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Chair

The Honourable Larry Bagnell

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• (0905)

[English]

The Chair (Hon. Larry Bagnell (Yukon, Lib.)): Good morning. Welcome to meeting 127 of the Standing Committee on Procedure and House Affairs as we once again continue clause-by-clause consideration of Bill C-76, an act to amend the Canada Elections Act and other Acts and to make certain consequential amendments.

We are pleased to be joined by Jean-François Morin and Manon Paquet from the Privy Council Office, and Trevor Knight and Robert Sampson from Elections Canada.

Thank you for being here again. You're great members of this committee.

(On clause 320)

The Chair: We will pick up where we left off last evening, clause 320.

Mr. Nater, could you present CPC-138.1, please?

Mr. John Nater (Perth—Wellington, CPC): Absolutely, Chair.

This provision reverts to the status quo in giving the election officer the ability to have a person removed or arrested for causing a disruption at a polling station. Bill C-76 simply envisions the power to order a person to leave, it doesn't have the arrest provision in it. We're recommending it be reverted to that provision, the ability to have an arrest made.

The Chair: Is there debate?

We'll hear Mr. Graham, and then Mr. Bittle.

Mr. David de Burgh Graham (Laurentides—Labelle, Lib.): In response to recommendations from the CEO itself, this bill.... Just for the record I'll read the recommendation.

B39 recommended that:

Section 479 of the Act provides the legislative framework for maintaining order at an RO office or at a polling place. This provision grants considerable powers, including forcible ejection or arrest of a person. But it is complex, calls for a difficult exercise of judgment, and requires election officers to perform duties for which they are not trained and likely cannot be adequately trained, given the extent of their current duties and skill sets. The potential risks arising from section 479 include violence and injury as well as violation of fundamental rights guaranteed by the Canadian Charter of Rights and Freedoms. Local law enforcement officials are better trained and equipped to perform these functions. While this section should continue to make it clear that the relevant election officer has the power to maintain order at the polls and may order a person to leave if the person is committing or reasonably believed to be committing an offence, the election officer's power of arrest without a warrant should be deleted.

The subsections providing for the use of force and listing procedures in the event of an arrest should be repealed.

I think it's fairly important that we follow that recommendation. It's from the elections officer's report on the election, recommendation B39.

The Chair: Mr. Cullen.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): It's the question of capacity. This is at an election station, a voter is becoming so disruptive that the election officials want to have him or her removed. What would the normal procedures be if this didn't exist? I'm going to imagine the opposite. If this amendment weren't here, what powers would they have? Simply call the police and wait?

Mr. Robert Sampson (Legal Counsel, Legal Services, Elections Canada): The practice right now, notwithstanding the provision in the act, is that we instruct election officials to call the police. This provision is somewhat anachronistic in that it predates the institution of police forces, for example.

It's one of the oldest provisions in the act and reflects a time when election administration was quite dispersed and elections could be administered in very remote areas. This version was updated somewhat to reflect the advent of the charter, but it still provides for extraordinary powers that we do not—

Mr. Nathan Cullen: You're including the advent of the charter in the charter of rights for the voter, even if they're being disruptive, or is it the charter rights of the election official?

Mr. Robert Sampson: For example, it requires a charter caution, so before you arrest them without a warrant you need to advise them of their charter rights. This isn't a practice that we encourage. We direct our election officials to call the police. To facilitate that process, one of the preparatory steps is a liaison between the returning officer and the local police force to make sure there is easy access in case of need.

Mr. Nathan Cullen: This is in advance of the election being conducting. Okay, that's great.

The Chair: Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC): An obvious question is this: When was the last time, to your knowledge, that this provision was used and an arrest would have been...?

Mr. Nathan Cullen: I would take them all out of the polls, Chair, just because they don't know how to vote properly.

Mr. Scott Reid: I'm just curious, what was the...?

Mr. Robert Sampson: I've been with Elections Canada on and off since 2013. To my knowledge, it hasn't been used.

Trevor is a bit more aged than me, so I will ask him if he is aware of its being used.

Mr. Trevor Knight (Senior Counsel, Legal Services, Elections Canada): I've been at Elections Canada since 2002. I'm not aware of its being used, certainly in the time I've been there. I don't recall of any cases being noted.

Mr. Scott Reid: You're saying it goes way back. Does it literally go back as far as the days when people were still pointing at the candidate they wanted as a way of indicating...? Are we talking that far back? I'm asking if that's when the provision came into effect. Did it go back that far, to the 19th century?

Mr. Robert Sampson: Yes, it goes right back to a time when it would be difficult, for example, to access a judge in order to secure a warrant. Hence the provisions allowing for arrest without a warrant.

As to the precise date and whether it's in the initial Dominion Elections Act of 1874, I don't recall. It is quite far back.

Mr. Scott Reid: That was an era when you didn't have a secret ballot and you pointed at the candidate you wanted while they stood in hustings. There were frequent fist fights and everybody was drunk. They were being paid for their votes with bottles of whiskey or rum, depending on the part of the country. Yes, it was a somewhat different era.

• (0910)

The Chair: I'll call the question.

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

The Chair: Stephanie, could you present CPC-138.2, please?

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): This is in regard to maintaining the existing provisions allowing for persons committing ballot offences to be ordered to leave. Under the new legislation, these provisions are changing, and we believe that they should stay as they are at present.

The Chair: They're becoming less strong, the new provisions, is that what you're saying?

Mrs. Stephanie Kusie: It's just that it's being removed. We're adding after line 19 on page 182:

In performing his or her duty under subsection (1) or (2), an election officer may, if a person is committing, in the returning officer's office or other place where the vote is taking place, an offence referred to in paragraph 281.3(a), section 281.5 or paragraph 281.7(1)(a) — or if the officer believes on reasonable grounds that a person has committed such an offence in such an office or place — order the person to leave the office or place or arrest the person without warrant.

We prefer the existing provisions, as they are.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Again, in the instance where somebody is being disruptive at the polls, what does Bill C-76 allow for right now? If it were passed without amendment, what powers do returning officers have to have somebody removed?

I assume it's similar to what we just discussed, that they can call the police without warrant and have the person removed.

Is this necessary?

Mr. Robert Sampson: I won't comment on whether it's necessary.

Mr. Nathan Cullen: I know, it was a trap.

Mr. Robert Sampson: The election official maintains a broad mandate to maintain order. They can ask someone to leave. The directive will be for them to call the police.

The amendment removes the use of force to ask people to leave, and also arrest without a warrant. It may pose problems delivering, for example, a charter caution, which is a complex affair. Not all election officers will feel comfortable doing that. They won't have the specialized training to do that. The amendment reflects the reality that the job is for the police officers to remove people, in Elections Canada's mind.

Mr. Nathan Cullen: The amendment reflects the reality that it's an officer that removes...?

Mr. Robert Sampson: I'm so sorry, Bill C-76 does.

Mr. Nathan Cullen: I see.

Thank you.

The Chair: Is there further discussion?

(Amendment negated)

The Chair: Stephanie, we'll go to CPC-138.3, please.

Mrs. Stephanie Kusie: This is similar to CPC-138.1, in that it maintains the existing provisions allowing for removal or arrest of disruptive persons at polling stations. Here, specifically, it says, "The officer who arrests a person under subsection (3) shall without delay".

The bill alleviates this and we are suggesting that we maintain the existing provision as it is.

The Chair: Is there debate?

(Amendment negated)

The Chair: Stephanie, we'll now have CPC-139.

Mr. John Nater: We won't be moving this one.

The Chair: You're not moving it. Okay.

(Clause 320 agreed to on division)

(Clauses 321 and 322 agreed to)

(On clause 323)

The Chair: On clause 323, there's CPC amendment 140, which has some ramifications. If this is adopted, Liberal-40 cannot be moved, as they are virtually identical. If CPC-140 is defeated, so is Liberal-40.

On CPC-140, go ahead. You can present it.

Mrs. Stephanie Kusie: This is the Chief Electoral Officer's recommendation to protect against misleading publications claiming to be from Elections Canada.

• (0915)

The Chair: If you guys are in favour, we can vote quickly then.

Mr. David de Burgh Graham: It's obviously well phrased. It's fine.

(Amendment agreed to [See Minutes of Proceedings])

The Chair: It's unanimous.

As CPC-140 is adopted, Liberal-40 cannot be moved.

CPC-141 has ramifications as well. If adopted, PV-14 cannot be moved, as they amend the same line.

Could you present CPC-141?

Mrs. Stephanie Kusie: This is to extend the “misuse of computer” offence to efforts to undermine confidence in election integrity.

Mr. Nathan Cullen: Is this recommended by the CEO?

Mrs. Stephanie Kusie: I can't confirm that.

It says:

results of an election or of undermining confidence in the integrity of an election,

The Chair: Do the officials want to come in on that?

Go ahead, Robert.

Mr. Robert Sampson: If I may, the Chief Electoral Officer expressed concern with the *mens rea* element in this amendment.

The intent element, which is twofold, currently requires that someone “fraudulently, and with the intention of affecting the results of an election”.... The concern was that this is a limited scope and it may lead to unforeseen or unanticipated limits. For example, the word “election” in the Canada Elections Act has limited meaning. It does not include leadership contests or nomination contests.

With regard to the word “fraudulently”, if someone is authorized to access a computer system, they would not fall within the scope of this provision. Then, in a third, and perhaps more significant way, the intent may not be to affect the results or the integrity, it might be something that falls outside of that and yet is germane to the electoral process.

The Chief Electoral Officer's recommendation was to remove the *mens rea* element, the intent element, from the provision.

The Chair: Are you speaking in favour of or against this amendment?

Mr. Robert Sampson: Neither. I'm simply reiterating the position that the Chief Electoral Officer took when he appeared, I believe on September 25, and submitted a table with respect to certain amendments that he would like to see.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: Conservative-141, Green-14, and Liberal-41 all tend to do the same thing, but Liberal-41 solves the problem of referring to elections, which they're discussing. I think it's the cleanest version of this.

Of the three, I recommend that we take the Liberal one. That is the cleanest one.

That's my recommendation.

Mrs. Stephanie Kusie: Sure.

Mr. Nathan Cullen: Let's not forget that we're talking about two pieces: first is that narrowly defined term “election”, and second is the *mens rea* element.

We have three in front of us to essentially choose from, I suppose and if one is adopted, the other two become nullified.

The Chair: We can just discuss all three of them together.

Mr. Nathan Cullen: I understood CPC-141 to remove that element of intention, whether the act was successful in casting doubt or aspersions over our election.

Perhaps you're suggesting something different, Mr. Sampson. Without too much comment on which of these versions satisfy, if we're looking for something that applies more broadly than just to elections....

What was your second concern? Was that the *mens rea*, and then the third was something else?

Mr. Robert Sampson: It was the *mens rea*, but also the reference to election.

Mr. Nathan Cullen: Yes. That was the first one.

Mr. Robert Sampson: “Fraudulently”, I believe, is also being removed in some of these amendments.

Mr. Nathan Cullen: Right. In Liberal-41, it's “attempts to commit any offence referred to in paragraphs (a) to (c)”, does that keep it open enough to lose those two concerns that you have?

You can understand, looking at that, how we're really going to rely on you on this one, because all it does is refer to two paragraphs and it says very little. As David has said, it might be the cleanest, but we want to make sure it's actually effective.

• (0920)

The Chair: Trevor.

Mr. Trevor Knight: I think our concern wasn't really the attempt that's dealt with in Lib-41. Our concern was with respect to the intention of the person who is affecting the election.

Mr. Nathan Cullen: Yes. You do want it to be a factor, that they intended to affect—

Mr. Trevor Knight: No. The current provision in Bill C-76 talks about intending to affect the results of the election.

Mr. Nathan Cullen: Right.

Mr. Trevor Knight: We felt that was too narrow, because it could be a leadership or a nomination contestant, not just an election.

Mr. Nathan Cullen: Right.

Mr. Trevor Knight: We also feel that it might just not be to affect the results of the election, but also to bring the process into disrepute or generally cause mischief. They don't care who wins, just as long as—

Mr. Nathan Cullen: Sure, it's just casting doubt, but on that first piece you said about intention, intention remains important. If somebody unintentionally does something, reposts something on social media—because that's what we're talking about here—the intention is not to capture somebody without intent, is it?

Mr. Trevor Knight: No. That wouldn't be our intent.

Mr. Nathan Cullen: It's the two other pieces. First is the broadening beyond elections and second is not whether it was “successful” or not. It's just the fact that it was attempted to cast aspersions.

Again, to go back to what Liberal-41 does in affecting paragraphs (a) to (c) in clause 323, does that keep things sufficiently broad but also effective enough? I'm having a hard time with this piece of the legislation.

The Chair: Mr. Morin, did you want to comment on this?

Mr. Jean-François Morin (Senior Policy Advisor, Privy Council Office): Yes. I would like to comment.

Ms. Sahota asked me a question on this specific topic right after the minister's remarks on Monday. I answered Ms. Sahota's question in English, so this morning, if the committee doesn't mind, I will take the unusual step of answering this question in French.

Please, all of those who don't understand French, hook up to the translation. I was trained in criminal law in French and I want to make sure that my answer is very precise.

[Translation]

The offence referred to in subsection 482(1) includes two elements of *mens rea*: fraud and the intention of affecting the results of an election.

When the Chief Electoral Officer appeared before the committee earlier this spring, he recommended that the second element of *mens rea*, intent to affect the results of an election, be deleted. I don't remember the exact wording he used to propose its replacement, but it referred, in the various subsections, to the use of a computer in an election or leadership run.

I would like to draw the committee's attention to the three amendments and to show how they differ from one another because they are not entirely similar.

Amendments CPC-141 and PV-14 are more similar, and the Liberal amendment is more different.

The purpose of the Liberal amendment is really to add a new offence, which is to attempt to commit any of the offences referred to in paragraphs 482(1)(a), (b) or (c) proposed in the bill. As this offence would be described in the new paragraph (d), it would include both elements of *mens rea* named in subsection 482(1). The Liberal amendment is thus not entirely consistent with the Chief Electoral Officer's recommendation.

Amendments CPC-141 and PV-14 both add an element of *mens rea* that, where applicable, could substitute for the element of intent to affect the results of an election. The element of *mens rea* in amendment CPC-141 would be the fact of “undermining confidence in the integrity of an election”. In amendment PV-14, it would be “the intention of affecting...[the] integrity of an election”.

