.

**Mr. Trevor Knight:** Yes, that's just what I was going to add. Depending always on the circumstances, there may be a contribution, and there could potentially be a contribution to multiple parties. But I think it is a different situation where it's an over-contribution and you're giving a lower price to one party. If you don't like another party and you're overcharging them, that's sort of the cost of doing business with that other party. There would be no illegal contribution there.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** Wouldn't charging the other more make it an illegal contribution to the other ones he charged the regular price?

**Mr. Trevor Knight:** The way the definition of "commercial value" is in the act, it's the lowest price charged by that provider in similar circumstances, essentially. If the provider charges parties A, B and C a low price, and then charges party D a higher price, they haven't really made a contribution to A, B and C; they've just overcharged party D. So there's no illegal contribution.

**Mr. David de Burgh Graham:** I see. As you see this amendment, is it enforceable?

**Mr. Trevor Knight:** I can't really speak to the enforcement side of the act. The commissioner of Canada elections would do the enforcement.

**The Chair:** Mr. Nater.

**Mr. John Nater:** In terms of the enforcement, there would have to be invoices from the company. Whether it's Facebook, Twitter or some other social media platform, there have to be invoices provided to those who have purchased the advertising, so there is a way to determine that.

**The Chair:** Is there any further discussion?

Mr. Nater.

**Mr. John Nater:** My esteemed colleague Mr. Church did point out that the Liberals are providing additional resources to the commissioner of elections to go out and get that information, so he would be well established to have those resources to do so.

**Mr. Nathan Cullen:** Would they include a *[Inaudible—Editor]* surcharge? Is that an option?

**Voices:** Oh, oh!

**Mr. John Nater:** That's a supplemental.

**Mr. Nathan Cullen:** Supplemental?

**The Chair:** Potential new clause 213.1 is created by CPC-81. The results of this vote will apply to CPC-147. If it passes, LIB-47 cannot be moved because it deals with the same line.

(Amendment negated [*See Minutes of Proceedings*])

(Clauses 214 to 216 inclusive agreed to)

**The Chair:** Amendment CPC-82 proposes new clause 216.1.

Stephanie.

• (1650)

**Mrs. Stephanie Kusie:** I think it's pretty straightforward. It requires the CRTC to report to Parliament on its administration of the voter contact registry after each election. If we are going to enact the voter contact registry, then we probably should have a report on the administration of the registry.

**The Chair:** Mr. Nater.

**Mr. John Nater:** As we know from this committee, everything for which the CEO is responsible he reports to Parliament and eventually to this committee. There are certain things for which the CRTC is responsible, but the CRTC is not required to report on that after an election. This would be consistent with reporting requirements of both the CEO, which are already in there, and the CRTC as well. For example, in respect of the voter contact registry, which has been an issue in the past, the CRTC would be required to report to Parliament and then eventually to this committee.

**The Chair:** Do the officials have any comments?

**Mr. Jean-François Morin:** The motion is pretty straightforward. It's really a policy decision.

**The Chair:** It's a policy as to whether we ask someone else to report the same as Elections Canada. You do confirm, however, that those people don't have to report at the moment.

**Ms. Anne Lawson:** Yes, I can confirm that, and I can also indicate that when we did the recommendations report with the previous chief electoral officer we consulted with the CRTC and presented on their behalf certain recommendations respecting these portions of the act. However, they certainly had no obligation themselves to come forward with a report.

**The Chair:** Mr. Bittle.

**Mr. Chris Bittle:** If consultation happened in the past, it's better to receive one consolidated report, keeping in mind the global aspects of the election and what happened. It seems to be cleaner, easier and better to have one report from the Chief Electoral Officer.

**The Chair:** Mr. Nater.

**Mr. John Nater:** For me, the only thing to wrap up is that there's no requirement that the CRTC report. This would have a requirement, so....

**The Chair:** We're ready to vote on CPC-82 to require the CRTC to report to Parliament, which would create a new clause 216.1.

(Amendment negated [*See Minutes of Proceedings*])

(Clauses 217 to 221 inclusive agreed to)

**The Chair:** Does anyone need a five-minute break? Maybe we'll wait a few minutes, because supper is coming at five. Maybe we can make the break long enough so that people will take a look at those four clauses we stood down. We'll come back to them right after the break.

We'll go a little bit farther.

(On clause 222)

**The Chair:** This is a complicated one. The vote on LIB-26 will apply to LIB-27 on page 149, LIB-29 on page 174, LIB-33 on page 201, LIB-37 on page 229, LIB-44 on page 272, LIB-46 on page 277, LIB-50 on page 283, LIB-56 on page 308, and LIB-59 on page 311, as they are linked together by the same new division 0.1 on the use of foreign funds by third parties.

Also, if LIB-26 is adopted, CPC-95 on page 175 and CPC-96 on page 176 cannot be moved as they amend the same line as LIB-29, which was a consequence to LIB-26.

CPC-108 on page 202 and CPC-109 on page 203 similarly cannot be moved, as they amend the same lines as LIB-33, which was also consequential to LIB-26.

Does anyone need any of that repeated? There are a lot of consequences to this vote.

Can someone present LIB-26? Mr. Graham.

•(1655)

**Mr. David de Burgh Graham:** The proposed division prevents foreign funding of partisan activities, whether during the election or not, and defines third party activity outside of the election period for the purposes of this prohibition. It's a fairly straightforward change to make.

**The Chair:** Mrs. Kusie.

**Mrs. Stephanie Kusie:** I'd like to ask the officials to imagine a hypothetical situation where a foreign entity donates \$1 million to a Canadian organization to help with its administration costs, and the organization, which has raised money to cover these costs, suddenly finds itself with an extra \$1 million available to campaign in Canada.

Would this type of foreign funding and interference remain legal with this amendment?

**Mr. Jean-François Morin:** This question is addressed by amendment LIB-27. Amendment LIB-27 defines advertising....

**The Chair:** What are the consequential motions?

**Mr. Jean-François Morin:** The two substantive provisions are found at proposed sections 349.02 and 349.03.

Proposed section 349.02 prohibits the use of funds

for a partisan activity, for advertising or for an election survey if the source of the funds is a foreign entity.

Then, proposed section 349.03 provides for anti-circumvention provisions and states:

No third party shall

- (a) circumvent, or attempt to circumvent, the prohibition under section 349.02; or
- (b) act in collusion with another person or entity for that purpose.

Of course, every question is a question of fact, and it's very difficult to assess a specific situation in the void, but the question you've raised about the commingling of money could potentially constitute an "attempt to circumvent" in cases where it is quite obvious that the money was received for this purpose and that it replaced Canadian funds that were diverted to the third party's expenses.

**Mrs. Stephanie Kusie:** However, the Liberal amendments do not address the specific logistics that would absolutely ensure this does not occur. Take the possibility of segregated bank accounts, for example, for advertising versus administrative costs. The amendments say that you shouldn't do this, that this is bad, but with the legislation as it stands the mechanisms are not in place to ensure that it will not occur.

•(1700)

**Mr. Jean-François Morin:** You're right. It's a prohibition, and there is no specific reporting requirement between election periods. However, other provisions that are included in part 17 of the act on third parties require that all contributions be reported on when the third party meets the threshold in their first financial report after that and all contributions since the day after the previous general election.

**The Chair:** Mr. Nater.

**Mr. John Nater:** I think the official touched on this. I would highlight the fact that there doesn't seem to be a clear way to distinguish between funds that have been commingled within an organization. I think that's a concerning observation.

The minister was questioned about this as to whether or not there should be a segregated bank account at all points throughout the process, so that only funds that have gone into a separate segregated bank account where that amount can be traced to a Canadian source.... The minister wasn't eager to do that.

I just throw that out as an observation again. Determining where there has been commingling of funds is not very ascertainable with the way things are here, rather than having a tangible way such as segregated bank accounts throughout the process, whereby every dollar can be traced back to Canadian sources.

**The Chair:** Mrs. Kusie.

**Mrs. Stephanie Kusie:** As well, I mentioned yesterday the absence of "disclosure at any time for any purpose". It's not present within this. Again, while we can state, "No, it's bad and you shouldn't do this", there are not the mechanisms within the bill to ensure that this does not occur. We don't believe that there are enough safeguards for Canadians and for the electoral system to absolutely ensure that these circumventions do not occur.

**The Chair:** Does this hurt that any or is this just not included?

**Mrs. Stephanie Kusie:** It's just not included. It's omitted.



**The Chair:** This doesn't hurt that any. It just doesn't go as far as you want.

**Mrs. Stephanie Kusie:** Yes, it's not far enough.... It's kind of empty, very honestly, Mr. Chair, in terms of an obligation to the Canadian people.

**The Chair:** Mr. Reid.

**Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):** I would just mention that even in Ontario's municipal election law if you want to set yourself up as a third party to participate in a municipal election in a tiny municipality of a couple of thousand people, you have to set up a separate bank account. If it's being done and it's managed right at that level, it's not clear why it's not needed to protect this here as well.

**The Chair:** Was it proposed anywhere in any of the amendments by anybody?

Is there any further discussion on this amendment? We'll break as soon as we finish this one item.

**Mr. David de Burgh Graham:** There's motivation.

**The Chair:** My understanding is that this doesn't hurt the accountability, but it doesn't go far enough in your view.

**Mrs. Stephanie Kusie:** That's correct.

**The Chair:** We'll vote on LIB-26, which is one of the amendments to clause 222.

I'm going to read the ramifications again because I made a slight inaccuracy the first time I read it. The vote on this applies to LIB-27, LIB-29, LIB-33, LIB-37, LIB-44, LIB-46, LIB-50, and LIB-56.

**Mr. David de Burgh Graham:** Bingo.

**The Chair:** It does not, as I implied earlier, apply to LIB-59 because that has already been passed.

Also, if this passes, CPC-95 and CPC-96 cannot be moved, as it amends the same line as LIB-29, and CPC-108 and CPC-109 cannot be moved because they amend the same line as LIB-33, which would be approved consequentially here.

There is a request for a recorded vote on LIB-26.

(Amendment agreed to: yeas 9 ; nays 0 [*See Minutes of Proceedings*])

**The Chair:** Just so people know what we're going to do as soon as we come back, we stood down clauses 191, 194, 197 and 205. We'll go back to them, and then we will go back to finish clause 222 because that was only the first amendment under clause 222.

We won't take a very long break because we don't want to be here late in the week.

• \_\_\_\_\_ (Pause) \_\_\_\_\_

•  
• (1720)

**The Chair:** People are having far too much fun. We have to get back to work.

(On clause 191)

**The Chair:** We're going back to clause 191, and we'll just revisit the first amendment, which is a new CPC amendment that is referenced in the top left corner as number 10008652.

Stephanie, do you want to reintroduce it so people remember what we were talking about?

**Mrs. Stephanie Kusie:** In regard to the inverted polling station and polling division relationship, Mr. Nater has a clearer understanding of this issue than I do on the specifications in regard to the amendment.

John, would you mind doing this?

**Mr. John Nater:** This relates back to the vote at any table concept, and it's basically clarifying that, when something happens, it happens at each ballot box. There are amendments that flow from that for the other sub points to that.

I talked briefly offline with Ms. Lawson. I'm not going to speak for her.

Ms. Lawson, I'll allow you to offer your observations rather than trying to speak on someone's behalf, which always gets people into trouble.

**Ms. Anne Lawson:** My understanding currently of the Bill C-76 provision that we're looking at is that it requires the count of votes to take place in the presence of candidates and their representatives or, if none of them are present, in the presence of at least two electors.

In our understanding, that would apply to the count across the polling station, meaning with respect to each box at the polling station. In our view, the existing provisions already, I think, provide what seems to be of concern, which is that the count takes place in front of witnesses. All of the counting that takes place by election officers is done in the presence of witnesses.

So I'm not sure that what is being proposed is necessary. I don't have an objection to it, either. I think it's something we can certainly work with if it's felt to be important, but in our view, already the intent of that provision is for the count to take place witnessed.

**The Chair:** Is there any further discussion?

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** Now we go to CPC-69.

Mr. Nater, do you want to present this?

**Mr. John Nater:** Following that, this is part (b). Currently it says:

any candidates or their representatives who are present or, if no candidates or representatives are present, at least two electors.

We are proposing the following:

(b) at least two candidates or their representatives who are present, at least one elector if only one candidate or representative is present or at least two electors if no candidates or representatives are present.

**The Chair:** Elections Canada or Monsieur Morin.

**Mr. Jean-François Morin:** I am just afraid there might be a drafting mistake in the motion. The list of persons who are there are the only persons who can be present during the count, so at least two candidates or their representatives who are present, then at least two electors if no candidates or representatives are present, but in the middle, there is at least one elector, but if one candidate or representative is present... Sorry, it's a logical test, but the way it is worded, it seems like that candidate or representative who is present cannot be present because....

You know, it should say, "if only one candidate or representative is present, that candidate or representative and at least one elector".

This is a technical comment on the drafting of the motion.

• (1725)

**Mrs. Stephanie Kusie:** Is it not to ensure there are two people present and not just the candidate, and that if the candidate is not there, that there...? It seems to me, from the wording, that it's to ensure that two people are there for the count.

Is that your reading of it, John? That is clearly not specified in the bill as it stands, so we are suggesting this amendment, it would seem to me.

**The Chair:** Mr. Graham and then Mr. Christopherson.

**Mr. David de Burgh Graham:** Just for reference, the largest poll in my riding is the size of Lebanon and has a population of 500. How are we going to make sure that people actually show up for that count?

**Mr. Scott Reid:** Realistically, are they all in one current poll?

**Mr. David de Burgh Graham:** A lot of them are, but the point is, if you're not allowed to count until two people show up, how are you going to compel two random people to show up at the poll for the count? You're requiring a minimum of two people, which is a weird thing to do.

**Mr. John Nater:** That's already in the act. It already requires two people.

**Mr. David de Burgh Graham:** Then why are we doing this?

**Mr. John Nater:** It's if there's only one scrutineer present, then two electors, two witnesses....

**The Chair:** Mrs. Kusie, you were going to say something.

**Mrs. Stephanie Kusie:** So is a scrutineer...a candidate is present, and then...?

**The Chair:** Sorry, could you explain again what the act says now and what the new thing would be?

**Mrs. Stephanie Kusie:** Yes. Obviously, two people need to be present. That's evident.

**The Chair:** That's there already.

**Mrs. Stephanie Kusie:** Yes. Presently who is eligible?

**Mr. Jean-François Morin:** Currently, Bill C-76 would provide that if one candidate or one representative of a candidate is present, the vote can begin in the presence of that person, but also in the presence of multiple candidates and representatives.

**Mrs. Stephanie Kusie:** Oh, I see.

**Mr. Jean-François Morin:** This would require at least two candidates or at least two representatives or at least two electors, and

then there is the little drafting issue I noticed regarding the presence of only one scrutineer or one candidate.

**Mrs. Stephanie Kusie:** It seems reasonable to me that a second witness would be required when only one candidate is represented. Are you indicating that a second witness is present at all times anyway, for all counts? Is that what you're saying?

**Mr. Jean-François Morin:** Sorry, no.

Currently, Bill C-76 requires the presence of at least one candidate or one representative, and if only one is present, then the vote can begin without the presence of other electors.

**Mrs. Stephanie Kusie:** Okay.

**The Chair:** Did you just say that one candidate alone is all that would need to be at a count to start counting?

**Mr. Jean-François Morin:** Currently, under Bill C-76, yes.

**Mrs. Stephanie Kusie:** It seems like a reasonable safeguard to me to ensure that a second witness is there.

John, did you want to add something?

**The Chair:** Mr. Nater and then Mr. Christopherson.

**Mr. John Nater:** Mr. Morin, you mentioned there could be a drafting error in the amendment. What would you propose to change to correct what you see as a flaw there? I read it one way, but I can certainly appreciate that others might come from a different direction.

**Mr. Jean-François Morin:** Maybe I can speak with the legislative clerk and come up with a written solution if you want. I just think that if there is only one candidate, you should mention that this representative should also be present in addition to the elector. That's it.

**The Chair:** Right now you could start with one person, and this amendment is suggesting you need two. Is that the guts of the amendment?

• (1730)

**Mrs. Stephanie Kusie:** Yes.

**The Chair:** Mr. Christopherson.

**Mr. David Christopherson (Hamilton Centre, NDP):** I already got looked over twice—boy oh boy.

**Some hon. members:** Oh, oh!

**Mr. David Christopherson:** You've probably answered the question, so forgive me, but I need clarity. If the language were fixed so that it made sense the way you were looking at it, are you in favour of it or not? Provide an argument.

**Mr. Jean-François Morin:** I'm only here to give technical information to the committee, of course, so I wouldn't tell you if I'm in favour of it or not.

**Mr. David Christopherson:** We'll ask Anne. Anne would help me.

**Mr. Jean-François Morin:** Those are policy discussions.

**Ms. Anne Lawson:** No, I'm not going to tell you whether I'm in favour of it or not. It's something we could administer, so we don't object to it.

**Mr. David Christopherson:** That's what I wanted to hear, whether it's a problem. Is it duplicating things? We'll do the voting. I have the hands, but I'm looking for the brains.

You're okay with it if the language is fixed and it's consistent with everything else. Is that what I'm hearing?

**Ms. Anne Lawson:** Yes.

**Mr. David Christopherson:** Thank you.

If we cleaned up the language, they would be supportive, in which case I have no reason to oppose it. We'd be in favour if it's cleaned up.

**Mr. Jean-François Morin:** Mr. Christopherson, maybe you missed that part of the meeting, but we are representatives of the Privy Council Office. They are from Elections Canada.

**Mr. David Christopherson:** Yes. I realized that there was a line there that I didn't quite see.

**Voices:** Oh, oh!

**Mr. David Christopherson:** That's why I immediately jumped over to Anne, who has a little more latitude to express opinions.

**Mr. Jean-François Morin:** So I—

**Mr. David Christopherson:** You're being very wise. I don't want to hear your opinion. I do want to hear hers.

**Mr. Jean-François Morin:** I will let Elections Canada make their comments, but we're—

**Ms. Anne Lawson:** Just to be clear, my only views are about the administration of the act, not about my personal preference in favour of an amendment or not.

**Mr. David Christopherson:** Of course.

**The Chair:** Mr. Morin, did you want to say more?

**Mr. Jean-François Morin:** I was just going to say that if the committee wants to agree to this motion, then yes, there is a mistake that would need to be corrected, but I don't have a specific view on the outcome of this motion.

**Mr. David Christopherson:** Fair enough. That's good.

Thanks, Chair.

**The Chair:** Mr. Nater.

**Mr. John Nater:** Again, I don't want to waste any more time than we have to. If the government is open to this, we'll take the time and fix that mistake. If not, let's vote it down and carry on.

**Mr. David Christopherson:** Where are you guys?

**Mr. John Nater:** Blink twice.

**A voice:** [*Inaudible—Editor*]

**Voices:** Oh, oh!

**Mr. David Christopherson:** We know you're alive. Now tell us what you're thinking.

**The Chair:** Right now there has to be one elector present to open a box. Would the effect of this amendment be that two electors would have to be present, basically?

**Mr. John Nater:** If there is one candidate present, they need a second.

**Mr. David Christopherson:** No.

**Mr. John Nater:** That's if there's only one. You always need at least two people. You couldn't have just the NDP represented there. You'd need a second elector.

**Mr. David Christopherson:** Yes, but you don't need to have two candidates.

**Mr. John Nater:** No, no.

**Mr. David Christopherson:** Okay.

**Mr. John Nater:** That's the option. You can begin the count with two candidates or two scrutineers.

**The Chair:** So the question for the government is that if you're interested, we'll amend it. If you're not, we'll just vote.

Do you want to go to the vote?

**Mr. David de Burgh Graham:** You can defeat it as amended, if you want.

**Mr. John Nater:** Let's not waste any more time.

**The Chair:** Okay. We will vote on CPC-69.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** Now we'll go to CPC-70. This is still on clause 191.

**Mrs. Stephanie Kusie:** John, would you like to speak to it?

**Mr. John Nater:** We'll withdraw this amendment.

**The Chair:** You don't need to withdraw it. You just don't present it.

**Mr. John Nater:** We won't present it.

Thank you, Chair.

**The Chair:** Okay.

Now we're on CPC-71. Just so people know the ramifications, the vote on this will also apply to CPC-74, which is on page 129, and CPC-79, which is on page 136, as they are linked by the concept of the number of votes.

Go ahead and present CPC-71, Mr. Nater.

• (1735)

**Mr. John Nater:** For this one, I would seek some clarification from Elections Canada in terms of how they will go about tallying the polling divisions with a vote at any table model, which is kind of what we're talking about in this amendment here.

Could you provide some clarity?

**Ms. Anne Lawson:** As you know, we are not proceeding at the next election with a vote at any table model. That means the finer points of issues such as what the prescribed forms will look like, or how to count the votes in that situation, haven't been determined.

What I can say is that there is no question the statement of the vote, which requires the consolidation or the full count to be recorded and reconciled, as I was saying earlier, among all of the different polling divisions, continues to apply. We will develop procedures to make sure that this reconciliation takes place.

I'm not sure if I'm answering the question.

**The Chair:** Mr. Nater, can you explain what this amendment does, in simple English?

**Mr. John Nater:** Basically, what is currently noted is to make a note on the tally sheet beside the name of the candidate for whom the vote is cast with the purpose of arriving at the total number of votes cast for each candidate. We're proposing to change it to make a note on the tally sheet in respect of each polling division assigned to the polling station beside the name of the candidate for whom....

It's going back to the multiple table vote at any table who wanted the tallies for each individual polling division that's happening at that location.