One of the concerns with these elements of *mens rea* is that they are highly subjective. It could be very difficult to determine the level of confidence in the integrity of an election. That might subsequently lead to enforcement problems.

I would also like to draw the committee's attention to another point that I addressed in my answer to a question from Ms. Sahota.

Section 342.1 of the Criminal Code refers to a very similar offence. In fact, the offence described in section 482 of the Canada Elections Act, as proposed in Bill C-76, is based on section 342.1 of the Criminal Code. As I said on Monday, section 342.1 of the Criminal Code does not require any clear *mens rea* or intent to affect the results of an election.

Section 342.2 of the Criminal Code refers to another offence, possession of equipment enabling the commission of the offence described in section 342.1 of the Criminal Code.

I remind committee members of these provisions for a very simple reason. The Chief Electoral Officer of course plays an investigative role specializing in elections, but it would be false to believe that federal elections take place in a legal void or in a world where other investigative services are non-existent and inactive.

The Government of Canada recently announced the establishment of the Canadian Centre for Cyber Security, which is staffed by employees from Public Safety Canada, the Communications Security Establishment and other specialized cyber security organizations. The government also announced the creation of the National Cybercrime Coordination Unit within the Royal Canadian Mounted Police.

If candidates, parties or government organizations encountered a security breach or a potential unauthorized use of a computer in the context of an election, they would have to file a complaint with the Commissioner of Canada Elections and with the RCMP or local police departments.

The Privacy Act, the Access to Information Act and our criminal law framework enable investigative agencies to cooperate. Cooperation is encouraged because every investigative organization has its own specialty. Initiatives such as the National Cybercrime Coordination Unit are established precisely to ensure that all investigative organizations collaborate and draw on each other's specialties.

It is true, as the Chief Electoral Officer said, that the criminal law framework provided for under section 482 of the Canada Elections Act may be limited, but many other Criminal Code offences could apply to similar situations, including sections 342.1 and 342.2.

I would like to reassure committee members on this point: if an incident did occur, it would not be the only offence we could rely on. This is all part of a much broader legal framework.

● (0925)

[English]

The Chair: All that being said, which of these three amendments better reflects the Chief Electoral Officer's recommendations?

Mr. Jean-François Morin: None.

Voices: Oh, oh!

Mr. Nathan Cullen: There is not one here that stands...?

Mr. Jean-François Morin: The Liberal motion adds the new offence of “attempt”—thank you, Ms. Sahota—because in the Criminal Code there is a general provision that applies to other offences in the Criminal Code. It is an offence to “attempt” to commit an offence under the Criminal Code.

Of course, that Criminal Code provision does not apply to other federal legislation. That's why the government recommends adding the offence of “attempt” to cover a bit wider.

Ms. Ruby Sahota (Brampton North, Lib.): If I may, I think Mr. Morin is saying “none” of them because Liberal-41—I guess Liberal-40 was already done—goes halfway to addressing what this Chief Electoral Officer had said. When he was before PROC, I believe it was stated to also take away the intent portion. Now we are learning that for any criminal offence, you would need the *mens rea*, so it wouldn't be wise to do that. That was the statement made.

But yes, this does somewhat take into consideration what he wanted to achieve and allows for the offence of attempting.

● (0930)

Mr. Nathan Cullen: I'm wondering if there's anything additive between that, which is helpful and broadening, and any element of PV-14 or CPC-141 that is also helpful. I know that once we affect one line of the act, that's kind of it. We have to leave it be.

I know you're not here on policy, but is there any element of the two prior amendments that are in line with, if I can put it that way, what the CEO requested be changed within Bill C-76?

The Chair: And could be added, you're saying, to Liberal-41?

Mr. Nathan Cullen: Yes. I don't want to complicate things too much, but if there is a simple addition we can make to Liberal-41 to satisfy something else we heard from the Chief Electoral Officer, then why not consider it?

Mr. Robert Sampson: With CPC-141 and PV-14, we move away from simply an intent to affect the results of an election by adding “confidence in the integrity of an election” to that.

Mr. Nathan Cullen: Right.

Mr. Robert Sampson: That would broaden the scope and would be more in line with the Chief Electoral Officer's recommendations.

I would say that we could go one step further and refer to leadership contests and nomination contests. That would broaden it even further.

Mr. Nathan Cullen: What is the term within the act that covers elections, nomination contests and leadership races? There isn't one, is there?

Mr. Robert Sampson: There is no one single term.

Mr. Nathan Cullen: You have to name them all.

We don't update the Canada Elections Act very often, right, so why not go for gold here? If there's a way to say election, nominations and leadership contests....

If “results of an election, nomination or leadership contest, or of undermining confidence in the integrity of the same” were added to Liberal-41, that would fall in line, that would include another recommendation that came from the CEO while still, as Ruby has said, broadening the question about intent.

Mr. Jean-François Morin: On this specific question, CPC-141 and PV-14 do not modify the same line as Liberal-41. I think that Liberal-41 comes a bit later in line number, so CPC-141 and PV-14 are the only ones that amend the chapeau of subsection 482(1).

Mr. Nathan Cullen: These are all connected, but the first two are the ones that we need to consider first, and then we can consider Liberal-41 after that as an independent clause.

Looking through you, Chair, to get help—yes.

I'm not sure how the Conservatives feel about this, but that friendly amendment to CPC-141, I think, is better than PV-14. Pass that or consider it, and then look at Liberal-41, which is an addition—adding subsection (d)—and we wouldn't be affecting the same thing twice, so those votes would stand apart. Is that right?

The Chair: If we did that, passed CPC-141 and Liberal-41 and made the amendment that Mr. Cullen is talking about, would that cover a lot of stuff the CEO was recommending?

Mr. Trevor Knight: Yes, it would cover a lot of the stuff.

Mr. Nathan Cullen: I don't know how the Conservatives feel about accepting a subamendment to their amendment to include “results of an election, nomination or leadership contest, or of undermining confidence in the integrity of an election, nomination or leadership contest”.

Then we could move on to Liberal-41 after that.

The Chair: Do you want to jot that down while they're talking, just the subamendment? Add those words for the clerk.

Mr. Nathan Cullen: You want me to write that? Sure.

The Chair: He's going to get you some paper.

Mr. Nathan Cullen: Is it nomination contest or just nomination? Okay, thank you very much.

Is it called leadership contest, as well? Is that how it's referred to in the act? Thank you.

● (0935)

The Chair: I'll just read you the subamendment to CPC-141. We're discussing the following subamendment: results of an election, nomination contest or leadership contest, or of undermining confidence in the integrity of the election, nomination contest or leadership contest.

It just adds two elements. It adds those other two events in the electoral cycle. It is not only affecting the results but undermining confidence in the integrity of the election. Those are the two things that would be added that the Chief Electoral Officer had proclivity for.

Ms. Sahota.

Ms. Ruby Sahota: Personally, I have no problem with the “confidence in the integrity” language and all of that. That's all nice and flowery, and we can add it in. I don't think it makes any change to the effect of the actual clause.

Regarding the leadership contest and the nomination, so far every time we've sat down it's been decided that the parties are going to be responsible for those things, and it is not under the purview of Elections Canada, necessarily. They're not involved in those processes.

I don't know. What do you guys think?

Mr. Robert Sampson: In terms of nomination contests and leadership contests, Elections Canada's primary involvement is with respect to political financing aspects. For an offence here, we would likely be speaking of the commissioner's involvement.

Mr. Nathan Cullen: [*Inaudible—Editor*] attempted to commit... tried to put into a leadership race or a nomination race, spreading information that was trying to discredit the race itself, the contest itself.

Mr. Robert Sampson: That's correct.

Mrs. Stephanie Kusie: Chair, I think we share the views of the government. It's sort of our philosophy to keep party politics in the family.

The Chair: My sense is—correct me if I'm wrong—that we would defeat this amendment but redo an amendment that had the same stuff in it, except for the part about the nomination and leadership contests. Is that the sense of the room? Do you get the sense...?

Mr. Nathan Cullen: I get that sense, but I just want people to think about it. First of all, this is a recommendation that did come from the Chief Electoral Officer. We seem to be very selective whether we think he's wonderful or not, depending on what he says. He's great when we agree with him, and we ignore him when we don't agree with him.

We're saying that if, during a leadership race, somebody—with intent or not—tries to cast doubt by hacking into it, spreading misinformation or disinformation, we're okay with the parties being able to handle it themselves and not relying on any of the potential criminal offences that could result if we included this in the Elections Act. I don't know why we wouldn't want to keep the highest integrity over all of our nomination races. I really don't see it as interference, personally. This is in the event of somebody trying, for example, in Ruby's nomination, to do all of those things to cast doubt over the results of you being the candidate—if you had a nomination race.

That's the point and the intention of this. I appreciate people wanting to keep party things party, but look at the offences we're talking about. This is people who are intentionally trying to discredit our democratic process—not just at the general election but when we pick candidates who will then be put forward as candidates in the general election. The whole thing seems integral to me. Why not have an offence on the books that says, “If you try to do this, regardless of whether it's successful, you're committing an offence”, as opposed to just letting the parties handle it?

● (0940)

The Chair: Everybody's views are on the table. We'll vote on the subamendment. If it's defeated, look to maybe Mr. Cullen to resubmit a smaller subamendment.

(Subamendment negated)

The Chair: If we had the amendment, Mr. Cullen, would you be willing to present that it undermines the confidence in the integrity of the election, nomination contest or leadership contest?

Mr. Nathan Cullen: I thought that was just defeated.

The Chair: Sorry, it's “undermining confidence in the integrity of an election”, just those words.

Ruby said you were okay with that part.

Ms. Ruby Sahota: Does it make any difference? Looking for advice, does that language make any difference in the effect?

Mr. Jean-François Morin: We are back to the original text of CPC-141. The only comment I made was with regard to the subject of the nature of “undermining confidence in the integrity of an election”. It may cause enforcement problems in the future. That being said, it would be a specific element of *mens rea* that could be used instead of with the intent of affecting the results of the election.

Mr. Nathan Cullen: The question is that it's not additive. It's not subtractive certainly—

Mr. Jean-François Morin: It's not subtractive. It would be an alternative to affecting the results of the election.

Mr. Nathan Cullen: Why not consider an additive piece to what exists in other parts of the Criminal Code, which is what you referred to, Mr. Morin? There are other aspects of the Criminal Code that can be applied.

Mr. Jean-François Morin: As I said, 482(1) includes two elements of *mens rea*. There's a more general one, fraud, which is also included in the Criminal Code, and a more specific one, the intent to affect the results of an election, which is not presented in the Criminal Code. Laying a charge under the Criminal Code without any proof of specific intent to affect the results of an election would still be possible, provided that all other elements of the offence are met, of course.

The Chair: We'll go to a vote now. First we'll do CPC-141.

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

(Amendment negated: nays 5; yeas 4)

The Chair: PV-14 can be moved because that didn't pass. Is there any further comment on PV-14, which is very similar?

Mr. David de Burgh Graham: I think we've hashed out this discussion.

The Chair: Now we move to Liberal-41.

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

(Clause 323 as amended agreed to on division)

(Clauses 324 and 325 agreed to)

(On clause 326)

The Chair: On clause 326, there's a new CPC amendment, which is reference number 9952454.

Stephanie, would you like to present this?

● (0945)

Mrs. Stephanie Kusie: For the register of future electors, this increases the penalties for the improper use of the registry data.

The Chair: Is there any discussion?

Mr. Nathan Cullen: It increases the penalties from what to what?

Mr. Jean-François Morin: If I may....

The Chair: Go ahead.

Mr. Jean-François Morin: Ms. Kusie, you're right that this would eventually have an effect on punishment, but this specific motion is about the offence itself.

Currently the offence associated with the prohibition found at paragraph 56 (e.1), on the unauthorized use of personal information recorded in the register of future electors, is considered to be an offence requiring intent, but on summary conviction only. This offence is found at that specific provision because it mirrors the offence associated with the unauthorized use of personal information recorded in the register of electors.

The amendment would transfer the offence related to unauthorized use of personal information found in the register of future electors to proposed subsection 485(2), which would make it a dual procedure offence. Potentially it could be prosecuted on indictment and have higher criminal consequences.

The Chair: It could be summary or indictment.

Mr. Jean-François Morin: Yes. Currently, it's summary only, as it is for the similar offence for the register of electors. Now the one for the register of future electors would be separated from that, and it would be dual procedure.

The Chair: This makes stricter.... There are potentially more options for the commissioner and the prosecutor to go by indictment as well as summary conviction.

Mr. Jean-François Morin: Yes.

The Chair: Are there any further comments?

Mr. Graham.

Mr. David de Burgh Graham: Right now, there's already a prosecution option for the misuse of the register of electors. I think having it consistent for electors and future electors is the appropriate way to go, not treating them separately.

The Chair: Right now, electors can just be proceeded by summary. This would have the future electors as summary or indictment, basically.

Mr. Jean-François Morin: Yes, and it's for the misuse of the information.

It's not typically electors who would be found liable for that, but people who are using this information on a daily basis.

The Chair: Mr. Cullen, are you discussing this amendment?

Mr. Nathan Cullen: No, something else totally different.

The Chair: Okay. Could we vote on this thing?

Go ahead.

Mrs. Stephanie Kusie: We're dealing with minors here, so I think that in society, in law, whether it's in regard to offences or pornography, we have always looked at the inclusion and the involvement of those under age with specific regard.

I think that this amendment reflects that.

● (0950)

The Chair: Is there any further discussion?

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

(Clause 326 agreed to on division)

(On clause 327)

The Chair: We have two amendments here. We'll start with CPC-142.

Stephanie.

Mrs. Stephanie Kusie: CPC-142 and CPC-143 are similar in that they maintain the element of "knowingly" to the offence of false publications.

Again, if someone were to do something.... If we remove "knowingly", it just leaves it very subjective in terms of people reposting or redistributing information, whereas the "knowingly" adds the intention around which we've had a lot of discussion this morning.

We're advocating to maintain the element of "knowingly" in both CPC-142 and CPC-143.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: My understanding of things is that the amendment is already redundant because intent is already required in the offence related to the prohibition.

Is that correct, Mr. Morin?