**Mr. David Christopherson:** It's not doing anything.

**Mr. John Nater:** It will for the next election. We're doing the legislation now.

**Mr. David Christopherson:** We're getting it approved, but not for this election?

**Mr. John Nater:** It will be after the next election, so let's deal with it now rather than coming back.

**Mr. David Christopherson:** I want to underscore, since I've been here from the beginning of this process, that I'm just finding out now—because my friend Nathan is the lead on this—that the idea of walking in the efficiencies....

We had a whole presentation on it a long time ago on how this was going to make it easier for voters. It was going to make it easier for Elections Canada. It was going to give us faster results. It was going to save money. If I'm wrong, I'm going to give the time to the government to tell me how I'm wrong, but my understanding is that because the government dragged its heels in getting this bill properly through the process with a strong majority government, we can't have it for this election. The best we can do is for the next one. That's better than nothing, but it does again underscore the ineptitude of the government on a file that it said was a major platform plank.

**The Chair:** Is there any more debate on CPC-71?

Mr. Bittle.

**Mr. Chris Bittle:** I would like to speak to that point.

The CEO was here and talked about the issue with respect to the procurement of poll books, which the CEO didn't feel was secure, so it was an issue related to procurement at Elections Canada.

**Mr. David Christopherson:** When did we find that out?

**Mr. Chris Bittle:** When the CEO was here last.

**Mr. David Christopherson:** Was that recently?

**Mr. Chris Bittle:** He has been here a lot.

**Mr. David de Burgh Graham:** It was last week or two weeks ago.

**Mr. David Christopherson:** My point is it doesn't change the fact how late it was in the process. I'm sure that had we given them enough lead time, they could have done something about this. This is a big deal, and it has to be emphasized that the reason this is being done the way it's being done is that the government screwed up the file.

**The Chair:** Is there further debate on CPC-71?

**Mr. John Nater:** I would like to remind the committee that it is specifying that when we're voting at the table, it's for each division within that location.

**Mr. David Christopherson:** Is that consistent with everything else that's being proposed by Elections Canada?

**Ms. Anne Lawson:** I'm sorry, I'm not sure. Was what consistent? Is it the amendment?

**Mr. David Christopherson:** Yes, the amendment.

**Ms. Anne Lawson:** The amendment provides more specificity. We were looking for flexibility in terms of figuring out exactly how we would deliver on the issue. We wanted to make sure that all the votes were properly counted and recorded appropriately by polling divisions, as well as by polling stations. As we were discussing earlier reports, the votes need to be reported at the PD level and that continues in the act.

It's also clear at a polling station that the statement of the vote needs to tally up all the votes in an effective way, indicating if there were several different boxes, and how those boxes together would makeup the full total in the polling station.

That's absolutely the way we will proceed. The very specific mechanics of how that will be done, with which forms and in which manner, we haven't yet made those decisions, because we haven't been required to for the next election. I'm sure that when we do move forward with vote at any table, the Chief Electoral Officer would be very happy to come back to this committee and explain in great detail how he's going to be proceeding with all of the different mechanics that will be necessary to put in place at that time.

● (1740)

**Mr. David Christopherson:** That makes sense. I hear what Mr. Nater is saying, but there is an argument, through you, Chair, that we have the benefit of Elections Canada thinking this through, and having a chance to get the results of this last election and then come to the committee.

Mr. Nater, I don't see the benefit to Parliament jumping ahead to a level of specificity when their thinking, Elections Canada, and they're our partners in this, that they would like the time to do that.

My first gut reaction is we're jumping ahead with a level of specificity that is not necessary and may not necessarily be helpful.

Mr. Chair, if we could do a version of the Simms protocol, perhaps Mr. Nater could respond, if you're open to that, Chair.

**The Chair:** All right.

**Mr. John Nater:** Thank you, Chair, and thank you, Mr. Christopherson.

My thinking is that when we're dealing with the act now, we can deal with some of these issues. Perhaps I pride myself with more information as well. Perhaps, Ms. Lawson, this is jumping ahead a little bit as Mr. Christopherson noted, but in envisioning the vote at any table method, when would the results from a polling division be provided?

Would that be something that's available on election night, which is what we would like to see with this amendment, or is that something we're going to see some months later when all the final reports come back to the parties?

Again, we're jumping ahead.

**Mr. David Christopherson:** Yes.

**Mr. John Nater:** Our preference would be to see that information on election night, but....

**Ms. Anne Lawson:** We're stumbling because, of course, it will be available locally. We're going to have the results as quickly as we can on election night. As to how we're going to publish them and how quickly that's going to happen, I guess you are, unfortunately, jumping a little bit ahead of where we are in terms of the mechanics and the logistics of the count.

It could be by box, if you like, or it could be by polling division. We could have layers of counting, because we may use boxes that combine votes from various polling divisions. We may count per box, then rationalize per polling division, and then rationalize per polling station. There are some sequences.

Obviously throughout, we will make sure that all of it is traceable and there's integrity connected to the count. But exactly how that's going to go, in what sequence, and when precisely we will have all the different tallies that are involved, I can't answer.

**Mr. David Christopherson:** Since I still have the floor, I'll wrap up by saying that I have great respect for Mr. Nater. He's not one to play games. But it does seem to me that common sense—

**Mrs. Stephanie Kusie:** [*Inaudible—Editor*]

**Mr. David Christopherson:** Sorry?

**Mrs. Stephanie Kusie:** That's a joke.

**Mr. David Christopherson:** —would dictate that slowing down a tad, knowing there's going to be a full report to the next Parliament, hopefully with lots of time to consider the matter.... I would be opposed to jumping ahead. I think the intent is good, but I it's too much specificity at this time. We should leave the latitude to Elections Canada to come to the next Parliament with those details, Chair.

Thank you.

**The Chair:** Is there any further debate on this amendment?

Let's go to a vote on CPC-71, which also applies to CPC-74 and CPC-79, as they are linked by the concept of number of votes.

(Amendment negated [*See Minutes of Proceedings*])

(Clause 191 agreed to on division)

**The Chair:** Now we're going to jump ahead to the next clause we skipped, which is clause 194. CPC-74 was consequential to the one we just voted down, so there are no amendments now to clause 194.

(Clause 194 agreed to)

(On clause 197)

**The Chair:** Now we'll jump ahead to clause 197.

We're starting with CPC-75.1. Do we vote on that?

**The Clerk of the Committee (Mr. Andrew Lauzon):** I think it was already defeated.

**The Chair:** The first amendment on that one was defeated.

We'll go to CPC-76. Perhaps the Conservatives could introduce that amendment.

• (1745)

**Mrs. Stephanie Kusie:** Amendment CPC-76 is to ensure a second witness for ballot counting where only one candidate is represented. Did we not just go through this?

**Mr. John Nater:** This is for a different.... I think we did this for the—

**Mrs. Stephanie Kusie:** Advance polls?

**Mr. John Nater:** —advance polls that are happening before polls have closed. It's similar to what we said earlier.

**Mrs. Stephanie Kusie:** Yes.

**Mr. John Nater:** Frankly, if it wasn't accepted for election night, we don't need to waste any more time debating this one.

**Mrs. Stephanie Kusie:** No.

**Mr. John Nater:** Let's have the vote and carry on.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** We're going on to CPC-77. This also applies to CPC-146, which you can find on page 268, as they are linked together by reference. Perhaps the Conservatives could introduce CPC-77 and explain briefly what it does.

**Mrs. Stephanie Kusie:** I think it's similar to the previous amendment that we proposed, but a lot simpler. This establishes a prohibition on sharing of advance poll results before polls close on election day, with the possibilities for influence being obvious.

**The Chair:** Is it because of the new provision to count earlier, before the polls are closed?

**Mrs. Stephanie Kusie:** That would certainly have an effect, yes.

**The Chair:** This amendment says you can't share the results. You can actually now count advance polls an hour before the polls close, so this prohibits polling stations from sharing that result with people.

**Mr. David de Burgh Graham:** Is that not always there?

**The Chair:** Mr. Morin.

**Mr. Jean-François Morin:** I would encourage you to look at page 94 of the bill, line 14, in English. There's already a prohibition related to the secrecy of the vote: "Every person present at a polling station or at the counting of the votes shall maintain the secrecy of the vote".

Then, on page 95, at line 1 in both English and French, it says, "No person shall, at the counting of the votes, attempt to obtain information or communicate information obtained at the counting as to the candidate for whom a vote is given in a particular ballot or special ballot."

The provision that talks about the secrecy of the vote is sufficient to cover this issue.

**The Chair:** Mr. Nater.

**Mr. John Nater:** Again, I believe the provisions that were cited just now apply to the marking of the ballot at the time the ballot's marked, not necessarily to the counting itself, as happens here before the polls actually close. This is a bit of an anomaly in terms of vote counting. You typically don't count votes until polls are closed. In this case, with these advance polls, you count them before a poll has closed.

The provisions cited are for when a ballot is being marked. This is for an actual counting of the vote, not secrecy.

**The Chair:** Mr. Morin, can you confirm that?

**Mr. Jean-François Morin:** There's already also another prohibition at subsection 289(3) in the bill, page 104, line 10.

**The Chair:** The part you read didn't have any limitations such as Mr. Nater just suggested, did it?

**Mr. Jean-François Morin:** Sorry. In the provision itself, which allows the counting of the vote at an advance polling station one hour before the close of the votes, there is already an obligation to make sure that the counting of the vote is done in a manner that ensures the integrity of the vote.

I would think this provision is sufficient to cover this proposal.

**The Chair:** Mr. Nater.

**Mr. John Nater:** If we agree to this, there's another amendment that it would be an offence if you were to break your confidentiality on this. Obviously, this one goes with the one that we'd vote on later.

Also, citing the previous things, if we rely only on the secrecy of the vote, where is the point at which someone is relieved of that duty of secrecy? Reading the other points you cited, conceivably it would follow that that person is now almost bound for life, whereas here it's clearly stated that once the voting is closed, then you can be relieved of that responsibility of secrecy.

Based on what was cited earlier, there is no provision for that relief of secrecy, which is obviously not the intent. Going back, you can call this redundant if you like, but a certain level of specificity is needed. When you're counting votes an hour before polls close in an electoral district, having it clearly stated that thou shalt not be releasing these numbers before polls close is important.

Then, of course, our further amendment 140-something, to make it an offence, I think is a worthwhile endeavour.

• (1750)

**The Chair:** Can you reread that very first one you read, where you said it's already protected?

**Mr. Jean-François Morin:** I'm at page 94 of the bill, subsection 281.6(1), "Every person present at a polling station or at the counting of the votes shall maintain the secrecy of the vote."

I would posit that this secrecy obligation lasts a lifetime. Of course that's not to the extent that official results have been made public. However, if an elector were able to be identified during the count of the votes, of course the person noticing that would be bound to secrecy for an extended period.