Mr. Jean-François Morin: The prohibition associated with both CPC-142 and CPC-143 is in proposed subsection 91(1) of the bill. This prohibition says that no person or entity shall, with the intention of affecting the results of the election, make or publish a false statement.

Yes, the intent requirement is already reflected in the intent to affect the results of the election, and of course, the person committing the offence would also need to be aware that the information that is published is false. I think that adding in "knowingly" here would be adding some uncertainty in the level of proof that would be required to successfully convict someone under that provision.

Mr. David de Burgh Graham: Thanks.

I'm prepared to vote on CPC-142 and CPC-143 on that basis.

The Chair: We'll vote on CPC-142.

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

The Chair: Is CPC-143 the same thing?

Mrs. Stephanie Kusie: It's the same thing. Just continue on.

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

(Clause 327 agreed to on division)

(Clause 328 agreed to)

(On clause 329)

The Chair: On clause 329, there was CPC-144, but it was consequential to CPC-49, which I assume is defeated.

(Clause 329 agreed to on division)

(Clause 330 agreed to)

The Chair: Clause 331 had two amendments, both of which have been withdrawn: CPC-145 and Liberal-42.

(Clause 331 agreed to on division)

The Chair: Clause 332 had one amendment, CPC-146, which was withdrawn.

(Clause 332 agreed to on division)

The Chair: Clause 333 had some amendments. It had Liberal-43. That was consequential to LIB-24, so that amendment is passed. There was a CPC-147, but that's withdrawn.

(Clause 333 as amended agreed to on division)

(Clauses 334 and 335 agreed to)

(On clause 336)

The Chair: Clause 336 has about 10 amendments. Liberal-44 was passed consequentially to Liberal-26. NDP-25 was defeated consequential to NDP-17. CPC-148 has been withdrawn. Liberal-45 is passed consequential to....

Are you withdrawing this one?

• (0955)

Mr. David de Burgh Graham: Yes.

The Chair: Liberal-45 is not being presented.

Mr. Scott Reid: Mr. Chair, there may be an explanation that's rational, but I don't understand. You said that it was passed consequential to something else and then we say it's withdrawn. How can they withdraw if it has already been passed?

Mr. David de Burgh Graham: LIB-44 was passed. LIB-45 was withdrawn.

Mr. Scott Reid: The indication was given prior to the date or the point at which...?

The Chair: At the time, Liberal-30 was being discussed.

Mr. Scott Reid: They actually indicated that.

The Chair: Yes.

Mr. Scott Reid: All right. Therefore, the committee would not have been under the impression that it was passing Liberal-45 as a consequence, because that would mean it would have to be withdrawn separately.

The Chair: Okay.

Mr. Scott Reid: Thank you.

Would you mind saying that affirmatively so that's actually there and we're—

The Chair: Okay. The intention to withdraw Liberal-45 was provided at the time we were talking about Liberal-30, so it is not consequential.

Mr. Scott Reid: Okay. Thank you.

The Chair: CPC-149 was withdrawn. Liberal-46 was passed consequential to Liberal-26. PV-15 was defeated consequential to PV-3. CPC-150 was withdrawn.

We have Liberal-47. It's still in play. Can someone introduce Liberal-47?

Mr. Chris Bittle (St. Catharines, Lib.): The new paragraphs 495.3(2)(h) and (i) should both begin with “being a third party” in the English version and “*le tiers qui*” in the French version, just as the corresponding offences in proposed paragraphs 495.3(1)(f) and (g) are limited to third parties. It's just a technical correction.

The Chair: Are there any questions?

Mr. Jean-François Morin: This was just a drafting oversight that was raised by the drafters when we drafted the amendments to the bill. It should have been included from the get-go.

(Amendment agreed to [See Minutes of Proceedings])

(Clause 336 as amended agreed to on division)

(On clause 337)

The Chair: Clause 337 has eight amendments. Liberal-48 is passed consequential to Liberal-32.

We have Liberal-49.

Mr. David de Burgh Graham: I'll have to withdraw Liberal-49.

The Chair: You're not presenting Liberal-49?

Mr. David de Burgh Graham: I will withdraw LIB-49.

The Chair: Liberal-50 is consequential to Liberal-26, so that means it's included. That amendment was adopted.

CPC-151 is withdrawn. PV-16 was lost consequentially to PV-3. CPC-152 is withdrawn.

Liberal-51 has passed consequentially to LIB-32.

• (1000)

Mr. Jean-François Morin: Mr. Chair, may I ask a question?

The Chair: Yes, Monsieur Morin.

Mr. Jean-François Morin: Did you say that Liberal-49 has carried?

The Chair: No, Liberal-49 was not presented.

Mr. Jean-François Morin: Okay, thank you. It was consequential to another amendment that was withdrawn, so I wanted to make sure.

(Clause 337 as amended agreed to on division)

The Chair: Clause 338 had two amendments from the Conservatives: CPC-153 and CPC-154. Both were withdrawn.

(Clause 338 agreed to on division)

The Chair: On clause 339, Liberal-52 is consequential to Liberal-36, so that amendment passes.

(Clause 339 as amended agreed to on division)

(On clause 340)

The Chair: Clause 340 has six amendments. The first, which I think is still open for discussion, is CPC-155.

Stephanie.

Mrs. Stephanie Kusie: This essentially defers the implementation of the pre-election spending limits for political parties until after the 2019 election.

The Chair: Ruby.

Ms. Ruby Sahota: It deletes any offences related to pre-election spending limits, and we are not in favour of that.

Mr. David de Burgh Graham: It nullifies the next two as well.

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

The Chair: CPC-156 is on the same topic.

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

The Chair: Is CPC-157 on the same topic?

Ms. Ruby Sahota: Yes, it's the same topic.

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

The Chair: PV-17 is defeated consequentially to PV-3.

Liberal-53 is passed consequentially to Liberal-38. Liberal-38 did pass, so Liberal-53 now passes.

(Clause 340 as amended agreed to on division)

(On clause 341)

The Chair: Clause 341 has five amendments. We'll start with CPC-158.

Mr. David de Burgh Graham: Isn't it a continuation of the last three?

Mrs. Stephanie Kusie: Yes, it is, more or less.

The Chair: Can we just go to a vote on it?

Mrs. Stephanie Kusie: I think so.

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

The Chair: Now we're on CPC-159.

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

The Chair: Liberal-54 passes consequentially to Liberal-39. Liberal-39 passed, so Liberal-54 now passes.

(Clause 341 as amended agreed to on division)

(Clause 342 agreed to)

(On clause 343)

The Chair: We go on to clause 343, and we have an amendment in place, CPC-160.

•(1005)

Mrs. Stephanie Kusie: This is introducing coordination and collusion standards similar to those that we have discussed already, but I think they were touched upon when we had the Chief Electoral Officer here from Ontario. I think I'll leave it at that.

The Chair: Mr. Nater, did you want to add anything?

Mr. John Nater: Yes, I would just say this is kind of a precursory amendment for CPC-167. It would be important that we pass this, so that we can also pass CPC-167 as well.

The Chair: Okay.

Mr. David de Burgh Graham: Can we vote on CPC-167 right now?

Mrs. Stephanie Kusie: No.

Mr. John Nater: If you want CPC-167, you have to pass this one too.

Mr. David de Burgh Graham: Thank you for making my life so easy.

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

The Chair: PV-18 was defeated consequential to PV-3.

(Clause 343 agreed to on division)

(Clause 344 agreed to on division)

The Chair: New clause 344.1 is proposed by Liberal-55, and that passes consequential to Liberal-38.

It's already adopted so we don't have to vote.

(Clause 345 agreed to)

(On clause 346)

The Chair: Now we're onto clause 346, and there are roughly eight amendments.

The first was CPC-161, which has been withdrawn. I believe CPC-162 was also withdrawn.

Mrs. Stephanie Kusie: Yes.

The Chair: Liberal-56 was passed consequential to Liberal-26. Liberal-57 is passed consequential to Liberal-38.

CPC-163, I believe, is still in play.

Mr. John Nater: Chair, I have a point of order.

Is there a line conflict between Liberal-56 and Liberal-57?

The Chair: We will ask the legislative clerk that question.

Yes, Mr. Nater, you're right, there is a line conflict. I have no idea what that means, but we'll find out.

•(1010)

Mr. Jean-François Morin: Mr. Chair, in Liberal-56, at paragraph (b) I think there is a typo. It should read, "replacing line 15 on page 201" instead of "line 16". The French is good.

The Chair: Which one is that? That is Liberal-56?

Mr. Jean-François Morin: Yes, that is what he said.

The Chair: Could everyone make that typo change on Liberal-56. In (b), replace "line 16" with "line 15".

Mr. John Nater: Does that require unanimous consent since it has been adopted?

The Chair: It doesn't change the substance.

Mr. David de Burgh Graham: And it's correct in the French.

Mr. Nathan Cullen: The Spanish is way off.

The Chair: So that removes the line conflict.

Okay, Mr. Nater, thank you for bringing that up and I'm glad you're making such careful...

Mr. John Nater: I'm here to serve.

The Chair: Yes, that's impressive.

We're at CPC-163, but it cannot be moved if Liberal-38 passes because it amends the same line as Liberal-57. I'm sorry, this can't be moved.

Liberal-58 can be presented by Mr. de Burgh Graham.

Mr. David de Burgh Graham: This is related to foreign funding of third parties' regular activities. It will allow the court, having found a third party guilty of an offence related to the use of foreign funds, to impose an additional punishment equal to five times the amount of foreign funds used in contravention of the act.

The Chair: What does that do, in simple English?

Mr. David de Burgh Graham: It creates a punitive.... What is it called when you get additional penalties based on the gains? I'll ask the lawyers.

Mr. Jean-François Morin: In addition to the penalty imposed by the judge under section 500, if a third party is found guilty of having used foreign funds, then the judge could impose an additional penalty over the punishment that was imposed of up to five times the amount of foreign funds that were used in contravention of the act.

Mr. David de Burgh Graham: That's exactly what I was trying to say.

Mr. Jean-François Morin: If you use a contribution of \$5,000 from a foreign origin, a fine of \$10,000 could be imposed, for example, and then an additional penalty of \$25,000.

The Chair: Is there discussion on this amendment?

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

We'll go to CPC-164.

Stephanie.

Mrs. Stephanie Kusie: This has tougher anti-collusion definitions and penalties that essentially result in a third party that's found guilty of offences under sections 349 and 351 to cease being registered as a third party.

The Chair: Is there any discussion on this?

Mr. Graham.

Mr. David de Burgh Graham: Mr. Morin, can you explain the effect of deregistering a third party, given that they don't run?

Mrs. Stephanie Kusie: They get sucked into a big black hole.

Voices: Oh, oh!

• (1015)

Mr. Jean-François Morin: I'll make a technical comment first. We would need to verify, but in the chapeau at new proposed subsection 500(7), I think a few of these provisions that have been mentioned have not been adopted or carried. We would need to verify that.

The concept of deregistration of a third party is currently foreign to part 17 of the Canada Elections Act.

Is it...?

Mr. Trevor Knight: It does not exist in the act. I guess the consequence—I haven't studied this too closely—would probably be that then they cease to have obligations under the act. One unintended consequence of this might be that they couldn't be found guilty of the offences that we....

The Chair: We'd let them off the hook.

Mr. David de Burgh Graham: But they could be found guilty of not being registered.

Mr. Jean-François Morin: not really, because they would be deregistered as a result of the act, and it would also put into question the requirement for them to present a financial return after the election.

I am really unsure of the entire scope of this amendment.

The Chair: There may be some unintended consequences here.

Mr. Nathan Cullen: Normally we ask...not force, but people are required to register as a third party if they're involving themselves.

Mr. Jean-François Morin: Yes, exactly.

Mr. Nathan Cullen: So then to deregister them from being a third party—

Mr. David de Burgh Graham: I think we have enough information to show that this amendment isn't terribly helpful.

The Chair: Mr. Nater.

Mr. John Nater: In an effort to be helpful, I propose that the amendment be amended by deleting new proposed paragraph 500(7) (a).

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

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

(Clause 346 as amended agreed to on division)

The Chair: Amendment CPC-165 proposes new clause 346.1.

Stephanie.

Mrs. Stephanie Kusie: This empowers judges to consider deregistration penalties for political parties engaged in collusion with third parties.

The Chair: Is there any discussion on this?

Do the officials have any comments?

Mr. Jean-François Morin: My only comment is that while the motion is two pages long, really the only substance here is—

The Chair: That's not very positive.

Mr. Jean-François Morin: I mean no offence. It's just that the Conservatives adopted a prudent approach in proposing a new section 501.1 because 501 was not yet open. All it does, basically, is repeat several subsections of section 501, which talks about the deregistration of parties in certain circumstances. This regime is already known. The effect of this motion is to add the three paragraphs that are mentioned in proposed subsection 501.1(1) to the category of offences that can lead to the deregistration of a party.

The Chair: Do you happen to know what those three things are that could cause a deregistration?

Mr. Jean-François Morin: Yes. They are offences of collusion with a third party.

The Chair: Okay, so this is adding the fact that collusion with a third party could also lead to deregistration, on top of everything else that could lead to the deregistration of a party.

Mr. Cullen.

• (1020)

Mr. Nathan Cullen: What are the offences imagined up to this point for a registered party colluding with a third party? What penalties would a party face without this?

Mr. Jean-François Morin: It would face the various penalties that are found in section 500 of the Canada Elections Act, basically fines or imprisonment.

Mr. Nathan Cullen: We've already contemplated that if a registered party colludes with a third party, imprisonment and fines are available. This would essentially add on the penalty of potentially deregistering the party as well.

Mr. Jean-François Morin: Exactly.

Mr. Nathan Cullen: Okay.

The Chair: We'll have one last comment from Mr. Nater.

Mr. John Nater: Thank you, Chair.

I like your prescience here in predicting this. It's a question to our witnesses. It was mentioned that there already is a deregistration concept within the act. What provisions would trigger that?

Mr. Jean-François Morin: Section 501 of the act includes some other contexts as well as the context of deregistration, which is specifically in subsection 501(2). In subsection 501(3), you can see the various offences that could lead to deregistration currently, for example, entering into prohibited agreement, soliciting or accepting contributions contrary to the act, collusion, providing or certifying false or misleading information, making false or misleading declarations, and so forth and so on.