**The Chair:** He did say it includes the counting, which you had suggested earlier it didn't.

**Mr. Jean-François Morin:** Yes.

**The Chair:** Okay.

**Mr. David Christopherson:** They wouldn't be bound for life, because it's not a secret once it's made public.

**The Chair:** Are we ready to vote on this? Do people know what the issue is?

**Ms. Ruby Sahota:** I think half the stuff we've already done.

**The Chair:** We're going to vote on amendment CPC-77, and the result of this vote will also apply to CPC-146.

(Amendment negated [*See Minutes of Proceedings*])

(Clause 197 agreed to on division)

**The Chair:** We're going to jump ahead to clause 205. There was amendment CPC-79 but it was consequential to CPC-71.

(Clause 205 agreed to on division)

**The Chair:** That's good catching up.

(On clause 222)

**The Chair:** Now we will go back. I think we've done everything now. We're at clause 222. We've done the first amendment. There are two more amendments, starting with CPC-83.

Would the Conservatives introduce that amendment.

**Mr. John Nater:** This is referring to opinion polling in the pre-writ and election period. This kind of gets to the heart of the idea that if you do a poll on June 28, it will guide your work on July 2. Basically, it captures that you are paying in advance for the information you're going to be using during the writ period. This section specifically refers to public opinion polling, so it captures polls that are done immediately prior to a writ or pre-writ period, which will be used for the purposes of the writ or the pre-writ period. It captures those expenses.

**The Chair:** Are you adding something to the expenses?

**Mr. John Nater:** We are, effectively. It's including this expense within the writ and the pre-writ period.

**The Chair:** That's for a public opinion poll.

**Mr. John Nater:** That would be used during the writ and pre-writ period, yes.

**The Chair:** That's during the writ or pre-writ?

**Mr. John Nater:** Yes. That deals with both time frames.

**Mr. David Christopherson:** When you say "use", do you mean use only publicly or use internally or use in any way?

**Mr. John Nater:** I mean use it as an expense. So if your work as a political entity is being guided, it would be used for that.

• (1755)

**Mr. David Christopherson:** If I understand correctly then, you're suggesting there may be a loophole such that a day or two before the writs drop you could do a poll, and even though it was done before the writ, it's as valuable a couple of days later as it would be if you'd done it during that writ early.

**Mr. John Nater:** If you've identified—

**Mr. David Christopherson:** That seems to make good sense.

Ms. Lawson, is there any reason why we wouldn't want to go down this road?

**Ms. Anne Lawson:** I guess my only question would be that polls in preparation for either of those periods would become part of what would need to be reported. It's not entirely clear to me how we draw the line. That's just a remark.

**Mr. David Christopherson:** The concept I like. It looks like a bit of a loophole, especially for those who have more money than others. Do a nice, fresh poll the day before the writs drop and it's as valuable to you in your strategizing three or four days later as it would be if you did it the day of and used it for strategizing.

If I'm understanding correctly, this closes off a potential loophole vis-à-vis expenditures that we intend to capture during the writ period but because of the nature of the details, it would technically be outside.

If I'm understanding this right, Mr. Nater is suggesting that ought to be captured as part of an election expense since they would be using it as part of their intel in devising their strategies. It seems to me this makes good sense, that it is not partisan, and that it is a good closing of a loophole.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** Using intel as part of your strategy, I presume, also counts for many previous elections. How far back does this cover?

Mr. Morin, how do you interpret this legally in preparation for either of those periods?

**Mr. Jean-François Morin:** This is in fact the difficulty, and I think this explains why this period, during the pre-election period and entering the election period, was chosen. It's because surveys can be conducted at all times in between election periods and they are all potentially used for the preparation of the strategy towards the next election period.

The way Bill C-76 is drafted currently brought much certainty as to which election surveys would be counted or not.

**Mr. David de Burgh Graham:** As this amendment reads, how far back would it capture?

**Mr. Jean-François Morin:** It includes the day after the previous election period, potentially.

**Mr. David de Burgh Graham:** Anything that anybody spends preparing for the next election could theoretically be captured by this.

**Mr. Jean-François Morin:** Potentially.

**Mr. David de Burgh Graham:** [*Inaudible—Editor*] is preparing for the next election. That's....

**Mr. David Christopherson:** That's a good point.

**Mr. John Nater:** At the same time, all of our expenses are audited as well. There's going to be a difference between a public opinion poll authorized three days after the election versus one three days before. It falls to the auditor. As entities, we are all audited to determine and to ensure that we're properly reporting. I think the information that's garnered three days before a writ period or a pre-writ period.... It's logically going to follow that that's going to be used directly for those expenses.

**Mr. David Christopherson:** In the absence of those words, I could see David's point. You go all the way back to the beginning and I don't think anybody's suggesting that.

**Mr. Jean-François Morin:** If I may add, however, this specific provision applies to surveys conducted by third parties. It doesn't apply to political parties. During the pre-election period, only the partisan advertising expenses are being monitored for political parties, and of course, during the election period it's all election expenses. The definition of election survey is not relevant for political parties in this context. By extending the period, it would also mean that we would try to regulate third parties outside of the election and the pre-election period. As you know, third parties are everybody else but candidates and political parties, so that would potentially have a high reach on organizations that are quite active on —

• (1800)

**Mr. David de Burgh Graham:** Would Nanos' weekly tracking that they publish on an ongoing basis during the entire period fall into this?

**Mr. Jean-François Morin:** I'm sorry, I cannot answer that specific question.

**Mr. David de Burgh Graham:** I think that's the problem, that we can't answer these specific questions. It's troublesome for me.

Thank you.

**Mr. David Christopherson:** If I may speak, Chair, your point is well taken. I like the idea, but the devil is in the details and we don't even have the details. The devil's having a field day. I think it's best we not pass this.

**The Chair:** Are there any further comments?

**Mr. John Nater:** Can we have a recorded vote?

**The Chair:** Yes. We'll have a recorded vote on CPC-83.

(Amendment negatived: nays 6; yeas 3 [*See Minutes of Proceedings*])

**The Chair:** Welcome, Ms. O'Connell. I didn't even see you there. She's so quiet.

**Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.):** I blend into the chair.

**The Chair:** We'll go to amendment CPC-84.

Mr. Nater, are you going to present this?

**Mr. John Nater:** Thank you, Chair, and welcome Ms. O'Connell. It's nice to see a voting parliamentary secretary on this committee. I thought the Liberals did away with that but...

The act deals with the definition of "partisan activity". This amendment removes provincial political parties from an exemption. As the act is written, provincial political parties can engage in partisan activity in terms of hosting rallies. This amendment would take out that exemption.

**The Chair:** Are you talking about a certain period?

**Mr. John Nater:** I believe this is during the writ and pre-writ period. The way the current bill is written, an exemption is provided for what we'd consider partisan activity by provincial political parties—to host rallies on behalf of federal parties.

**The Chair:** Oh, I see. Okay.

**Mr. John Nater:** This would take out that exemption so a provincial party couldn't do that.

**The Chair:** Is there any discussion?

**Mr. John Nater:** Of course, it includes doing all the corollary stuff with that, such as making phone calls, advertising, and so on and so forth.

**The Chair:** Is everyone ready to go to the vote?

**Mr. John Nater:** I am going to ask for a recorded vote.

(Amendment negatived: nays 6; yeas 3 [*See Minutes of Proceedings*])

**The Chair:** Shall clause 222 as amended carry?

**Mr. David de Burgh Graham:** It was amended?

**The Chair:** It was amended by LIB-26.

(Clause 222 as amended agreed to on division)

(On clause 223)

**The Chair:** LIB-27 was the first amendment but that was passed as consequential to LIB-26.

It's great that we have Ms. May here, who can introduce amendment Parti vert-5.

**Ms. Elizabeth May (Saanich—Gulf Islands, GP):** Thank you.

This amendment is to amend in clause 223 one line only, with one clear purpose only. It speaks to some of the concerns explained by Professor Pal from the University of Ottawa law school when he was here, namely, that the situation has changed since the hearing of the Harper case back in 2004. His point was that between fixed election dates and the impact of social media buys, the kind of latitude required to protect freedom of speech doesn't need to be as high as \$700,000 in a pre-writ period for third party groups.

The point was that you can target more, and you can spend more directly. You know when the election is going to be. To restrict the impact of big money, my amendment would change the total amount of third party expenses from \$700,000 to \$300,000. I'm just reflecting on his testimony where he was saying that this really is a lot of money to spend in a pre-writ period. I know it's down to \$700,000, but I would hope that the committee would consider reducing it to \$300,000.

In the real world, that's a lot of money from a third party group in a pre-writ period.

• (1805)

**The Chair:** Mr. Nater.

**Mr. John Nater:** I think it is a reasonable amendment and something that we as the official opposition will be supporting. Putting it in more reasonable terms is important. We don't want to see undue influence from third parties who may be exercising that. With inflation, it actually works out to about a million bucks. A million dollars is a lot of money. Going with the more reasonable amount is something we will support.

**The Chair:** Sorry, what did you say added up to a million?

**Mr. John Nater:** In the bill it's listed at \$700,000, but it's an inflationary indexed amount from 2000, I believe—

**The Chair:** Oh, right.

**Mr. John Nater:**—and so it works out to about a million dollars in current dollars.

**The Chair:** I don't imagine the officials have any comments on a policy decision.

Mr. Bittle.

**Mr. Chris Bittle:** Mr. Chair, I sympathize and I guess I would philosophically agree, but I want to consider the potential charter issues that may arise.

We're already dealing with one charter issue—limiting the amount that a group can spend. The argument for placing a reasonable limit on that charter right becomes weaker the more we decrease that fund. So I'm concerned that lowering it too much will lead to charter issues.

**The Chair:** Mr. Cullen.



**Mr. Nathan Cullen:** [*Inaudible—Editor*] establishing money as speech, thank goodness. I don't follow that. Are you saying they're additive, that if we have a pre-election restriction on what a third party can say and spend, and if we then restrict the spending too much, those two things together make for a stronger charter challenge? I assume that's where you're saying the challenge is coming from.

**Mr. Chris Bittle:** Yes.

**Mr. Nathan Cullen:** I don't know.... Neither of us is a constitutional lawyer, but I disagree. I think if we're trying to level the playing field and have equal voices represented in the conversation. As Elizabeth said, the amount of money you have to spend to get your message out now, with the tools that are available now, is less than it was, ironically. The price of entry has dropped—

**Ms. Elizabeth May:** Yes.

**Mr. Nathan Cullen:** —in terms of influence, because you can target the voters you want rather than just having blanket ads through radio, television, or newspapers. I'm strongly supportive of this.

**The Chair:** Is there any further discussion?

We will vote on PV-5.

**Mr. John Nater:** I'd like a recorded vote.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** We're still on clause 223. We're good to go on to CPC-85. If CPC-85 is adopted, CPC-86 and PV-7 cannot be moved because they amend the same line.

Would someone introduce CPC-85.

**Mrs. Stephanie Kusie:** This is similar to the last one in that it is for third parties capturing, as a pre-election expense, any opinion poll prior to the pre-election period that is used to shape pre-election activities. This is just taking our previous amendment and attempting to apply it to third parties as well. I think we've had a theme of consistency for all players and all stakeholders, and I think that this amendment follows suit.

**The Chair:** Mr. Nater.

**Mr. John Nater:** To ensure that we can still vote on those other amendments, I propose a subamendment, that amendment CPC-85 be amended by deleting paragraphs (b) to (d).

• (1810)

**The Chair:** There's a subamendment to eliminate paragraphs (b), (c) and (d).

**Mr. John Nater:** Which would then allow us to vote on—

**The Chair:** Then it wouldn't be on the same line as the other ones, so it would allow us to then consider CPC-86.

(Subamendment agreed to)

**The Chair:** The subamendment has passed. Now, we're on what's left of the amendment, which is everything except paragraphs (b), (c) and (d).

**Mr. John Nater:** I think we've discussed this elsewhere.

**The Chair:** We already discussed this.

**Mr. David de Burgh Graham:** I object for the same reasons that I did the previous ones.

**The Chair:** Let's go for a vote on CPC-85 as amended.

(Amendment as amended negatived [*See Minutes of Proceedings*])

**The Chair:** We'll go to PV-6, which was consequential to PV-3, so we don't have to discuss that.

Then we'll go to CPC-86, which we can discuss now because of the amendment to CPC-85.

Would someone introduce the amendment.

**Mrs. Stephanie Kusie:** Essentially, this is just calling for tougher anti-collusion definitions.

I think that this is a theme we've seen from us as the opposition within the bill. While we certainly agree with the spirit of many of the components of the bill, we don't always feel confident in the—I would say, up to this point—the mechanisms but here, specifically, in the definitions. We would like to see the definition of anti-collusion established more clearly to allow for more clarity and therefore, hopefully, better enforcement.

**The Chair:** Is there further discussion on CPC-86?

Do the officials have any comments?

Mr. Cullen.

**Mr. Nathan Cullen:** I'm just trying to understand this amendment. My understanding was that it was trying to restrict third parties from sharing surveys and whatnot with other third parties and political parties. Have I got that right or wrong?

**The Chair:** Mr. Nater.

**Mr. John Nater:** Nathan, can you repeat that?

**Mr. Nathan Cullen:** Yes. I understood that this amendment, CPC-86, was trying to restrict the sharing of surveys and other information between third parties and also from third parties to political parties.

**Mr. John Nater:** Exactly. Currently as it is, it's a one-way street. Here we make it a two-way street: third parties to political parties, political parties to third parties. It kind of strengthens the....

**Mr. Nathan Cullen:** In that vein, sometimes third parties, and they might be anti-poverty groups or they might be pro-business groups. They've conducted a survey amongst their members. The Canadian Chamber of Commerce does this a lot. They share that information with us, trying to influence us, but also trying to inform us of what their members are thinking.

Would we see that as somehow anti-democratic or buying undue influence? I don't know. Of course there are examples where they don't, but generally groups try to share them as widely as possible. They're incentivized to do so. They can gather information in ways that a pollster or we, as political parties, can't. Is it not worthwhile and valuable?

**The Chair:** Is there further discussion on CPC-86?

**Mr. David de Burgh Graham:** I agree with Nathan's point.

**Ms. Ruby Sahota:** Yes. In agreement with Nathan, I think this would criminalize the usual communications between civil society and potential candidates.

**The Chair:** Mr. Nater.

**Mr. John Nater:** I just think we need to step back. This is more about circumventing spending limits. This is what we're looking at here: using third parties, including back and forth, to basically circumvent spending limits, rather than—

**Mr. Nathan Cullen:** Do you mean parties circumventing the limits?

●(1815)

**Mr. John Nater:** Parties, and it's vice-versa as well.

**Mr. Nathan Cullen:** Sort of outsourcing polling...?

**Mr. John Nater:** Outsourcing polling to third parties, and in our amendment we say vice-versa as well.

**Mr. David de Burgh Graham:** Chair, could I ask Monsieur Morin to weigh in on this? Thank you.

**The Chair:** Monsieur Morin.

**Mr. Jean-François Morin:** Mr. Chair, the provision found at subsection 349.3(1) was designed in an one-way stream for two reasons, one of them being that of course if it's only a matter of information and ideas, well, political parties are there to collect these ideas and represent a large segment of the population in their attempt to represent them. But also if we're talking more here about the provision of resources, for example, an advertising campaign that has been designed by the third party, then it would be considered a non-monetary contribution to the party and it would already be prohibited by provisions of part 18 on political financing.

**Mr. John Nater:** Chair, can I follow up on it?

**The Chair:** Yes.

**Mr. John Nater:** Just to clarify, then, if a third party were to share information with a political party and that would then shape its advertising campaign, would that be captured in the act? Is that what you're saying? The polling information that's been conducted by a third party is then shaping the advertising campaign for a political party. Would that be captured within the act?

**Mr. Jean-François Morin:** As a non-monetary contribution?

**Mr. John Nater:** As anything. Would it be considered collusion or is it...?

**Mr. Jean-François Morin:** If it's a product or service that fits the definition of a non-monetary contribution, then it would clearly be considered a non-monetary contribution. Of course only individuals can provide these contributions to registered entities, and only to the limit that is prescribed by part 18. So, yes, it would be covered.

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** I'll just make a distinction, then. Just to pick an example, the Canadian Chamber of Commerce comes to each of us, provides very expensive surveying of its members. That information then helps parties craft particular messaging, whether it's advertising or policy and platform messaging. Could that be deemed under the current provisions or these changes as a non-monetary contribution? To go out and do that surveying yourself

would be incredibly expensive, yet it also performs this public education role that civil society is trying to do.

**Mr. Jean-François Morin:** This is civil society so to the extent that they are only reaching out to various political parties in an attempt to influence the parties' policies, I think it would probably be acceptable. Elections Canada's auditors would need to look into that.

There is also a regime where political parties can ask for guidelines under the Canada Elections Act so that is clearly a question that could be clarified sometime in the future. What I was referring to was more the case of a third party that would provide a ready-to-use product or service to one specific party for the purpose of helping that specific party.

Do you have comments on the concept of non-monetary contributions?

**Ms. Anne Lawson:** No.

**Mr. Trevor Knight:** I guess it would depend on the facts. The obvious case would be a survey that a polling company normally would sell being given to a political party. That would clearly be a non-monetary contribution.

**Mr. Nathan Cullen:** That happens, doesn't it?

No, but it's available to all parties. An environmental group comes forward and they've hired Ipsos or someone to go out and survey feelings on climate change. That survey is then made available to all parties, or maybe not all parties but some, which then influences the way.... We're dealing with this act, but we're now just asking about the way things happen. Focus group work, messaging, all of that stuff, it's not hidden. This is a thing that happens quite frequently.

Would you deem that to be a non-monetary contribution?

**Mr. Trevor Knight:** Under the current act, if a good or a service is provided to a party for less than its commercial value, you have to ask if it's free, but if it's free to everyone, then it's not a contribution.

●(1820)

**Mr. Nathan Cullen:** So that's the way third parties get around this. They have to make it available to everybody, a service like a polling or a bit of research.

**Mr. Trevor Knight:** Yes.

**Mr. Nathan Cullen:** Okay. That's curious.

**The Chair:** Okay.

**Mr. Jean-François Morin:** —or they can just make the information public.

**Ms. Anne Lawson:** Exactly.

**Mr. Jean-François Morin:** A typical case is a third party that would want to influence parties. They could have a web page that is focused on a particular issue and include a lot of data, including survey data.

**Mr. Nathan Cullen:** Yes.

**Mr. Jean-François Morin:** That would be completely acceptable.

**Mr. Nathan Cullen:** —as long as it's either shared with all parties or shared publicly.

But if a third party were to say they were only providing this to you, for whatever reasons, then they'd trigger the non-monetary contribution.

**The Chair:** Mr. Nater.

**Mr. John Nater:** I just want to step back and look back to the collusion element in this amendment. What we're really talking about is using third parties to get around some spending limits.

A group like Canada 2020, for example, which conducts—

**Mr. Nathan Cullen:** [*Inaudible—Editor*]

**Mr. John Nater:** If they conduct extensive public opinion surveys, which are again extremely valuable, and are able to get around the pre-writ spending, would something like that be captured in this amendment, or in the bill as it sits?

Is the effort to get around the spending cap by having a group like Canada 2020 do the work and provide that information captured within this? We're looking specifically at the spending limit side of things and the collusion.

**Mr. Trevor Knight:** The section we're dealing with, proposed section 349.3, isn't so much about the spending, the collusion to avoid spending limits, although that may be the motivation for the sharing. It talks about no third party, no registered party, acting in collusion in order to influence the third party in what it does, under the current one. The amendment then would expand that to influence the registered party, as you say, making it a two-way street.

In terms of the question you asked, I think that with collusion under the current act, there are already provisions talking about non-monetary contributions under the current act and avoiding the spending limit under the current act. I think those would be relevant to that.

This is more directed at a specific thing, influencing how the third party acts.

**The Chair:** Mr. Nater.

**Mr. John Nater:** I have one final point.

Right now, if Canada 2020 tells the Liberal Party, "We're going to advertise on X, and you can advertise on Y and Z." Then the reverse, the Liberal Party tells Canada 2020 it's advertising on Y and Z, and they can advertise on X. One way is collusion; one way is not collusion. Within our amendment, both ways are collusion.

**The Chair:** Is there any further discussion?

**Mr. John Nater:** I would like a recorded vote.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** Next is amendment PV-7.

Ms. May

**Ms. Elizabeth May:** Mr. Chair, my intention with amendment PV-7 is to extend the prohibitions on foreign money for political party or third party messaging not just in the pre-writ period but at all times.

I know there are other amendments to the same effect, and some of them were ahead of this amendment. I'm afraid, being in and out, I'm not quite certain how my amendments survive at this point, but I'm hoping to tighten up the rules so there's no foreign money or third party political messaging influenced by foreign money at any time, not just pre-writ.

**Mr. John Nater:** I support Ms. May's sentiments. Anything we can do to get foreign money out of our elections, we're going to support. We'll be voting in favour of the amendment.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** I have a question for Mr. Morin.

Have we already achieved this with some of the other amendments we've brought forward?

• (1825)

**Mrs. Stephanie Kusie:** It was the same.

**Mr. David de Burgh Graham:** If we've already done it, we don't need to do it again.

**Ms. Elizabeth May:** I'm not sure.

**Mr. David de Burgh Graham:** That's why I'm asking him.

**Mr. Jean-François Morin:** Yes and no.

**Mr. David de Burgh Graham:** I thought we were the politicians.

**Voices:** Oh, oh!

**Mr. Jean-François Morin:** The new division 0.1 of part 17 of the act would prohibit all third parties, including foreign third parties, from using foreign money for the purpose of partisan activities, advertising and election surveys. What the provision that has been carried already does not do is prohibit a foreign third party from incurring some expenses outside of the election and of the pre-election period, but in order to incur these expenses, it would always need to fund these expenses with Canadian money. That's the difference.

We are prohibiting all third parties from using foreign money at all times for partisan activities, advertising and election surveys, but foreign third parties would still be able to incur some of these expenses outside of the election and pre-election period, but they will always need to fund themselves from a Canadian source. They could receive contributions, for example, from a Canadian source, and have some activities outside of the election and pre-election period.