The Chair: This amendment would add the fact that a party could also be deregistered if it colludes with a third party. There are other penalties for doing that already, as Mr. Cullen noted, jail and so on.

Mr. John Nater: I request a recorded vote.

The Chair: We haven't had one for a while.

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

(On clause 347)

There's no new clause 346.1. We'll go on to clause 347.

There is one amendment proposed, CPC-166.

Stephanie.

Mrs. Stephanie Kusie: I feel good about this one. With third parties, it adds candidates' collusion with foreign third parties to the list of illegal practices, which also triggers prohibitions on sitting and voting in the House.

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

Mr. Jean-François Morin: The motion is quite clear. The concept of illegal practices and corrupt practices is found in section

502 of the Canada Elections Act, and the consequences are found in subsection (3), paragraphs (a) and (b). There is a prohibition on being elected to or sitting in the House of Commons, or holding any office in the nomination of the Crown or of the Governor in Council.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: I wasn't sure if this came up in the Del Mastro case, that if you break certain sections of the Elections Act, then you can't stand as a candidate for a certain amount of time. Am I right?

Mr. Jean-François Morin: Those are the provisions exactly.

Mr. Nathan Cullen: Can you remind me of what that provision is? Is it five years?

Mr. Jean-François Morin: It depends. For an illegal practice, I think it's five years.

Mr. Nathan Cullen: It's five years.

Mr. Jean-François Morin: In the case of an illegal practice, it's during five years, or in the case of a corrupt practice, it's during the next seven years.

Mr. Nathan Cullen: It's either five or seven. This would help me out, to add in the fact that someone convicted of this would not be able to sit in the House.

Even if elected, if convicted of this collusion, they would essentially not be able to sit in Parliament to which they were elected.

Mr. Jean-François Morin: Exactly.

Mr. Nathan Cullen: What happens then? You can't force a by-election, can you?

• (1025)

Mr. Jean-François Morin: We would have to refer—

Mr. Nathan Cullen: The elected person might be doing jail time. What do you do about that?

Mr. Jean-François Morin: We would have to refer to the Parliament of Canada Act, to the vacancy provisions, which I don't have in front of me, unfortunately, but I can look it up and get back to you.

Mr. Nathan Cullen: It's not that I'm against the concept. I'm just looking at what the consequence would be. Could you simply have a vacated seat without the concept of a by-election forcing the recasting of the vote? If someone is convicted of this crime.... They might be doing jail time, which is another whole category in the Parliament of Canada Act.

The Chair: Mr. Nater, did you want to add something?

Mr. John Nater: I believe in that case the House would have to exercise its privilege to vacate the seat.

The Chair: Thank you.

Mr. Nathan Cullen: The MP would be an elected candidate. Their having been elected as an MP, the House would have to expel them.

Mr. David de Burgh Graham: We can vote them off the island.

The Chair: Then it basically adds another reason why you could get all these penalties that are already in the act, right?

Mr. Jean-François Morin: Right. We just looked it up in the Parliament of Canada Act. This wouldn't result in an automatic vacancy in the House. It would not result in an automatic vacancy, so the person could resign or otherwise.

Mr. Nathan Cullen: But they would be forced out of the House.

Mr. John Nater: It would also be a further incentive for a candidate not to collude with a third party.

The Chair: Is it just a third party or a foreign third party?

Mr. John Nater: I mean a foreign third party. It's a fairly strong incentive not to do that.

The Chair: Is there any further debate? Do the Liberals have any comment?

Mr. David de Burgh Graham: Taking away the right to seek office from the rights of a citizen is a fairly serious penalty for anything, as it should be. I think the act already has some pretty severe penalties within it. I don't know if this is the best one. The commissioner has the tools to catch the lawbreakers as it is. If somebody is put in jail under a separate thing, that already takes care of it under the Parliament of Canada Act.

The Chair: If someone colludes with a third party, is there a way to catch that right now in the act?

Mr. David de Burgh Graham: If somebody commits a crime and is in jail, then they aren't there anyway.

Mr. Jean-François Morin: Yes. As I said earlier, the consequences would be either jail time or a fine, or both.

The Chair: But without this amendment, if someone colludes with a third party, can that be caught?

Mr. Jean-François Morin: There is an offence for that.

The Chair: There is.

Mr. Jean-François Morin: Of course. This is an additional consequence to being found guilty of the offence itself.

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

(Clause 347 agreed to on division)

(Clause 348 agreed to)

The Chair: Clause 349 had one amendment, Liberal-59. It's consequential to Liberal-26, which passed, so Liberal-59 passes.

(Clause 349 as amended agreed to on division)

The Chair: There's a new clause proposed, 349.1, by CPC-167.

Stephanie.

Mrs. Stephanie Kusie: Again, this introduces legislation similar to that seen in Ontario as well as the United States in regard to coordination, collusion standards.

The Chair: Is there discussion?

Mr. Bittle.

Mr. Chris Bittle: My question to the officials is on the enforceability of this. Does the amendment make it more difficult to enforce the act?

Mr. Jean-François Morin: It is very precise. It also seems very broad, so it would certainly distract from the case law that already

exists in the context of collusion. We cannot predict the exact effects of legislating a concept that already has a lot of legal meaning associated with it.

• (1030)

The Chair: You said very precise and very broad at the same time.

Mr. Jean-François Morin: No, it goes into great detail in describing what is and isn't collusion, while the act currently only talks about the general concept of collusion and leaves it to the report to determine the precedent using case law.

Mr. John Nater: These provisions are based on those adopted by the Ontario Liberal government of Kathleen Wynne in 2014. I suspected our friends across the way would appreciate that in supporting....

The Chair: That's a great argument for the amendment.

Mr. John Nater: I thought my friends across the way would appreciate that.

Mr. Nathan Cullen: No, not even a little.

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

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

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

(On clause 350)

The Chair: We will go on to clause 350. Four CPC amendments are proposed, one of which has been withdrawn. We'll start with CPC-168.

Stephanie.

Mrs. Stephanie Kusie: This removes the offences of multiple or ineligible voting from the administrative monetary penalties regime.

The Chair: We'll come back to the stricter regime.

Mrs. Stephanie Kusie: Yes, correct.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: Why do we want to restrict the commissioner's ability to have AMP, which is a great addition in this act?

Mr. Scott Reid: Are you looking for rhetoric lines?

Mr. David de Burgh Graham: Feel free.

Mr. Scott Reid: I would, but I don't want to delay us beyond the necessary time.

Mr. David de Burgh Graham: We might be done by one.

The Chair: Okay.

All in favour of CPC-168, which reduces the commissioner's scope in dealing with these particular offences.

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

The Chair: CPC-169 is withdrawn, so we're on CPC-170.

Stephanie.

Mrs. Stephanie Kusie: This adjusts the penalty, making it a minimum \$1,000 fine, or administrative monetary penalty, for issues that previously led to a candidate's deposit being forfeited.

The Chair: Do the officials have any comment?

Mr. Jean-François Morin: This is a policy decision.

The Chair: Mr. Nater.

Mr. John Nater: An interesting observation of why this is important is that recently an Alberta court struck down the provisions of the candidate deposit. This would provide at least a \$1,000 monetary situation.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: Doesn't this lower the maximum possible fine?

Mr. Jean-François Morin: No, it imposes a minimum administrative monetary penalty of \$1,000. Currently, at section 500 of the act, which imposes the penalties for committing an offence, there is no minimum penalty.

• (1035)

Mr. David de Burgh Graham: Is there a maximum?

Mr. Jean-François Morin: Yes, of course. The act always establishes maximum penalties, but in this case, it would be a novel use of a minimum penalty in the act. Currently, at proposed subsection 508.5(2), the maximum AMP that can be imposed on a person is \$1,500.

Mr. David de Burgh Graham: This would change that to \$1,000.

Mr. Jean-François Morin: It would limit the commissioner's ability to determine an appropriate amount for the AMP.

Mr. David de Burgh Graham: Whatever you do, it's \$1,000 instead of the flexibility of one dollar to \$1,500. Okay.

Thank you.

The Chair: Does Mr. Nater have any further comments before we vote?

Mr. John Nater: No.

The Chair: Okay, we shall vote on CPC-170, which reduces the flexibility in determining the fine, which is now one dollar to \$1,500, and puts a minimum on it of \$1,000 to \$1,500.

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

The Chair: We'll go on to CPC-170.1

Mr. John Nater: Maybe I'll take this one, Chair.

This basically makes it that the maximum penalty that could be imposed by a public servant, by a bureaucrat, would not be higher than it would be in a similar situation where a judge would be imposing the penalty.

Under the way Bill C-76 would operate at this point, a fine issued through an AMP, a monetary penalty, could be higher than that which would be imposed in a similar situation with a judge. This is aligning the two in terms of the maximum penalty.

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

Mr. Jean-François Morin: No. It would further restrict the flexibility afforded to the commissioner, but at the same time I think

that we should trust the commissioner's good judgment in applying the new AMPs regime.

The Chair: Mr. Nater.

Mr. John Nater: I'm just curious. To our officials, would the administrative monetary penalties process have the same legal safeguards that would exist in a court situation or in a situation where a summary conviction would be sought?

Mr. Jean-François Morin: The context of the AMPs regime is different. The AMPs regime is an administrative process, while the prosecution of offences falls into the criminal set of rules. Yes, there are many safeguards included in the AMPs regime, including an administrative review of the penalty and of the file from the Chief Electoral Officer, and of course, the Chief Electoral Officer's review decision could be reviewed by the Federal Court. The process is different. It's an administrative process rather than a criminal process, but yes, there are a lot of safeguards in place.

Mr. John Nater: But not as many as in a court situation....

Mr. Jean-François Morin: Given the different burden of proof in a criminal process versus in an administrative process, of course, the rules are different.

The Chair: Mr. Sampson wanted to come in.

Mr. Robert Sampson: I'm open to being corrected by my colleague on this, but it may be useful to note that the amounts set for summary conviction are already higher than the maximum allowable under an AMP. Currently, under an AMP, the decision-maker could not exceed the amount that is the maximum for a non-summary conviction.

• (1040)

The Chair: That would make this amendment moot.

Mr. Nater, would it be safe to say that this amendment is being soft on crime, by reducing the potential penalty?

Mr. John Nater: We are the party that really likes to see judicial protections for those under the law. We're the party of the charter—let's put it that way.

Mrs. Stephanie Kusie: Yes, we believe this is a lower burden of proof for a greater penalty, similar to another issue we're seeing in the House right now, which rhymes with "Gorman".

The Chair: Given that Mr. Sampson said it wouldn't be a higher penalty....

Mr. Robert Sampson: I should correct myself there. In the AMPs provision, there is an additional ability to impose a fine of double the amount of the contribution that is illegal, so above and beyond the normal fine, which can only meet \$1,500. My colleague points out, and I do apologize, that in the case of a contribution that is illegal, in fact the fine is not set out in the act.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: I believe we're ready to vote on this one.

The Chair: Mr. Bittle, you have a worried look on your face.

Mr. Chris Bittle: I always have a worried look on my face.

The Chair: Okay, I will call the vote on CPC-170.1.

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

(Clauses 350 agreed to on division)

(Clauses 351 agreed to on division)

(On clause 352)

The Chair: Clause 352 is a little complicated. The vote on CPC-171 applies to CPC-185, which is on page 344, and CPC-193.1, which is on page 363. Also, if CPC-171 is adopted, CPC-173 cannot be moved as they amend the same line.

Stephanie, do you want to present CPC-171?

Mrs. Stephanie Kusie: This maintains the Commissioner of Canada Elections within the Public Prosecution Service of Canada.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: When the Fair Elections Act came out, one thing that we quickly found troublesome was moving the commissioner away from Elections Canada. It's important that we put it back where it belongs and has been for most of its life. On that basis, I won't support amendments CPC-171 or CPC-172.

The Chair: I think we know where people stand on this, so we'll go to a vote.

Mrs. Stephanie Kusie: Pardon me, Chair.

I'd like to thank Mr. de Burgh Graham for not referring to it as the "unfair elections act". That was gracious.

Mr. Scott Reid: He had no need to.

Mr. David de Burgh Graham: Stephanie, just for your own reference, at the time, I worked for Scott Simms, who was our democratic reform critic, so that was my file back then as well.

Mrs. Stephanie Kusie: Okay.

Mr. Scott Reid: Scott was always pretty fair-minded about it. There was another member who I thought was—

Mrs. Stephanie Kusie: Whether you agree with him or not...

Mr. David de Burgh Graham: It's a "Scott" thing.

Mr. Scott Reid: I wouldn't go that far.

The Chair: Okay, we'll go to the vote.

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

Mr. David de Burgh Graham: Could we not do CPC-172 together with CPC-171?

The Chair: Are they the same thing?

Mr. David de Burgh Graham: Basically, yes, CPC-172 is the same topic.

Mrs. Stephanie Kusie: Yes, it maintains the authority to initiate prosecutions with the Director of Public Prosecutions.

The Chair: Mr. Nater, go ahead, present CPC-172.

Mr. John Nater: Sure. I would just point out that the change that is being reversed in Bill C-76 we're changing with this amendment. It was actually first introduced in 2006 with the Federal Accountability Act, Bill C-2 at the time, which was at the time with multi-party support. This is reversing some of the good work that was done in the Federal Accountability Act.

● (1045)

The Chair: The vote on CPC-172 applies to CPC-174, which is on page 333; to CPC-176, which is on page 335; to CPC-177, which is on page 336; and to CPC-178, which is on page 337. They are linked together by the concept of instituting prosecutions.

Ms. Ruby Sahota: Mr. Chair, I just wanted to reiterate that this is restricting the abilities of the commissioner. We have heard...to that.

Are all of these amendments that you were talking about going to be affected if this one passes?

The Chair: They'll all be approved if it passes, and they'll all be defeated if it's defeated.

We'll go to the vote on CPC-172.

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

The Chair: Also defeated are CPC-174, CPC-176, CPC-177 and CPC-178.

We will now go on to CPC-173.

Stephanie.

Mrs. Stephanie Kusie: This prohibits the commissioner of Elections Canada consulting the Chief Electoral Officer in respect of investigations of the Chief Electoral Officer or his staff.

The Chair: It prohibits him from what?