**The Chair:** Is there any further discussion?

**Mr. John Nater:** I would like a recorded vote.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** Next is amendment CPC-87.

Mr. Nater.

**Mr. John Nater:** Bear with me. I'm going to flip around a little bit to try to explain this.

What we're dealing with here is the definition of a third party. We're making a relatively minor change, but I just want to explain it in two ways.

Line 16 is being amended. It currently refers to a third party being a corporation or entity. Proposed subparagraph 349.4(2)(b)(ii) says:

(ii) it was incorporated, formed or otherwise organized outside Canada; and

We're changing it slightly to say:

(ii) it was incorporated, formed or otherwise organized outside Canada, or it was incorporated, formed or otherwise organized in Canada but no person who is responsible for it is a person described in any of subparagraphs (c)(i) to (iii); and

Proposed subparagraphs (c)(i) to (iii) refer to basically being a Canadian, a permanent resident or someone residing in Canada. We discussed this somewhat differently a little earlier on. We were saying that if there's been an organization, a third party, formed within Canada and no one responsible for this organization lives in Canada, is a Canadian, or is a permanent resident, we would like to see that excluded.

We'll do anything we can to strengthen our election laws against foreign entities influencing Canada. I hope I explained it. It deals with two sections, but I think what we're trying to get at is fairly clear. If there's an entity set up solely for the purpose of influencing an election, with no one running it who has a connection to Canada, we'd like to see this banned.

**The Chair:** So, if a guy comes up from New Mexico, sets up an organization, sets his office up, and there are no Canadians involved, you want to make sure that's not allowed.

**Mr. John Nater:** Unless he resides in Canada, has Canadian citizenship or is a permanent resident. If he's setting up an entity, but is not physically here or physically involved, I think that's clearly an issue of foreign influence.

**The Chair:** You mean a numbered company or something.

**Mr. John Nater:** Yes, exactly.

**The Chair:** Are there any comments from the officials?

**Mr. Jean-François Morin:** Yes.

We discussed a similar motion in the context of proposed part 11.1 earlier, the prohibitions related to voting. The comments I made at the time still stand.

This would extend the regime to some Canadian entities, even if they are not managed or directed by Canadians. These entities still have a legal existence in Canada.

• (1830)

It's a policy decision.

I'm not saying yes or no. I'm just saying that this would also cover this other category of Canadian entities.

**The Chair:** Before you go, Mr. Cullen, do you want to ask your question, Mr. Graham?

[*Translation*]

**Mr. David de Burgh Graham:** I would like to understand why the French version is so different from the English version.

**Mr. Jean-François Morin:** It's simply that in English each paragraph breaks down the elements separately.

[*English*]

An example would be, "(c) If the third party is a group, no person who is responsible for the group" is blah, blah, blah.

[*Translation*]

In the French version, everything is included in a single paragraph. It's just a matter of legislative drafting. There is no difference between the two in terms of content.

**Mr. David de Burgh Graham:** Okay, thank you.

[*English*]

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** I'm wondering about the scenario that we have, and I may understand the amendment wrong.

We have an established business or non-profit in Canada. It does work in Canada, but the director or owner is a non-resident. Under this provision, I would imagine that they would be banned from participating.

**Mrs. Stephanie Kusie:** This is political activity from a third party.

**Mr. Nathan Cullen:** You can understand that.

**Mr. John Nater:** Yes, I can see where you're coming from.

**Mr. Nathan Cullen:** All of us have residents in our ridings who have been 20, 30 or 40 years in the country. They run small businesses, or they run an NGO.

**Mr. John Nater:** Let's go back to the previous subparagraph, so proposed subparagraph 349.4(2)(b)(i). It says, "it does not carry on business in Canada, or its only activity carried on in Canada".

**Mr. Nathan Cullen:** If they can trigger that one, than the rest of it...

**Mr. John Nater:** Yes.

**Mr. Nathan Cullen:** That was my question, Do any of these trigger and then they're out, or...?

**Mr. John Nater:** No.

If it's "carry on business" as a normal practice in Canada—

**Mr. Nathan Cullen:** It's not "and, in addition, must be a Canadian citizen".

**Mr. John Nater:** Correct.

That's my interpretation. I could be wrong, but Mr. Church is nodding at me.

If I have the blessing of the church....

**Voices:** Oh, oh!

**Mr. Nathan Cullen:** Separation of church and state.

**Mr. John Nater:** What we're getting at is those who are set up solely for the purpose of influencing an election, but if it's something that operates on an ongoing basis as a business or as an entity outside of an election period, that's not going to be captured in it.

**The Chair:** If there is no further discussion on this, are we ready to vote?

**Mr. John Nater:** I would like a recorded vote.

(Amendment negatived: nays 6; yeas 3 [*See Minutes of Proceedings*])

**The Chair:** There are only 18 more amendments to this clause, so we'll keep going.

**Mr. John Nater:** We're flying.

**The Chair:** We're on amendment CPC-88.

**Mr. John Nater:** Chair, we're going to withdraw this amendment.

**The Chair:** Are you not bringing amendment CPC-88 forward?

**Mr. John Nater:** We'll instead move the one that was added.

**The Chair:** We have a new amendment from the Conservative Party. It's reference number 10008250, presented by Mr. Nater.

**Mr. John Nater:** This is just banning foreign influence at all times.

**Mrs. Stephanie Kusie:** It prohibits foreign third party activity at all times.

**The Chair:** It's banning third party—

**Mr. John Nater:** It's foreign.

**Mrs. Stephanie Kusie:** It's banning foreign third party activity at all times.

**Mr. Nathan Cullen:** This was in the supplementary package, right?

**Mrs. Stephanie Kusie:** That's correct.

**The Chair:** It has 8250 at the end.

Can I get a comment from the officials on this? It's banning foreign third party activity at all times.

**Mr. Jean-François Morin:** This would be doing exactly that. I'm not commenting on the policy here, but from a drafting perspective, I think we would still have some hurdles to go over. This motion would reframe the definition of pre-election period.

Sorry, I'm looking at the French version and I'm trying to translate into English at the same time in my head. I should just look at the English version.

Partisan advertising and partisan advertising expenses are also defined terms. Partisan advertising is advertising that is done during the pre-election period itself. If you were to go ahead with this motion, I think there would need to be a little bit more work to make it work here as intended. As I mentioned earlier, the new division 0.1 would not prohibit foreign entities from incurring expenses outside of the election and the pre-election period, but it would also need to fund them exclusively using funds of Canadian origin.

•(1835)

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** As the bill is right now, a foreign third party can spend all the money but it has to be raised within Canada. Is that right?

**Mr. Jean-François Morin:** Yes. As the bill is written now, as amended by earlier motions, foreign third parties cannot incur any of the following expenses during the pre-election period. When we get to the other division or section of part 17, there is an equivalent provision for expenses incurred during the election period.

**Mr. Nathan Cullen:** Again, a foreign third party can spend only money that was raised within Canada.

**Mr. Jean-François Morin:** Yes, but during these two periods they cannot incur any expenses for these purposes.

**Mr. Nathan Cullen:** Under this amendment they can't, but I'm talking about the bill as it sits unamended right now.

**Mr. Jean-François Morin:** Yes.

**Mr. Nathan Cullen:** A foreign third party can raise and spend money but only if it's raised in Canada.

**Mr. Jean-François Morin:** Yes, and only if it's incurred outside of the election and pre-election period.

**Mr. Nathan Cullen:** This would say, across the board, forget it. It wouldn't matter where you raised the money or when you planned to spend it; a foreign third party could not spend money.

**Mr. Jean-François Morin:** They could not spend money for these purposes, yes.

**Mr. Nathan Cullen:** Yes.

**The Chair:** Is there any further discussion?

Okay. We'll vote on this amendment

**Mr. John Nater:** Let's go with a recorded vote.

**The Chair:** We'll have a recorded vote on the CPC amendment with the reference number of 10008250.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

**The Chair:** Since CPC-89 was withdrawn, we will now go to CPC-90. If CPC-90 is adopted, LIB-28 cannot be moved, as they amend the same line.

Would the Conservatives present amendment CPC-90.

**Mrs. Stephanie Kusie:** Essentially, we are requiring more than the third party's name in its identification in ads, as recommended by the commissioner of Canada elections. We're also asking that we get its telephone number, its civic address or Internet address.

As I said, this was recommended by the commissioner of Canada elections.

•(1840)

**The Chair:** Mr. Bittle.

**Mr. Chris Bittle:** All three parties have submitted something similar in regard to this, so we're proposing an amendment, which I believe has been circulated already.

No, it hasn't been circulated already.

**Mr. Nathan Cullen:** Liar.

**Voices:** Oh, oh!

**A voice:** Fake news.

**Mr. Chris Bittle:** A liar, yes; I'll go home and think about what I did.

**Voices:** Oh, oh!

**Mr. Nathan Cullen:** I'll never trust you again, Bittle.

**Mr. Chris Bittle:** I can be excused now.

I'll ramble on a little bit and say that the attempt was to take a bit of what everyone was saying and try to include it in the provision.

**Mr. Nathan Cullen:** That was a ramble?

**Mr. Chris Bittle:** Well, I thought they'd.... I'm sorry.

**Mr. Nathan Cullen:** I'm still waiting. I'm looking for a ramble here. This is disappointing, Chris. I thought you had it in you.

**Mr. Chris Bittle:** I clearly failed on this entire exercise. I apologize.

**Mr. David de Burgh Graham:** It was a Bittle ramble.

**Mr. Nathan Cullen:** It was a "bamble".

**A voice:** [*Inaudible—Editor*]

**Mr. Chris Bittle:** Thank you. That's very kind.

**Mr. Scott Reid:** I like your shirt too, by the way. It's very refreshing. I've been waiting to say that all evening. I don't want you to go home not knowing how much I appreciate your shirt.

**Mr. Chris Bittle:** Thank you.

I'm feeling the love in the committee, and I appreciate that.

**Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.):** You're my neighbour.

**Mr. Chris Bittle:** Yes. Thank you.

**The Chair:** Is this an amendment to CPC-90 or is it a replacement of CPC-90?

**Mr. Nathan Cullen:** We could maybe pause and consider something else.

**Mr. Chris Bittle:** It's a subamendment.

**Mrs. Stephanie Kusie:** Chair, we'll withdraw CPC-90 if this is—

**Mr. John Nater:** No.

**Mrs. Stephanie Kusie:** Are we not withdrawing CPC-90? Okay.

**Mr. John Nater:** It's a subamendment.

**Mrs. Stephanie Kusie:** You're subamending it.

**Mr. John Nater:** I'm not. Mr. Bittle is.

**Mrs. Stephanie Kusie:** Mr. Bittle is subamending it with this.

Got it. Thank you.

**Mr. Scott Reid:** Well, we can live with it.

**Mr. Chris Bittle:** That's a glowing endorsement from Mr. Reid. Thank you.

**The Chair:** The first vote will be on the subamendment that's just been presented.

**Mr. Nathan Cullen:** Can we get a quick explanation of it?

**The Chair:** Mr. Bittle, what—

**Mrs. Stephanie Kusie:** Do you mean of the subamendment? I gave my explanation already. It was a recommendation of the commissioner to provide more information.

**The Chair:** And the change you made was...?

**Mr. Chris Bittle:** The change was just to include what all parties were discussing and—

**Mrs. Stephanie Kusie:** The telephone number, the Internet address, and so on.

**Mr. Scott Reid:** Yes, "in a manner that is clearly visible or otherwise accessible". I assume that "otherwise accessible" is for things in an audio format or something like that.

**The Chair:** Let's vote on the subamendment to CPC-90.

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

(Amendment as amended agreed to [*See Minutes of Proceedings*])

**The Chair:** Now LIB-28 cannot be moved, so we'll go to—

**Mr. Nathan Cullen:** Aw.

**The Chair:** Just for that, Cullen, NDP-18 was next, but it's consequential to NDP-17.

**Mr. Nathan Cullen:** Yes, don't remind me. It's a good one.

**The Chair:** We can discuss NDP-19—

**Mr. Nathan Cullen:** This is exciting.

**The Chair:** —which you might present at this moment.

**Mr. Nathan Cullen:** This is about the repository—it's always such a strange word to used in this conversation—a place to hold ads. That would be with the Chief Electoral Officer. It has to go to the Chief Electoral Officer within 10 days of transmission.

I don't think we have a clause in this—maybe later on—that allows for the length it needs to be held for, by law; I think there is one later on, but it's escaping me right now. Something about collating it is very important as well.

I think that LIB-25.... I'd have to refer to it exactly. Similar to what we just did, we're trying to get at a very similar purpose, which is to have a collection of the ads that have been used, partisan advertising that's been used, and have that maintained by the Chief Electoral Officer. It seems like a good spot to have it. You have to get it to them within 10 days.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** I don't understand. Right now, we're requiring the platforms themselves to retain these ads. Is that correct?

• (1845)

**Mr. Nathan Cullen:** That's for everything, for third party and the rest.

**Mr. David de Burgh Graham:** Right.

**Mr. Nathan Cullen:** Do you think it's necessary for...?

**Mr. David de Burgh Graham:** I think we've met the objective of what we're trying to do with that. I take your point.

**Mr. Nathan Cullen:** It's only that we're relying on them to do it as opposed to having—

**Mr. David de Burgh Graham:** They'll be in violation if they're not.

**Mr. Nathan Cullen:** Imagine that. It can happen.

**Mr. David de Burgh Graham:** Yes, very much so. You're requiring everybody to turn everything over to Elections Canada. It's the same standard, really, though.

**Mr. Nathan Cullen:** To the Chief Electoral Officer, yes?

**Mr. David de Burgh Graham:** Yes.

Do you have any comments, Mr. Morin?

**The Chair:** Monsieur Morin.

**Mr. Jean-François Morin:** Mr. Chair, this amendment would add two new subsections to section 349.5 of the bill, which currently requires third parties to add a tag line on their partisan advertising messages.

I would like to point out that in part 17 of the act, third parties are defined very broadly. Some obligations under the act apply to all third parties and some other obligations apply only to those third parties who reach certain thresholds.

For example, for the pre-election period and the election period, the registration threshold with Elections Canada is set at \$500. A third party, which means basically any Canadian citizen, except the candidate or a political party, who makes a partisan advertising message, even if that person has not reached their registration threshold of \$500, would then need to send a copy of the advertising message to Elections Canada within 10 days of its transmission.

I think this covers a much broader group of third parties than other provisions of the act do.

**Mr. Nathan Cullen:** That's correct. That's what we're hoping to do.

**The Chair:** I guess you're not saying whether that's good or bad.

**Mr. Jean-François Morin:** Of course I won't tell you that, Mr. Chair.

**Some hon. members:** Oh, oh!

**Mr. Jean-François Morin:** Mr. Chair, if I may, I will not weigh in on the debate, but I will just explain what the thresholds are.

They are the same in both the pre-election and election periods. For up to \$500, the third party doesn't have to register with Elections Canada. For higher than \$500, they have to register with Elections Canada, open a bank account and then present a financial statement after the election. If during the pre-election period or the election period they reach the \$10,000 threshold—either \$10,000 in contributions or \$10,000 in partisan advertising expenses, election advertising expenses, partisan activity expenses or election survey expenses—then they have to provide one preliminary....

What do we call that?

**Ms. Manon Paquet (Senior Policy Advisor, Privy Council Office):** The word is "interim".

**Mr. Jean-François Morin:** They have to provide a first interim financial return upon reaching that threshold, then a second interim financial return on September 15 during a fixed election year. Then there is one other Liberal motion that would also impose a third interim financial report three weeks before polling day and a fourth interim financial report one week before polling day.

This is the kind of reporting scheme that applies currently under the act and under Bill C-76.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** How onerous is the financial report? If you spend \$600, you send the receipt and you're done, right?

**Mr. Nathan Cullen:** [*Inaudible—Editor*] reporting's very difficult if you only—

**Mr. David de Burgh Graham:** It's not a 25-page form to declare your \$600.

**Mr. Jean-François Morin:** I haven't looked at the form recently, but the bank account requirement would apply to every third party that reaches \$500.

**Ms. Anne Lawson:** Yes.

**Mr. Jean-François Morin:** Yes, the bank account requirement would apply to every third party that reaches the \$500 threshold. So, there are a few associated costs with being a third party that is required to register.

• (1850)

**The Chair:** Would this reduce it even if it was \$10?

Mr. Cullen, go ahead.

**Mr. Nathan Cullen:** No. The reporting requirements aren't affected by this.

**Mr. Jean-François Morin:** I'm not saying that the reporting requirements are affected by this. I'm just saying that even below the \$500 threshold every single person in Canada incurring any, even minimal, partisan advertising expense—and then there's an associated provision during the election period for election advertising expenses—would be required to provide it to the Chief Electoral Officer within 10 days.

**Mr. Nathan Cullen:** Right. So, all the reporting requirements exceeding \$500 or \$10,000 are extraneous to this. What this is talking about is if somebody says they want to put a \$300 ad in their local newspaper, or they want to buy three hundred dollars' worth of Facebook ads to target a particular group of voters, they have to send a copy of that to Elections Canada. That's what this amendment says.

The trick is that, with the previous amendments that the Liberals moved and passed, there are triggers at which the social media companies, as a company, have to start reporting, and it's three million views a month, I believe. It's a relatively high bar. You could very much imagine smaller platforms—more political platforms—that are exclusively political and targeted, would never get near three million views. If someone advertises on those and the ad is never triggered, it is never recorded or held by that...there's no responsibility to hold that ad. You could have fake news under a bit of a subversive campaign going on, and any of those ads would not be required to be captured by that platform company, nor if this fails then we just wouldn't have any repository at all.

So, you're a candidate in an election and someone's running all this advertising through social media networks that are not three million views a month, of which there are many more than there are that exceed three million views a month, and your ads would simply be.... You could micro-target them and you know how much you could get for \$500 on a social media ad, especially the smaller ones. You could get lots saying Ruby's a terrible person, just to pick an example.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** I have a question for Ms. Lawson.

Is there anywhere right now that Elections Canada is required to hold on to advertising or anything as it's going on? Is there any other point that something like this exists? Is there any precedent for this?

**Ms. Anne Lawson:** No, there's nothing currently that would create this type of repository.

**Mr. David de Burgh Graham:** So, we would never send you a copy of our campaign signs for you to hold in escrow, or....

**Ms. Anne Lawson:** As you know, there is a lot of reporting that goes on and the repository, in a certain sense, of all the reports that are tabled and filed. Those have to be put online, but not advertising, per se.

**Mr. Nathan Cullen:** I don't imagine them sending out election campaign four-by-fours to Elections Canada saying, "This is my election sign." This is overwhelmingly digital, and so Elections Canada keeps a digital copy of the ad.

I think this has two effects. One, if people know they have to deposit those with Elections Canada, maybe it keeps some folks away from doing the darker side of politics.

Two, if something does go wrong, or an election is held in some controversy, we're able to pull back the ads that were run in that campaign, or by that social media agency, or by that person in this case, and say that there was a coordinated effort amongst 40 people within this riding to all spend \$450 on the same ad, but nobody has the repository as it is right now. So, you just had \$4,500 coordinated out into targeted social media, as long as the company doesn't have three million views a month. That's the way to get around it and it's a relatively significant loophole, as opposed to me doing my ad, pressing send, Canada Elections...that's the law. It requires Elections Canada to hold it.

**The Chair:** Ms. Lawson.

**Ms. Anne Lawson:** I just want to make one point about the way this is currently worded. It's not only digital or electronic, so it would cover posters that are made in people's windows or other types of advertising that cost under \$500.

**Mr. Nathan Cullen:** Fair enough.

I assume just about every piece of advertising we make, posters and everything else, exists in digital form. Maybe somebody's hand-painting posters and sticking them up in their window. I guess that's lower on my concern list.

**The Chair:** Mr. Morin.

**Mr. Jean-François Morin:** I was going to raise the same issue as Ms. Lawson.

I don't want to turn myself into the legal counsel for this committee. I'm not providing legal advice in any way, shape or form.

I would just encourage members of this committee to think about the free speech provisions in the charter and the impact of a rule that would require every single citizen posting partisan advertising messages to report to a government agency on those messages during the pre-election period.

• (1855)

**The Chair:** Mr. Cullen.

**Mr. Nathan Cullen:** This is not a speech issue.

I don't think millions of Canadians take out election advertising. Maybe I'm wrong. Maybe our citizenry is out there buying social media ads like crazy and this is going to be very onerous. I haven't personally experienced it, but maybe others have.

I'm sorry. I appreciate the witness's comments, but it is not a speech prohibition to send in an ad. If you're willing to participate and buy advertising in a Canadian election, you are participating. This provides no limitation of speech, no way.

**The Chair:** We'll vote on NDP-19.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** Keep in mind that we've spent way more than 15 minutes on this particular clause, so let's try to go a little quicker.

We're moving to PV-8.

Ms. May

**Ms. Elizabeth May:** I'll be as brief as I can, Mr. Chair.

This may seem a bit ironic as in my last intervention I was pointing out....

What third party groups have testified to this committee, particularly Fair Vote Canada, is that having a threshold of \$500, which then requires registering immediately as a third party and all of the other obligations, was a quite low threshold. Réal Lavergne pointed out in his testimony before committee that in the Prince Edward Island referendum, the threshold was \$500.

Prince Edward Island is a very small jurisdiction in terms of population and media reach. If their spending threshold was \$500, the suggestion I'm making in this amendment is that the national threshold should be \$2,500, which is a more reasonable threshold to imagine for anyone with plans to impact a national campaign, and \$500 in a single electoral district. It's to reduce an onerous burden on particularly all volunteer groups having a very small foray into election activities.

That's a brief explanation. I know you'll be wanting to move on, but I'm happy to answer questions.