Mrs. Stephanie Kusie: It prohibits the commissioner of Elections Canada from consulting the Chief Electoral Officer in respect of investigations of the Chief Electoral Officer or his staff.

The Chair: Is there a reason that you don't want him getting all the information?

Mr. Nathan Cullen: What was that last part?

Are you suggesting that in the investigation of themselves...? If there is an investigation on the CEO, then they can't communicate under this provision.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: Mr. Knight, what do you think?

Mr. Nathan Cullen: When your boss is under investigation, what do you think?

If Mr. Knight is under investigation....

Mr. Trevor Knight: I could be under investigation as well as Mr. Morin, maybe.

Voices: Oh, oh!

Mr. Nathan Cullen: Are you pleading the fifth, sir?

Mr. Jean-François Morin: I'm a little confused by the comments related to the presentation of the motion, just because I don't read the motion that way. It says, "other than an investigation by the Chief Electoral Officer or a member of his or her staff".

Really it refers to an investigation that would be conducted by the Chief Electoral Officer. I'm not sure if I understand the motion.

Mr. David de Burgh Graham: Then I put the question to the Conservatives.

Why would you want the commissioner not being able to talk to the CEO when the CEO is conducting an investigation? This is the actual wording of the amendment.

The Chair: Did you consult behind you, Mr. Nater?

Mr. John Nater: I had a question. I'll leave it to my colleagues.

I'm going to ask a question while maybe my team is consulting.

The Chair: Go ahead. Ask your question.

Mr. John Nater: My question would be to Mr. Knight or Mr. Sampson.

Now that the change has put both under the same roof, what type of, I think the phrase is “Chinese firewall” would be implemented within Elections Canada? People keep changing these terms. What kinds of safeguards or walls, protective barriers, imaginary protective barriers, would be in place in the event of such an investigation being foreseen by this now that both are going to be underneath the same roof?

Mr. Jean-François Morin: Before Mr. Knight and Mr. Sampson answer, I would like to point out that the Chief Electoral Officer of Canada, under the current act, does not have investigative powers. The Chief Electoral Officer will of course conduct some internal investigations of an administrative nature, but it is not within the powers of the Chief Electoral Officer to initiate any kind of investigation of a criminal nature.

As we pointed out yesterday, part 18 of the Canada Elections Act allows the Chief Electoral Officer to conduct administrative audits, which are, again, audits of an administrative nature. If the auditor finds something that would warrant an investigation, we'll recommend the referral of this case to the commissioner of Canada Elections.

•(1050)

The Chair: I sense that Mr. Nater wants to speak.

Mr. John Nater: Yes, I would like to clarify. Apparently there was a typo in the amendment as presented.

I'll read the subamendment. It is that the amendment be amended by replacing the words “investigation by” with the words “investigation of”. The word “by” was inserted rather than “of”. It should read “investigation of the Chief Electoral Officer or a member of his or her staff”.

That's where the confusion obviously stems from.

The Chair: I'll take that as an administrative typo change.

Mr. Graham.

Mr. David de Burgh Graham: I have a question for the officials again.

Does the commissioner even have the power to investigate Elections Canada, as opposed to candidates, parties and elections?

Mr. Jean-François Morin: There are some offences that could potentially be committed by members of the Office of the Chief Electoral Officer and potentially by the Chief Electoral Officer himself.

I'll remind you that the Chief Electoral Officer is now the only person who doesn't have the right to vote—the only elector who

doesn't have the right to vote in the federal election. In theory, there could be an investigation if Mr. Perrault were to show up at a polling station to vote in a federal election.

Seriously, yes, it is possible.

Mr. David de Burgh Graham: If the commissioner is investigating Elections Canada, wouldn't it make sense that he'd talk to his suspects?

Mr. Jean-François Morin: If the commissioner were investigating Elections Canada, there would be some good investigative practices in place. I would imagine that the investigation would go on, and at an appropriate point in the investigation, once the evidence has been collected, yes, there would be contact with Elections Canada to let them know that an investigation was conducted or to request the provision of additional information. That would be within the realm of best practices in the context of a criminal investigation.

I see that my colleague Trevor has comments on this.

Mr. Trevor Knight: I just want to get back to Mr. Nater's question.

There are I guess formal separations in terms of the different roles. The discretion to institute prosecutions and to conduct investigations is with the commissioner as an office as opposed to with the Chief Electoral Officer. There are also new formal requirements respecting independence in proposed section 509.21 of the bill.

There's also—I think it should be added, obviously—a sort of understanding, an informal separation in terms of the roles that is taken quite seriously both by the commissioner and by the Chief Electoral Officer in the current arrangement. The commissioner was part of Elections Canada earlier, I know, and obviously the prosecutorial role or the investigative role is separate from Elections Canada's role in terms of an audit. There's that element.

All of those things would be especially important if the commissioner were investigating an election officer or someone at Elections Canada, which could arise, although, hopefully, it would not.

The Chair: Are we ready to vote? All in favour of CPC-173?

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

(Clause 352 agreed to on division)

(Clauses 353 to 356 inclusive agreed to on division)

(On clause 357)

The Chair: There is, first of all, Liberal-60, which has passed consequential to Liberal-38.

There's a new CPC amendment. It's 10009245.

Mr. Nater, could you present this one?

•(1055)

Mr. John Nater: As Bill C-76 envisions, this would give the power to compel testimony on crimes that may happen in the future. We are restricting this to past tense rather than envisioning things that may happen in the future.

The Chair: Is there any discussion?

Do the officials have any comments?

Mr. Jean-François Morin: Yes, this amendment would basically remove the words “or is about to be contravened” from proposed subsection 510.01(1).

The Chair: Do you have any comments on the practical implementation of that change?

Mr. Jean-François Morin: No. I think it's a policy decision.

The Chair: Is there any discussion?

Mr. Nater.

Mr. John Nater: I have a question to the witnesses. What powers of foresight and predictability does Elections Canada have to predict acts that may happen?

Mr. Jean-François Morin: Again, I would say that this is not within the realm of Elections Canada here.

Just to be clear, Elections Canada is not a name that exists. Elections Canada is a trade name for the Office of the Chief Electoral Officer, but there are only two public bodies involved here. The Office of the Chief Electoral Officer is headed by the Chief Electoral Officer of Canada, and the office of the commissioner of Canada elections is the investigative body.

Here we're in the realm of the commissioner of Canada elections. First of all, this power that would be provided to the commissioner here, the order requiring testimony or a written return, is always subject to a court approval, so it is not for the commissioner himself or herself to compel a person to provide testimony or a written return. It is always on the authorization of a judge.

Second, the commission of offences in the Canada Elections Act can be extended in time in the sense that the same offence can be committed over a long period, for example, because returns are not filed or because the entity or the third party committing the offence is pursuing a path that will lead the commissioner to think that an offence is about to occur.

I hope this answers your question.

The Chair: Is there any further discussion?

Mr. Bittle.

Mr. Chris Bittle: It seems to me that, if the commissioner has received information that has come to his or her attention in regard to a potential violation of the Elections Act, there would be an investigation. We would expect that of any investigative body in this country, be it the RCMP, be it our local police forces.

We don't wait necessarily until an offence has happened. We ensure that all threats.... We have some serious concerns and some serious issues that we've debated in terms of threats to the democratic process and threats to election campaigns. If there is a credible threat to an election, if there is a credible issue with respect to the Elections Act, it would make perfect sense for the commissioner to engage in that investigation.

I don't understand the rationale behind restricting this power. It just doesn't seem to make any sense to me.

I'll just leave it there.

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

• (1100)

The Chair: We're on CPC-173.1.

I'm going to suspend for about five minutes so people can have washroom breaks, etc. If you're getting food, bring it back to the table, please.

We'll just have a quick break.

• _____ (Pause) _____

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• (1110)

The Chair: I'll remind people that we're on clause 357, which has been amended so far by Liberal-60. CPC amendment with reference number 10009245 has been defeated.

We're now moving on to CPC-173.1, which Stephanie is just about to introduce.

Mrs. Stephanie Kusie: Essentially, this gives the judge more discretion in terms of *ex parte* deliberations. There are three examples and it would apply to all of them. We know how much the government believes in the judges and the judicial system, so we feel confident that they will support this amendment in that this provides for the judge to have greater discretion in these three proceedings.

The Chair: Will the Liberals do that?

Mrs. Stephanie Kusie: That sounded uncertain, Larry.

Mr. Chris Bittle: We do have faith in the judiciary and we have faith in the justice process. Decisions of administrative actions can be challenged via judicial review. That exists, and we think that's sufficient.

The Chair: Is there any further debate?

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

The Chair: Is CPC-173.2 the same...?

Mr. John Nater: We're talking about broadening judicial discretion for individuals to seek relief from an undue amount of burden in terms of providing documents. This provision mirrors what's in place for the Competition Bureau, which has similar powers as the commissioner of elections. We're suggesting this especially for the case of a voluntary organization where an executive member of a riding may be asked to provide extensive documentation that might be seen as undue, or a challenge for them to do so with their limited resources. A judge may provide discretion to provide relief in providing those documents.

We think it's reflective of what's in place now with the Competition Bureau. Perhaps it might be supportable.

The Chair: Does the government have any comments?

Mr. Chris Bittle: We're confident in the power to compel that already exists.

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

The Chair: Now we are on amendment CPC-173.3.

Mrs. Stephanie Kusie: This amendment provides that:

Within one year of a decision to cease an investigation, not to institute a prosecution, or not to serve a notice of violation, the Commissioner shall destroy or cause to be destroyed records of any testimony given or of any written return delivered under an order made under section 510.01(1) in respect of the relevant investigation.

The Chair: Mr. Graham.

• (1115)

Mr. David de Burgh Graham: I have a quick question for the officials. What is the statute of limitations in respect to these offences?

Mr. Jean-François Morin: Actually, there are no limitations anymore for the offences themselves under the Canada Elections Act. I think the AMPs regime provides for a limitation period, but of course if the AMPs regime limitation period is over, the commissioner could always refer to the offence itself.

Mr. David de Burgh Graham: Is it normal to destroy evidence before the statute of limitations is up?

Mr. Jean-François Morin: I would say no, but I would also say that being a federal public body, the commissioner of Canada Elections must obey the Library and Archives of Canada Act and get rid of documents when their prescribed lifespan expires under the Library and Archives of Canada Act. There are already provisions for the disposal of these documents at the end of their life.

The Chair: Did there not used to be a a one-year, end of life cut-off for all offences?

Mr. Jean-François Morin: In the past, there used to be various limitations, delays or timelines in the Canada Elections Act. They were extended on a few occasions. My understanding is that in 2014 they were eliminated altogether.

I stand to be corrected on that.

The Chair: Trevor.

Mr. Trevor Knight: Unfortunately, I don't know off the top of my head what they are.

The Chair: Ms. Sahota.

Ms. Ruby Sahota: I'm really perplexed by this amendment. I would think that, if new evidence came to light, you'd want that testimony to be present in order to bring forth an investigation.

It seems like the opposite of what the Conservatives have been saying they're trying to do.

I would be very opposed to this. I think that the destruction of evidence before it's necessary is not a good thing.

Mr. John Nater: Perhaps here's a question to our friends from Elections Canada. Is there a normal practice right now? How long would this type of information be maintained within Elections Canada at this point in time?

Mr. Trevor Knight: Because the commissioner of Canada Elections is a separate body and is independent, it would deal with the evidence and have rules, as Jean-François mentioned, with respect to how long it has to retain documents. All public bodies have agreements with Library and Archives Canada for that sort of thing.

Elections Canada has those agreements with respect to all the documents we prepare and keep from elections. We have a schedule

as to when we dispose of them. Some of them go to Library and Archives, and others are destroyed. I imagine the commissioner would have something similar. I don't know the details of it.

The Chair: If they go to the library, are they still available to a prosecutor or the commissioner?

Mr. Jean-François Morin: The way the Library and Archives of Canada Act works is that each federal institution has a retention calendar for each class of document.

For example, an institution may keep its active records and may keep dormant records for a number of years within the institution. Eventually they are either disposed of by the institution or transferred to Library and Archives. They would be kept then for a number of years.

It's really complex. Each class of documents has its own retention period. It really depends on the type of document we're talking about, and it varies from one institution to another.

(Amendment negated)

(Clause 357 as amended agreed to on division)

(On clause 358)

The Chair: CPC-174 is consequential to CPC-172.

• (1120)

Mrs. Stephanie Kusie: We just did 353. Did we do 354?

The Chair: We just passed clause 357.

Mrs. Stephanie Kusie: Pardon me.

We wanted clause 353 on division, 354 on division....

The Clerk of the Committee (Mr. Andrew Lauzon): Clauses 353, 354, 355 and 356 were carried on division.

Mrs. Stephanie Kusie: Pardon me.

Now we're at 357.

The Clerk: Clause 357 was carried on division. Now we're on clause 358.

The Chair: We're on clause 358, and there are two amendments, CPC-174 is defeated consequential to CPC-172. We're going to now discuss CPC-175. A vote on CPC-175, as Stephanie gets ready, also applies to CPC-179 on page 338, CPC-180 on page 339, CPC-181 on page 340, CPC-182 on page 341, CPC-183 on page 342 and CPC-191 on page 354, as they are linked together by the director of public prosecutions.

Stephanie, go ahead, on CPC-175.

Mrs. Stephanie Kusie: This transfers responsibility to review the commissioner's administrative monetary penalties from the Chief Electoral Officer to the director of public prosecutions.

The Chair: I think we know how people stand on that.

Mr. Nater.

Mr. John Nater: Just to provide a little bit more information as well, now that we're moving the commissioner back in-house within the broad elections complex, let's call it, whatever trade name you want to call it, we think it would be appropriate that an external review process be available to those who are seeking reviews. That's why we're suggesting it be the director of public prosecutions, which makes sense from a legal standpoint.

Mrs. Stephanie Kusie: Well said, Mr. Nater.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: The offer for a complaint coming from a citizen, you want to have it externalized not have it in-house?

Mr. John Nater: The review of an AMP.

Mr. Nathan Cullen: What's the scenario you're imagining that would not be satisfactory currently?

Mr. John Nater: If any individual person has been charged or fined an AMP, in this current situation it would be reviewed by the CEO. Now that the commissioner and the CEO are in the same entity we think it should be an external.

Mr. Nathan Cullen: Even though they're two separate jobs....

Mr. John Nater: It's still not enough. We'd like to see an external review.

The Chair: If someone charged the Liberals with an election offence from the last election, do you think the Attorney General, who is responsible for the chief prosecutor and is inside that government that's being charged, should be the one adjudicating?

Isn't that a good question?

Mr. Nathan Cullen: That was a really good question.

Mr. John Nater: In fact, it allows me to once again highlight the great work done with the Federal Accountability Act, which gave the director of public prosecutions independence from the Attorney General of Canada. It's another good reason to thank the former government.

The Chair: I think that's a good preamble to a vote.

We will vote on CPC-175, which has ramifications on CPC-179, CPC-180, CPC-181, CPC-182, CPC-183 and CPC-191. The vote is applied to all of those amendments as well.

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

The Chair: Also defeated are CPC-179, CPC-180, CPC-181, CPC-182, CPC-183 and CPC-191, because they are linked together by the director of public prosecutions.

(Clause 358 agreed to on division)

(Clause 359 agreed to)

Clause 360 had one amendment, CPC-176, which was consequential to CPC-172 so it was defeated.

(Clause 360 agreed to on division)

(Clause 361 agreed to on division)

(Clause 362 agreed to)

•(1125)

The Chair: Clause 363 had one amendment, which was CPC-177, but that was defeated consequential to CPC-172.

(Clause 363 agreed to on division)

Clause 364 had one amendment, which was CPC-178, but that was defeated consequential to CPC-172.

(Clause 364 agreed to on division)

Clause 365 has five amendments. The first one was CPC-179, which is defeated consequential to CPC-175. CPC-180 is defeated consequential to CPC-175. CPC-181 is defeated consequential to CPC-175. CPC-182 is defeated consequential to CPC-175. CPC-183 is defeated consequential to CPC-175.

(Clause 365 agreed to on division)

(Clause 366 agreed to)

Now there's a new clause proposed, 365.1. It's one of the new CPC amendments, reference number 10018294.

Do you want to present that, Stephanie?

Mrs. Stephanie Kusie: Sure.

This, as the chair indicated, is a new clause that requires our committee to review the rules related to pre-election spending, third parties and foreign influence after the next election. In a similar way, there were evaluations of the—

Pardon me. I'm on CPC-184. I'm jumping ahead, Chair.

Non-resident electors require separate reporting of results of special ballots cast.

Mr. David de Burgh Graham: Have we not had this discussion before?

Mrs. Stephanie Kusie: Yes, I feel as though we have had this conversation already, but—

The Chair: Did we vote on this one?

Mrs. Stephanie Kusie: Let me take a moment to see if there are any points I want to raise again.

Mr. David de Burgh Graham: We can vote on it now or later, if you'd like.

Mrs. Stephanie Kusie: I have to see if I have to get anything on the record.

I think it's just in consideration of the huge number of additional non-resident electors we are going to see, for many reasons. We think it's important to have special and distinct reporting of the special ballots cast.

That's all I will add, but it's true, we did have a large discussion in regard to this yesterday, Mr. Chair.

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

The Chair: There's a new clause 366.1 proposed in CPC-184.

Stephanie.

Mrs. Stephanie Kusie: My apologies. This is what I was starting on before.

It requires our committee to review rules related to pre-election spending, third parties and foreign influence after the next election, similar to the evaluations we would see in Ontario after the election. I think it's good practice, no matter what, to do an evaluation, a lessons learned. Having been in the public service for 15 years, I can say that this is a fundamental part of Canadian government. We believe it should apply to this legislation as well.

•(1130)

The Chair: Mr. Graham.

Mr. David de Burgh Graham: After the election the CEO issues us a nice long report, which gives us an opportunity to discuss all the things he has discovered, and it comes to this committee to discuss.

Although I appreciate what you want to do, it happens anyway so I think this amendment is redundant.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: This is a similar point. I would be careful not to assume too much, but given all these new changes we've made to the clause governing third parties, which I think is the central concern that Stephanie's raising, the CEO would report back. It's impossible for me to imagine that his report on the next election will not include lessons learned, as we've talked about, particularly with these aspects, so I feel pretty confident, given the track record of Elections Canada, that we'll get a decent report. This is the committee it always comes to, I believe, by mandate.

The Chair: We'll hear Mr. Nater, and then Ms. Kusie.

Mr. John Nater: I thought I would point out that this recommendation mirrors a similar provision related to political financing that was introduced in 2003 in the Chrétien government's Bill C-24. We're reflecting the good work that Mr. Chrétien undertook in 2003.

The Chair: That's an excellent argument for this class.

Mr. John Nater: I can appreciate that, sir, your having served with the prime minister.

The Chair: Ms. Kusie.

Mrs. Stephanie Kusie: I also wanted to state, using the example of the potential new format for the leadership debates, that this is an example, Mr. Cullen, of where we do not always have the assurance, if it is not legislated, that we will have review and input into the democratic processes. This provides specifically for that.

The Chair: We'll go to a vote on a potential new clause 366.1, which would be created by CPC-184.

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

On clause 367, there was an amendment, CPC-185, but this lost consequential to CPC-171.

(Clause 367 agreed to on division)

(Clauses 368 and 369 agreed to)

There is a potential new clause 369.1, proposed by amendment CPC-186, which Stephanie will now introduce for us.

Mrs. Stephanie Kusie: This amendment is in regard to the register of future electors, so that they mirror the record retention protection and evidence rules, which pertain to the register of

electors. It follows common sense that the rules regarding the register of electors should, at the very least, be the standard for the future electors. As I indicated earlier, generally speaking, we'd like to see greater enforcement where there are minors concerned, but for the sake of this amendment, it is simply with regard to mirroring the retention, protection and evidence rules, which pertain to the register of electors.

Mr. David de Burgh Graham: Thank you for this excellent suggestion.

The Chair: Oh, we got there quickly.

Mrs. Stephanie Kusie: Hold it here for a minute. This feels so good.

•(1135)

The Chair: Mr. Cullen is still undecided.

Mr. Nathan Cullen: I'm going to go on division, Chair.

Voices: Oh, oh!

Mr. Nathan Cullen: That's just a joke.

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

(On clause 370)

The Chair: There is a proposed amendment CPC-187.

Go ahead, Stephanie.

Mrs. Stephanie Kusie: This maintains protection for bingo sheets from becoming public documents. In the past few days, we've heard a lot of discussion, with regard to privacy concerns, so we feel that this fits into the protection of those concerns and as I said, it just protects the bingo sheets from becoming public documents.

The Chair: Is there any comment from the government or maybe comment from officials, if the government has no thoughts?

Mr. Jean-François Morin: First of all, I have a very technical comment. While the English version of the amendment seems to afford more protection to the bingo sheets, the French version seems to be doing the opposite, so there is a....

Mr. Nathan Cullen: Is there a problem?

Mr. Jean-François Morin: Yes.

Second, although the previous amendments removed the bingo sheets from the definition of election documents, without the list of electors that was used on polling days, bingo sheets are useless. Bingo sheets are just a bunch of numbers circled on a piece of paper and without the associated documents, they provide absolutely no information.

The Chair: Maybe I'll just find out how this is going to go.

I know it would need to be amended, if it was passed, to put the French and the English together, but it doesn't look like it has good potential, so let's vote on it and see.

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

(Clause 370 agreed to on division)

(On clause 371)

The Chair: On clause 371, there is one amendment. It is Liberal-61, which will be proposed by Mr. de Burgh Graham.

Ms. Ruby Sahota: Bingo sheets....

Mr. David de Burgh Graham: This is related to bingo sheets again. I'm still waiting for somebody to shout "Bingo", and there you go, problem solved.

The amendment will provide for two distributions of the bingo sheets to occur: one by the returning officer after polling day, and the second essentially by the CEO after the election. This is tied into what we discussed yesterday.

The second distribution would take the form of a final statement of electors who voted, prepared by Elections Canada and distributed to candidates and interested parties in electronic form within six months of the election. This is related to what we discussed.

The Chair: Do the officials have any comments?

Mr. Nathan Cullen: Specifically, given the passage of this bill, is Elections Canada able to do this for 2019?

Mr. Trevor Knight: If it didn't, the law will definitely ask us to do it. I can assure you of that.

The Chair: The commissioner will get them.

Voices: Oh, oh!

Mr. Trevor Knight: My understanding is that there was a discussion before we attended, about adding an additional amendment bringing back the requirement of the returning officers to provide, upon request, bingo sheets in their paper form after the election.

Just going back, in terms of our general recommendation, what existed in the past was that on polling day, every hour, the bingo sheets were given out to representatives. Then there was a requirement on the returning officer to provide copies of all the bingo sheets to candidates and parties after the election. We found that to be quite a burden on the returning officers. Many of them were unable to do that. Therefore, our proposal has been to have a process much like this, where Elections Canada would centralize that process afterwards and make that happen.

Generally, we would not be as concerned about this as the continuing obligation on the returning officer to provide the paper bingo sheets.

Mr. Nathan Cullen: Essentially, there is no paper backup. This will be centralized through Elections Canada. That's the cumulated list. The parties will be given those hourly bingo sheets.

Technically, why was that such a burden? It seems that you're just accumulating them all together, and then providing them once from the returning officer. Why was that found to be so difficult?

• (1140)

Mr. Robert Sampson: Partially it's an issue of volume. We're talking about maybe 3,000 sheets of paper.

Mr. Nathan Cullen: How many?

Mr. Robert Sampson: Maybe 3,000 sheets per electoral district, or a little less. Let's say, 12 sheets per polling division and approximately 200 polling divisions, so that's 2,400 sheets, which,

just to note, means a little less than 800,000 sheets of paper would be coming to Elections Canada after the election.

Mr. Nathan Cullen: Currently, that's what happens.

Mr. Robert Sampson: Yes.

Mr. Nathan Cullen: That part is not going to change with this amendment, is it?

Mr. Robert Sampson: They're no longer election documents, so they won't be retained in the same way, but in order to make them available, yes, they would be coming back.

Mr. Nathan Cullen: That will be status quo.

Mr. Robert Sampson: That's correct.

Mr. Nathan Cullen: That's 800,000 pages back to Elections Canada, give or take.

Mr. Robert Sampson: Yes, more or less.

Mr. Trevor Knight: Our comment is not a concern about this amendment. I believe this amendment reflects what our intention always was. I just want to highlight that the concern we raised that led us to recommend a process such as this, where it was centralized, was the burden on the returning officers. That's just a matter of their closing down their offices, having very limited resources and having to keep on staff, and that type of thing, to perform that.

As you say, it's only a few thousand pieces of paper, but it involves a gathering together, and often these things have been filed incorrectly. Putting that all together is more difficult in the timelines they're working on, because they have their offices rented for a very limited time—

Mr. Nathan Cullen: As well, there's the time to shut it all down.

Mr. Trevor Knight: —and they don't have staff afterwards. Really, the burden on them was what inspired us to seek that this only be done centrally.

Mr. Nathan Cullen: Mr. Morin, were you trying to jump in there? Okay.

Thank you, Chair.

The Chair: Could one person explain, in one sentence, what a bingo sheet is, just in case someone, 20 years from now, reads this and thinks we're talking about bingo?

Mr. David de Burgh Graham: I can explain it, because I was the data director for more campaigns than I can count.

The Chair: David, you have one sentence.

Mr. David de Burgh Graham: Every poll has a list of electors who are registered, and each person has a number associated to them. The bingo sheet just says by poll number and by voter number who voted in the previous hour. It's a big sheet with about 500 numbers on it.

The Chair: Thank you.

We will vote on Liberal-61.

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

(Clause 371 as amended agreed to)

(On clause 372)

The Chair: Clause 372 has six amendments. The first one is CPC-188.

Would you like to present that, Stephanie?

Mrs. Stephanie Kusie: Essentially it is, as verbatim within the amendment:

(5) No solemn declaration made under this Act shall be invalid, void or voidable because the person making it added or spoke words or used forms or mannerisms normally associated with an oath.

That solemn declaration's not void due to oath-like words or mannerisms.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: As it's worded, as I understand it, if somebody makes an oath, and completely messes it up and swears to hand out everything they learned to whoever they want, this would not invalidate it because they didn't.... Is that not correct?

Mr. Scott Reid: I think it's more like this.

Colleagues may be wondering why I've been so quiet up until now. Mostly it's because I wanted to hear your wisdom—

The Chair: You saved it for this amendment.

• (1145)

Mr. Scott Reid: The main reason is that I've been saving up for this one.

Sometimes you can swear an oath and people may add things or muff it slightly or adjust it, perhaps based on their own religious beliefs or on their own rejections of religious beliefs, whatever the case may be. The oath itself remains absolutely valid, binding in precisely the normal manner.

A really good example of this is the oath that we all swore when we became members of Parliament. Some people have added to that in the past. I remember that when I was first elected, many of us who were Canadian Alliance MPs at the time, added a bit about not just swearing allegiance to the Queen but also to the Constitution and the people of Canada, all of which is irrelevant, from the perspective of the legality of the oath, although obviously of personal importance.

In that spirit, and also in the spirit of religious freedom, openness and acceptance, which of course is a motivating spirit of modern Canada, the purpose of this wording is to make sure that a solemn declaration—which means an oath—remains valid, regardless of whether people add words or use some form of mannerism that is appropriate to them but not part of the formal solemn declaration.

To answer Mr. Graham's question, I think that if I were to add something to the effect of “I'm now going to mess with the system, so ignore everything I said”, that wouldn't count. You're still under oath.

More likely is a situation where someone makes a solemn declaration and feels the need, based on their own profoundly held religious beliefs, to add something indicating their own level of solemnity.

The Chair: And if you didn't say everything that was in the oath, would the entire oath still apply?

Mr. Scott Reid: If you said literally nothing?

The Chair: No, less than...if you missed some words by accident.

Mr. Scott Reid: I would think so, if you're asking if someone has an auditory impairment or can't read, and they muddle it up slightly.

We have a citizenship oath. I went to a ceremony at the Museum of Civilization, as it then was, when the judge said to me he did it two words at a time. He started by saying “I swear”, and everybody said, “I swear”, etc. He said the reason was that a lot of people didn't speak either official language very well and were going to muddle it up slightly. That doesn't have any legal meaning, but they want to get it right. They're trying.