**The Chair:** If there are no comments, we'll go to the vote on PV-8.



(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** We're moving to CPC-91.

Would someone introduce this amendment.

**Mrs. Stephanie Kusie:** This amendment is similar to our previous amendment allowing early registration for pre-election and election periods, but again, applicable here to third parties.

**The Chair:** Is there any discussion?

**Mr. John Nater:** Yes, Chair.

As it stands, you cannot register until the pre-writ period starts. If you're intending to spend money, if you're intending to be involved in the process, let's let them start on it early and get registered rather than forcing them to wait until the pre-writ period starts. I think this is a logical time period to allow this.

**The Chair:** If there is no discussion, we'll vote on CPC-91.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** On CPC-92, go ahead Mrs. Kusie.

**Mrs. Stephanie Kusie:** This is adding a geographical catchment area to opinion poll disclosures for third parties.

**The Chair:** Mr. Graham.

**Mr. David de Burgh Graham:** It's similar to what we discussed a while ago. It seems a hopelessly impractical requirement, so I can't support it for that reason.

• (1900)

**The Chair:** We'll go to a vote on CPC-92.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** Now, out of your new package of amendments, go to CPC reference number 9964802. CPC can present this amendment.

**Mrs. Stephanie Kusie:** Chair, it's seven o'clock. It's been a long day. It seems longer still with the six amendments I see ahead.

What would you suggest we try to get through?

**Mr. David de Burgh Graham:** Can I suggest we try to get through clause 223 and call it a night then?

**Mrs. Stephanie Kusie:** Okay.

This will establish political contribution limits for third parties that are consistent with those for political parties.

**The Chair:** Mr. Nater.

**Mr. John Nater:** Just to clarify as well, this is part of a series of amendments. It would then apply to several other ones. It is about bringing in similar rules for contributions as those governing political parties, for example in terms of amounts and how they're obtained. This one specifically deals just with the loan side of things, but there are other ones for contributions, so we need to look at this as a whole with all the other ones: 114.1, 115.1, 154, 161 and 169. If we defeat this one, we defeat all those as well.

I'm just making the point that if we want to bring this within the entire regime of political contributions that political parties have to comply with, there are multiple amendments that we need to do as one. If we vote against this one, they're all gone.

**The Chair:** If there is no further discussion, we'll vote on the new CPC-9964802.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** We're on amendment CPC-94.

Mr. Nater.

**Mr. John Nater:** This is a fun little amendment.

As luck would have it with this bill, if an election were to be called after June 30 but not on the fixed election date, for example, if it were to be held one week prior, the entire regime just disappears when it comes to third party pre-writ spending.

This amendment allows that the pre-writ period still exists and you have to follow the rules and report accordingly, even if the election isn't held on the fixed election date. If the Prime Minister decides to call the election any time before October 21, 2019 but after the pre-writ period happens, it allows the reporting regime to stay in place.

**The Chair:** Could I get the election officials to comment on that, saying that there's no pre-writ or anything if the election is called not on the fixed election date?

**Mr. Jean-François Morin:** I don't disagree with you, but this motion would only apply on two occasions. It would apply if the government were to fall after a non-confidence motion in the House of Commons after the beginning of the pre-writ period, which would have been a very long minority government, or if the prime minister of the day were to convince the governor general to dissolve Parliament after the beginning of the pre-election period but before the beginning of the window between 50 days and 37 days before polling day, which would allow a polling day to occur on the day set in accordance with the act.

So, yes, if a prime minister were to recommend to the governor general that such an election be called earlier but after the beginning of the pre-writ period, this motion would allow the third party reporting regime to stand.

• (1905)

**The Chair:** Mr. Nater.

**Mr. John Nater:** I just want to put on the record that there would be no convincing required to convince the governor general. The governor general accepts the advice of the prime minister of the day. There's no convincing the governor general of a Crown prerogative. I just want to put that on the record that the prime minister can request the dissolution of Parliament, and the governor general will.

**The Chair:** Well, I would challenge that, but that's not what we're talking about.

I had an order here. Mr. Bittle and then Ms. May.

**Mr. Chris Bittle:** I appreciate the Conservatives bringing this forward. We're bringing forward amendments that relate to this topic, and two new reporting intervals for third party will apply in those amendments regardless of whether or not there's a fixed election date. We'll be opposed to this one, but in the same spirit, there will be further amendments to address the same issue.

**The Chair:** Ms. May.

**Ms. Elizabeth May:** I guess that would address my concern. Even if it's an extremely rare possibility, there's no point leaving a gap in the legislation of something that we think is unlikely.

Legislation should work even in the most unlikely of circumstances. I'm not a voter on this committee, obviously, but as long as you're satisfied that what you're proposing deals with, as brilliantly explained by John, his fun little amendment. If your fun little amendment will do what his fun little amendment does, you're good.

**Mr. Chris Bittle:** I promise no fun.

**Mr. John Nater:** There's nothing precluding this amendment that we're aware of. If there is an amendment, we'll look at it.

**Ms. Elizabeth May:** Otherwise I think we should wait. You guys should pass that one.

**The Chair:** We will vote on CPC-94.

(Amendment negated [*See Minutes of Proceedings*])

**The Chair:** LIB-29 has passed because it was consequential to LIB-26. That also means CPC-95 and CPC-96 can't be moved, so we'll go to CPC-97.

**Mrs. Stephanie Kusie:** This is for third parties. It's the Chief Electoral Officer's recommendation for an anti-circumvention provision concerning foreign contributions.

**The Chair:** People should know that the vote on this will apply to CPC-149, which is on page 276, as they are linked together by reference.

Is there discussion on CPC-97?

Mr. Nater.

**Mr. John Nater:** Thank you, Chair.

Perhaps to our officials, LIB-30 is a similar amendment. Would you be able to identify what the key differences are between CPC-97 and LIB-30, just so we have an idea when we're voting on this one?

**Mr. Nathan Cullen:** If this passes, that wipes out LIB-30, doesn't it?

**Mr. Jean-François Morin:** Correct me if I'm wrong, but at page 124 of the bill, line 7, I think that proposed section 349.95 has been repealed by another Liberal provision.

• (1910)

**Mr. David de Burgh Graham:** Just so you know, we're not planning to move amendment LIB-30.

**Mr. Nathan Cullen:** You're not moving LIB-30, so this would be a stand-alone. Then, what it's trying to do, this is not the commingling money, this is just preventing somebody from circumventing the intention of the bill to not have foreign money influence the election.

Am I right, John? That seems like a good idea.

**Mrs. Stephanie Kusie:** Again, I think it outlines the definition of the actions of collusion, again, not with the specific actions for completely avoiding it, as we've discussed in detail earlier. I think it provides a more clear definition.

**The Chair:** Yes.

**Mr. Jean-François Morin:** Mr. Chair, am I right in thinking that amendment LIB-29 was carried as a result of either amendments LIB-27 or LIB-26 being carried?

**The Chair:** It was carried because LIB-26 passed.

**Mr. Jean-François Morin:** Okay, amendment LIB-29 deleted from the bill proposed section 349.95.

**Mr. Nathan Cullen:** This is recreating it.

**Mr. Jean-François Morin:** Is it?

**Mr. Nathan Cullen:** If we deleted a section of the bill and now we have an amendment reintroducing a proposed section, but differently....

**Mr. David de Burgh Graham:** No, it refers to a proposed section that no longer exists. That's all.

**Mr. Nathan Cullen:** Right, because it's not a stand-alone proposed section.

**Mr. David de Burgh Graham:** So this should be cancelled by consequence.

**Mr. Nathan Cullen:** Right, so that might be something that I'm not sure we can handle. If what the Conservatives are trying to do in their amendment is to strengthen the proposed section, which was eliminated three or five votes ago—

**Mr. David de Burgh Graham:** It's a house of cards.

**Mr. Nathan Cullen:** *House of Cards* is a great show—a little dark.

**Ms. Ruby Sahota:** Yes, very dark.

**Mr. Nathan Cullen:** But it's not as dark as the reality.

**Voices:** Oh, oh!

**Mr. John Nater:** At the same time, the amendment deals with proposed section 349.95.

**The Chair:** You're not bringing forward LIB-30, right?

**Mr. David de Burgh Graham:** That's right. LIB-30 is withdrawn.

**The Chair:** It will not be brought forward.

**Mr. David de Burgh Graham:** CPC-97 is the last amendment we have to deal with for the clause.

**Mr. Nathan Cullen:** [*Inaudible—Editor*] If the amendment can just stand on its own, even if the proposed section has been deleted, then that happens. I'm not sure if the language does support it.

**The Chair:** If the proposed section has been deleted, the amendment becomes inadmissible, but as Mr. Nater said, part of this amendment does not deal with the proposed section that's been deleted.

**Mr. Nathan Cullen:** Right.

**Mr. John Nater:** That reference could be fixed at report stage as well.

**The Chair:** We'll just get our legislative clerk to give us a ruling here.

**Mr. Philippe Méla (Legislative Clerk):** You give the rulings.

**The Chair:** I give the rulings; you just tell me what to say.

**Voices:** Oh, oh!

**Mr. Nathan Cullen:** The veil has been opened. Oh, great Oz!

**The Chair:** I would encourage everyone tomorrow to skip caucus and get a good sleep so we can go really late tomorrow night.

**Mr. David de Burgh Graham:** I thought that was why we were starting at nine, to skip caucus so we can come back here.

**The Chair:** Because we're only meeting four hours tomorrow night, seriously, be prepared. If you have the energy to stay a bit longer, we can get some more done tomorrow night.

**Mr. David de Burgh Graham:** We just have to see if we can get through this all.

**Mr. Nathan Cullen:** I don't know if we can get a resolution on this tonight. I don't want to put our clerk under pressure. It's a tricky thing we're asking for.

**The Chair:** That's his job.

**Voices:** Oh, oh!

**Mr. Nathan Cullen:** Remind me never to work for you, Chair.

**The Chair:** He likes the pressure. It's good training.

Do you think I'm letting you out of here after spending an hour on one clause?

●(1915)

**Mr. Nathan Cullen:** I think 55 minutes was spent on my amendment. Come on.

**Mr. David de Burgh Graham:** I heard it's a five-minute rule.

**Some hon. members:** Oh, oh!

**An hon. member:** That will make—

**Mr. Nathan Cullen:** Yes, definitely.

If the Liberals are planning to vote against this suggestion, then why go through the exercise of our poor clerk trying to make all this reconcile?

**The Chair:** Is that okay?

**Mr. John Nater:** I'd like a recorded vote.

**The Chair:** We'll have a recorded vote on CPC-97, which also applies to CPC-149.

(Amendment negatived: nays 5; yeas 4 [*See Minutes of Proceedings*])

(Clause 223 as amended agreed to on division)

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

**Mr. Nathan Cullen:** Thank you, Chair.

**The Chair:** Thank you to our witnesses for coming on short notice and staying so late.

**Mr. David de Burgh Graham:** Thank you, Anne and Trevor, for coming back. We missed you.

**The Chair:** The meeting is adjourned.





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