He's an experienced judge. He's used to dealing with this. Some of our people administering elections might not be, and there would be some kind of issue of that sort. The oath is still proper, full and complete.

The Chair: Mr. Graham.

Mr. David de Burgh Graham: I understand what you want to do with this, but I would like to ask the witnesses if they could expand on what would be and what would not be an acceptable oath under this.

The Chair: Mr. Morin.

Mr. Jean-François Morin: Thank you for your question.

Before answering your question, I would like, with permission, to ask for precision from Mr. Reid or Mrs. Kusie.

On the fourth line of the English version, it says, “or used forms or mannerisms normally associated with an oath.” When you use the word “forms” are you referring to a paper form or to a manner by which one can express themselves, for example?

Mrs. Stephanie Kusie: It's a manner.

Mr. Scott Reid: Yes, it does not mean literally a form as in a singular sheet, but a *formulaire*. If you take a look at the French, you see that it probably provides us with the....

Mr. Jean-François Morin: That's my question, because in French, *formulaire* really refers to a paper form. If you're referring to a manner of expressing oneself, I would recommend changing “*formulaires*” to “*formules*”.

Mr. Scott Reid: That's a good point.

I'm assuming nobody objects to that, before we vote on the actual amendment, to reading the French as “*formules*” instead of “*formulaires*”.

The Chair: I think that's okay.

Mr. Jean-François Morin: With regard to any comment on the motion, the way I understand the motion is that now that we've gone from “oath” to “solemn declaration” it doesn't have any faith associated with it, and it's more neutral from a “liberty of faith” perspective. My understanding of this motion is that if someone were to say, “So help me God” at the end of a solemn declaration, it wouldn't affect the validity of the solemn declaration.

That's my understanding of this motion.

• (1150)

Mr. David de Burgh Graham: If there's anything unrelated, irrelevant or contradictory to the oath, would it affect the oath?

Mr. Jean-François Morin: Something that would contradict the oath, of course, would not be admissible. However, something that would only, as I said, add a form that people would usually add at the end of an oath, like “So help me God” or any other form added at the end of an oath by a person of another religious denomination, wouldn't make the solemn declaration invalid.

Mr. Scott Reid: David, just to set your mind at ease, it does say “forms or mannerisms normally associated with an oath”, such as “So help me God”. Something such as “Everything I just said, I'm going to do the opposite of, heh, heh, heh” doesn't count and is not normally associated with an oath.

The Chair: Are you ready to vote? There is a request for a recorded vote.

(Amendment negatived: nays 5; yeas 4)

The Chair: Amendment CPC-189 was withdrawn.

CPC-190 can't be moved because Liberal-62 passed, consequential to Liberal-1.

We have NDP-26.

Mr. Nathan Cullen: This is the electoral district situation.

We've had some conversation. I'm not sure what the consequence of the previous conversations might be on NDP-26, so I'll just give you a second.

The Chair: Yes, I'm just going to check that. It looks to me like it's been defeated already.

Mr. Nathan Cullen: I will hold my breath until you determine that.

Mr. John Nater: I have a point of order, Chair. Is this not already adopted, based on NDP-8?

The Chair: NDP-8 did pass but we're just checking.

This amendment was related to NDP-8 but in NDP-8 we changed the words “electoral district” to “polling station” so we withdrew the consequential effect, because you can't live in a polling station. Therefore, we can discuss this amendment now because we withdrew its consequence.

Do you want to present the effect of the amendment?

• (1155)

Mr. Nathan Cullen: Thank you, Chair.

I'll start with our officials. The language is about vouching, as I understand what has been proposed. It's about somebody in the same electoral district being able to vouch for somebody else.

Mr. Jean-François Morin: No, it wouldn't be in the same electoral district, but it could be in one of the polling divisions associated with the polling station.

Mr. Nathan Cullen: One of the polling divisions within the same electoral district.

Mr. Jean-François Morin: That was associated with the same polling station.

Mr. Nathan Cullen: Right. We're back to the grouping again?

Mr. Jean-François Morin: Yes.

Mr. Nathan Cullen: It's not novel, but it's the new introduction where these would be allowed. We're in the gym. There are several.... We didn't call it a polling place. Remind me of the terminology.

Mr. Jean-François Morin: It used to be called a polling place, but now it's called the polling station.

Mr. Nathan Cullen: It would allow somebody, as they're in different divisions but in the same polling station, to be able to vouch for somebody else.

Mr. Jean-François Morin: Exactly, the rule used to say that you could only vouch for someone if you were registered on the list of electors for the same polling division. Then the amendment, as amended, that was brought forward changed that so that you can only vouch for a person if you are registered on the list of electors for the same polling station, and the polling station regroups one or several polling divisions.

Now this amendment here would need to refer to a person whose ordinary residence is in a polling division associated with the polling station.

Mr. Nathan Cullen: Again, we're looking at having voters vote in this similar but new way. If somebody comes in and says, “I'd like to vouch for this person; they're my neighbour”, as it currently stands, if they're not in the exact same polling division, that vouching is not valid. Is that right?

Mr. Jean-François Morin: Exactly.

• (1200)

Mr. Nathan Cullen: That's nonsensical.

Mr. Jean-François Morin: The frontier between polling divisions can be in the middle of the street, and you could very well try to vouch for the person who lives in front of you but if you're not in the same....

Mr. Nathan Cullen: The circumstance we're contemplating is that two citizens go to vote, and one seeks to vouch for the other. They live literally across the street from each other, and as Bill C-76 is currently written now, that vouching cannot happen if they're not in the exact same polling division.

Mr. Jean-François Morin: One of your motions, which was amended to say “polling station”, would now allow the person to be vouched for if the voucher is on the list for the same polling station. That being said, there are two other sets of provisions that would restrict it, which now create an inconsistency in the act.

Mr. Nathan Cullen: Right.

Mr. Jean-François Morin: One is located in the proposed new part 11.1 of the act, which talks about the prohibitions related to voting. This provision has already been passed, so this is something that will need to be fixed.

Now we are in the provision about the solemn declarations, so one of the statements the voucher needs to make is that the elector who is being vouched for resides in the same polling division. This is where we would need to change for—

Mr. Nathan Cullen: Because of what's been passed already, there are two inconsistencies within the act, which maybe at report we'll have to....

Mr. Jean-François Morin: Probably at report.... I cannot predict what will happen in Parliament's proceeding.

The second inconsistency is the one we are dealing with now, the one that is found at proposed paragraph 549.1(2)(a).

Mr. Nathan Cullen: This is what NDP-26 seeks to address.

Mr. Jean-François Morin: Yes.

Mr. Nathan Cullen: It's clearing up an inconsistency within the act.

Mr. Jean-François Morin: Exactly.

Mr. Nathan Cullen: If we have agreed to this principle already, this question between divisions and stations....

The Chair: We would need to change this to say "polling division". Is that right, or is it "polling station"?

Mr. David de Burgh Graham: In each polling division within the station....

I don't know what the language would be, but you have to be consistent.

Mr. Jean-François Morin: Exactly. In electoral law, in practice, a polling division is a geographical area. A polling station is a place. You cannot reside in a polling station, so we need to massage the language a little bit to refer to the geographical area itself.

The Chair: It would be the polling divisions that are included in that polling station.

Mr. Jean-François Morin: Yes.

Mr. Nathan Cullen: Then my question specifically is, if the language then changed, the other elector resides in the polling division. Does that satisfy the "not living within the polling station" concerns?

Mr. Jean-François Morin: It would need to say "the other elector resides in a polling division associated with the polling station". Then there was another Liberal motion related to vouching in long-term care facilities that has already amended that line.

Mr. Nathan Cullen: With that similar language...?

Mr. Jean-François Morin: It was with slightly different language to accommodate for the special mechanism that was created for long-term care facilities.

Mr. Nathan Cullen: I want the language to be clear. Perhaps, then, we're into a subamendment conversation.

The Chair: You can't amend your own motion, but get someone to make that subamendment.

Mr. David de Burgh Graham: I will.

The Chair: Mr. Graham, okay, the subamendment is that the elector resides in a polling division in that polling station.

Mr. Nathan Cullen: Associated with that polling station....

Mr. Jean-François Morin: Mr. Chair, my colleague Trevor would like to say something.

Mr. Trevor Knight: In section 120 what we talk about is a polling division "assigned" to the polling station—*rattachée*.

The Chair: Okay, then it is lives in a polling division assigned to that polling station.

Mr. Nathan Cullen: Correct.

The Chair: That's the subamendment.

Mr. Nater.

Mr. John Nater: I'm going over the blues from the meeting where we dealt with NDP-8, and at that point in time the Chair said this:

We now have NDP-8. Just so you know, NDP-8 also applies to NDP-9 on page 67, NDP-11 on page 78, NDP-16 on page 114, and NDP-26 on page 352. It's to replace....

I just wonder under what provision we're able to now do this.

Mr. Nathan Cullen: It's because we changed NDP-8.

● (1205)

The Chair: Yes. Later on we said we'd put those back in when we get to them, which is now, for discussion, for that reason.

(Subamendment agreed to)

(Amendment as amended agreed to)

I will get the clerk to read the subamendment, just to make sure everyone knows what we just approved.

Mr. Philippe Méla (Legislative Clerk): I'm reading the whole amendment as it stands right now. It's that Bill C-76 in clause 372 be amended by replacing line 6 on page 229 with the following:

(a) the other elector resides in a polling division assigned to the polling station.

The Chair: That was passed.

There was also a Liberal amendment, Liberal-63, which passed consequential to Liberal-9.

(Clause 372 as amended agreed to on division)

(Clause 373 agreed to)

Clause 374 had one amendment, CPC-191, but it was defeated consequential to CPC-175.

(Clause 374 agreed to on division)

(Clause 375 agreed to)

(On clause 376)

The Chair: We are now on clause 376. There is amendment CPC-192. Who will present that?

Mr. John Nater: I'll present it and then I'll also introduce a subamendment to clarify it based on the coming into force of an upcoming bill currently before the Senate.

The CPC subamendment would read that amendment CPC-192 be amended by (a) replacing the words "replacing lines 1 to" with the words "adding after line"; (b) replacing the words "376 Schedule" with the words "(2) Schedule"; and (c) deleting all the words after the words "Cold Lake".

I'll pass this around for clarity's sake. It has to deal with the fact that Bill....

Oh, sorry. Go ahead.

Mr. David de Burgh Graham: Isn't there already a process to change riding names? I'm trying to get some clarity on this.

Mr. John Nater: That's what's being caught in this. That's why the subamendment is being presented.

First of all, this is coordinating with amendment CPC-199, which makes it reflective of Bill C-402.

These are the only two ridings in that schedule that would be affected by Bill C-402 with a name change. The various schedules list various ridings that can be affected, based on size and geography. These two riding names need to be changed based on what's currently within that schedule.

Bill C-402 will change the riding names. This bill isn't currently showing the change, so we have to make the change to reflect that, if that makes sense.

• (1210)

Mr. David de Burgh Graham: No, not at all.

Has the other one already passed?

Mr. John Nater: It's currently before the Senate, so it will pass.

Mr. David de Burgh Graham: Then we can't change this in advance of that.

Mr. John Nater: That's why the subamendment does.

Mr. David de Burgh Graham: Are there any comments from the officials, who look as confused as I do?

Mr. John Nater: Amendment CPC-199 does this to coordinate with Bill C-402. It corrects the set schedule in this act.

But I'm happy for the officials to have a word.

Mr. Jean-François Morin: Just to confirm, Mr. Nater, the effect of this motion would be to revert back to status quo upon...?

Mr. John Nater: No, it would be to change it to the new names of the electoral districts. Amendment CPC-199 is contingent on Bill C-402's receiving royal assent and officially making those name changes.

Mr. Trevor Knight: As I understand it, then, schedule 3 would be updated, if Bill C-402 passes, upon the first dissolution of Parliament after Bill C-402 passes, to reflect the names in Bill C-402.

Mr. David de Burgh Graham: Shouldn't that be part of the process of Bill C-402 at the Senate, rather than here?

Mr. John Nater: Are you saying it should be done with Bill C-402?

Mr. David de Burgh Graham: If the Senate currently has Bill C-402, shouldn't it be changed there? This is just a weird thing that I don't get.

Mr. John Nater: I didn't introduce Bill C-402. That was Mr. Rodriguez.

Mr. David de Burgh Graham: That's fair.

Mr. John Nater: I think that train has left the station, though. It's already in the Senate. We're not going to get the chance to get back to it.

Just as an example of this, "Western Arctic" was changed in the previous name change bill in 2014 and was never actually changed in this one. That's why that one is not included in the first two, but it nonetheless needs to be changed as well.

Mr. Trevor Knight: Just to provide some context on our reading of schedule 3—because schedule 3 can only be changed by statute—schedule 3 sets out the ridings, saying that you need 50 signatures from electors rather than 100 signatures from electors.

In a case in which a name is changed by an act of Parliament but schedule 3 is not updated, we just read schedule 3 via the new name. To reassure people, even if the name in schedule 3 is not the current updated name, we will still read it as if it were.

The Chair: That is so whether or not this passes, but if it passes, that would be better.

Mr. Trevor Knight: It would certainly be clearer. But yes, we would continue to read the ridings as if they had the name at the 2013 representation order.

Mr. David de Burgh Graham: Does this fall under the commissioner's going after crimes that haven't taken place yet?

The Chair: Does everyone understand? We're just changing electoral names that have already been changed, for clarity.

There's a subamendment to amendment CPC-192. It's CPC-192-A. Someone has to propose it other than Mr. Nater.

Mr. John Nater: I think Mr. Reid is eager to do that.

Mr. Scott Reid: Which one am I eager to do?

The Chair: It is a subamendment.

Mr. Scott Reid: My goodness, do I ever want to do this.

Are you ready? Can I read this?

The Chair: Yes, please read it.

Mr. Scott Reid: Thank you.

It is that amendment CPC-192 be amended by (a) replacing the words "replacing lines 1 to" with the words "adding after line"; (b) replacing the words "376 Schedule" with the words "(2) Schedule"; and (c) deleting all the words after the words "Cold Lake".

(Subamendment negated)

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

(Clause 376 agreed to on division)

(On clause 377)

The Chair: Clause 377 has a new CPC-proposed amendment. It's one of the new ones. We're discussing reference number 10008651.

Stephanie, could you present this amendment?

• (1215)

Mrs. Stephanie Kusie: This is, again, in regard to the new relationship that we have between the polling station and the polling divisions. This allows us to determine the applicable polling division when counting ballots and reporting results during judicial recounts. Like several of our other previous amendments, we... Certainly we have faith in the abilities of Elections Canada. Certainly as a former public servant, for 15 years, I know in the public service, you truly are among the best and the brightest.

We'd like to just determine as much clarity as possible in regard to the procedures with these new methodologies, just to ensure the legitimacy of our electoral process. We believe that this amendment provides for that.

The Chair: Are there any comments from the government?

Mr. Bittle.

Mr. Chris Bittle: This amendment seeks to legislate the process for the counting of certain ballots, and that's not necessary.

(Amendment negated [See Minutes of Proceedings])

(Clause 377 agreed to on division)

The Chair: There's a new clause, 377.1 proposed by NDP-27.

Mr. Cullen.

Mr. Nathan Cullen: This is a good one.

The Chair: Is this a good one?

Mr. Nathan Cullen: Yes, because I know....

The Chair: That the next one won't be...?

Mr. Nathan Cullen: Don't bring me down, Chair. I was feeling good for a moment.

This is, as was expressed by my Liberal colleagues earlier... I enjoy studying things, looking them over carefully before we imprudently move ahead. This one requires the Chief Electoral Officer to make recommendations, after study and consultation, about lowering the voting age to 17. The reason we think this is a good idea is that there have been a number of attempts in parliaments to lower the voting age even further, to 16. Seventeen has been the number that folks have landed on because that is the age at which someone can be conscripted in Canada. To deem 17-year-olds able to handle certain responsibilities like holding a gun and pointing it at somebody, one would by association also deem them possessed of the capacity to vote freely and fairly.

In combination with that—and we talk about this, all parties do, in Parliament—are the many decisions we make that are much longer in nature than just affecting us. They affect the folks to come.

I have moved legislation in the past. I think the first bill I helped support was one promoted by a Liberal. It was backed by a Conservative at the time, Ms. Stronach, and a Bloc member and me. This may be hard to imagine these days, Chair, but we went across the country and held town halls just to talk about lowering the voting age.

I have one small reflection on that. I think we were in Edmonton and we had a whole bunch of high schools come to a big forum. A young woman came to the mike and said, "I think this is a terrible idea." She was 16. We said, "Okay, tell us why." She said, "If I were voting in the next election, I would have to look at all the candidates, study their platforms and understand what each of those platforms meant for me, and that's just a lot of pressure. I don't want it." It was a fascinating disclosure because that's exactly the voter you'd want. As we know, most voters don't walk into the polling station with one-tenth of that consideration of what their vote means.

In this day and age, some people—usually the older generations—despair for the generations coming. My sense of things is that they

are certainly the most informed and most connected generation in history. Their ability to engage in issues is beyond what it was for you and me at 16 or 17. They can connect into communities and understand laws that are being passed or proposed.

I think this is a very tentative step. This is not saying we're going to do it, just that Elections Canada will be able to gather data on what the impacts would be. Would higher voter turnout happen? What would the consequences be for other things that we don't anticipate? We could just prudently step forward.

We've heard, of course, from Daughters of the Vote, from the Canadian Federation of Students, from the Canadian Alliance of Student Associations and on down the line that the motivation among young voters would increase dramatically if they were able to actually participate in voting.

The last thing I'd say is that, from all the research that has been done by Elections Canada and other elections agencies, we know that if a voter participates in an election at their first opportunity, the chances of their voting in consequential elections goes up dramatically. The reason 17 is important is that, obviously, most 17-year-olds and those approaching 17 are still in school. Once they hit 18—and most people don't vote right at 18 but just at the next election that comes—they're out of high school. They may be in another form of education, but oftentimes they're in the workforce and otherwise. What an educational opportunity it is to be 16 going on 17, with an election on the horizon and part of your education is getting yourselves and your classmates ready to vote in that election.

The chances of voting would be dramatically higher. We imagine polling stations being right in or near those high schools. Those are the merits of voting at 17, but these are the things we'd want Elections Canada to look at. Will it increase participation? Will it increase lifelong participation in the democratic process? None of us, I hope, are opposed to that.

• (1220)

Mr. David de Burgh Graham: To be clear, I don't think this amendment addresses lowering the age, which I guess is what you want to be doing, ultimately. Your final objective is to lower the age of voting—

Mr. Nathan Cullen: It does not lower the age of voting.

Mr. David de Burgh Graham: —which is a laudable objective and one I would personally support, lowering the age.

Mr. Nathan Cullen: Yes.

Mr. David de Burgh Graham: This motion requires the CEO to make a policy recommendation to us, through its website, and to the Speaker, which seems like a really odd thing to do. They give us all kinds of recommendations on how the election went, and so on and so forth, but saying, "This is what we believe you should do on a policy question", not a procedural question, I think that's outside of the scope of what we'd normally ask Elections Canada to do. Correct me if I'm wrong.

Mr. Nathan Cullen: We've done it six times today. We do it all the time. When the CEO comes to us, as he has recently done—the new CEO and the previous one—we ask for policy advice. Really, we do. We ask whether this will enable that? We ask about the consequences of vouching and other things. We've relied on that advice very consistently, particularly because Elections Canada has some primary roles and functions: free and fair elections, etc. In the policy advice we've gotten, I've never had a hint of partisanship or advantage or anything like that. They just do what they've done very well historically—run elections fairly.

This is the gathering of evidence from a non-partisan source who is, I would say, best placed to look at this and knows who the experts are on elections. I might be asking about the effects on the election, whether the experts support the policy of lowering the voting age, or whether we have evidence enough to overcome the resistance from a broad sector of Canadians. As you know, a large number of our constituents did not think this was a good idea, present company excluded.

This does not bind this committee or Elections Canada to a policy doctrine, one way or the other. This is simply recommending that they go out and ask what the effects would be, positive and negative, and report back to Parliament, which, I think would help Parliament. If any of you have been to high school classes and talked about politics, I'm sure you found a very engaged group of folks. I would say these students are more engaged than an average roomful of Canadians would be if you gathered 30 or 35 of them together and asked them about the policies we deal with all the time. They're studying, and that's what they're supposed to be doing. I think this has merit.

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

• (1225)

The Chair: NDP-28 is inadmissible because goes beyond the scope of the bill, as the bill does not relate to the report.

Mr. Nathan Cullen: I guess if promises made by politicians were all inadmissible, there wouldn't be much we would move in legislation.

One very senior prime minister adviser, Gerald Butts, once told me that nobody cares about this issue. I think it was borne out that a great number of people actually care about electoral reform. Hope springs eternal. We've just heard from the new Quebec government, I believe, that they are looking to bring in legislation within the year. B.C. is voting in a week or so, and P.E.I. will soon be voting as well. This issue was supposed to die in the weeds, according to one close friend of the Prime Minister, but somehow, in this one instance, he's wrong. This is just our attempt to get back to promises made to see if they can be kept.

I don't appreciate your ruling but I respect it very much.

The Chair: Could you introduce NDP-29 so I can rule on that?

Mr. Nathan Cullen: It's like a last cigarette before going out to the execution squad.

This is a tricky one for us because, as many of us have heard from the minister just recently, the idea of a debates commissioner has been coming. At first it was promised in legislation, which I greatly appreciated because that would allow Parliament to debate it and a

committee like this to study it and make improvements. Not everything that emanates from the Prime Minister's office comes out perfect, from my experience. The delays have just been going on and on, which is at least consistent for this department. They're not quick. This was an attempt to bring the debate commission into this process so we would have something we could talk about as parliamentarians.

This is my primary concern with the process used here. My advice to this minister early on was that the debates commission cannot in any way have any hint of partisanship for it to have credibility with Canadians. I think what happened in the last election was very unfortunate, when the then sitting Prime Minister was refusing to cede to a debate in the proper way. It became an election issue for a lot of Canadians, which I didn't ever suspect it would. Obviously we support the idea of a debates commission. My advice to the minister and to the Prime Minister's office was to include the other parties in constructing that commission. Then you would have the input and it would credibly be seen as a non-partisan effort. The fact that the government has again insisted on keeping it entirely in-house runs the risk of people accusing whatever comes out as not being fair.

The debates should just be the debates. Three or four podiums, a moderator and let's go. I don't get it. This is not a partisan thing. I just don't get the strategy to consistently keep it so close to the vest and then run the risk, as happened with the first ERRE committee structure, which was seen as flawed. There was never a conversation with the opposition as to how to build the process to design a new electoral system for us. That blew up and then on the back of a piece of paper we had to create a new one, which I think worked well in terms of a committee process.

That's a weird twitch of this government, and there it is again.

The Chair: Thank you.

NDP-29 is inadmissible as it goes beyond the scope of the bill as the bill does not deal with an independent commissioner for the leaders' debate.

PV-19 is tabled because of our procedures for parties that are not part of this committee, but I rule it inadmissible as it goes beyond the scope of the bill as the bill does not relate to the leaders' debate.

(On clause 378)

The Chair: Clause 378 has amendment Liberal-64. Does someone want to present that amendment?

[*Translation*]

You have the floor, Ms. Lapointe.

• (1230)

Ms. Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you, Mr. Chair.

I'm going to talk about this provision, the issues and the amendments. Some people have said they're afraid that, as a result of this change, residents of an electoral district where the House of Commons seat is vacant may wind up without a representative for a period of up to 16 months before a general election. The proposal here is to amend this provision so that no election to fill a vacancy in the House of Commons may be held less than nine months before a fixed-date general election.

Ultimately, there would be no by-election less than nine months before a general election. Consequently, a seat could be vacant for a maximum of nine months.

[English]

Mr. Nathan Cullen: I read that.

[Translation]

Why propose this amendment?

Ms. Linda Lapointe: To prevent a by-election from being held seven months before a general election.

Mr. Nathan Cullen: Yes, but why propose to change it from six to nine months?

Ms. Linda Lapointe: Because, from the way it's written, there might be no member for a period of up to 16 months.

Mr. Nathan Cullen: It's the citizens in the riding who would suffer the consequences because they would be without representation for a long time. A by-election can be held in 35 days. There would be a member in the riding for nearly a year. Six months is something for a person, but it's reasonable before the start of an upcoming election. Nine months is...

Ms. Linda Lapointe: Currently, from the way it's written, it could be up to 16 months.

Mr. Nathan Cullen: Yes, I know.

Ms. Linda Lapointe: With our amendment, that period would be reduced to nine months. That way we would ensure no by-election is held nine months earlier.

Mr. Nathan Cullen: Yes, it's just that—

The Chair: I'm going to ask Mr. Morin to speak.

Ms. Linda Lapointe: That's a good idea.

Mr. Jean-François Morin: I would just like to clarify two technical points in the debate.

First, no by-election could be triggered to fill a vacancy in the House of Commons less than nine months before a fixed-date election. However, a vacancy that occurred shortly before the deadline would result in a by-election. For example, in 2019, the limit of nine months before the fixed-date election would be January 21. Consequently, if a vacancy occurred before January 21, 2019, it would have to be filled by a by-election, which would be held in the spring or summer of 2019.

Second, this statutory amendment responds to a recommendation by the Chief Electoral Officer of Canada concerning overlapping by-elections and general elections. In the 2015 general election, if my memory serves me, by-elections had to be triggered in three or four ridings. They were triggered very early on, in May or June, I believe, and voting day was the day scheduled for the general

election. Those by-elections were considered replaced by the general election when the writs for the general election were issued. This overlap created several problems of interpretation of the act regarding the rules respecting the financing of political parties and the campaigns of candidates during by-elections.

Ms. Linda Lapointe: Thank you.

[English]

Mr. Nathan Cullen: Can we get this brief from Elections Canada? Can you remind me of the situation?

Mr. Trevor Knight: The situation is much as was described. As we approach a general election, there's a belief that if a by-election is called, it will be called and the person will sit for two days, and then the general election will be held. Often, the by-elections are called so that they overlap with the general election. Then when the general election is called, the by-elections are superceded. That causes problems with the political financing rules in terms of mixing funds, transferring funds and that sort of thing.

As part of that, our recommendation was to try to give a period of time to recognize that at a certain point before the general election, by-elections would not be called.

Mr. Nathan Cullen: The circumstance we're looking at is one in which somebody steps down six and a half or seven months from the next election. The by-election must be called under the law right now. That runs for, say, 35 days. Have I said anything incorrect so far?

• (1235)

Mr. Trevor Knight: The by-election has to be called within 11 and 180 days after Elections Canada receives the warrant from the Speaker.

Mr. Nathan Cullen: Right. At seven months, it's the Prime Minister's prerogative to call that by-election, but the practice right now is that they don't call it within that 11 days. They simply wait and then, at seven months of somebody vacating the seat, that by-election rolls into the general election, does it not? Do we have practice of somebody calling it within 11 days and then running an election into the five and a half month window, and then that dissolving into the general election?

Mr. Trevor Knight: Normally they would wait, to give themselves time. There have been occasions where they get to the 180 days and there's a requirement to call but there's only three months before the general election, so they call it. There's a minimum election period at present but no maximum, so they can call it for a later date and it would be the general election.

Mr. Nathan Cullen: There's a minimum and no maximum, in terms of the by-election writ?

Mr. Trevor Knight: That is the writ period under the current law. There's a maximum of 50 days put in place by Bill C-76, but under the current law, there's no maximum election period.

Mr. Nathan Cullen: There's just the minimum point at which it has to be called.

Mr. Trevor Knight: There's a minimum point at which it has to be called, and then a minimum length for the election campaign.

Mr. Nathan Cullen: That's under Bill C-76.

Mr. Trevor Knight: That's under the current law. Bill C-76 changes that by adding a maximum election period of 50 days.

Mr. Nathan Cullen: I'm trying to anticipate scenarios. The fundamental principle we have is that Canadians are due representation at all times unless there are extreme circumstances. The circumstance of somebody nine months out...or could it even be 10 or 11 months out, given they vacate the seat? I'm just wondering what the implication of this is. If they're 10 months out and they vacate the seat and the Prime Minister at the time delays any call into the nine-month window now, would it then roll right through to the general election? How would that work?

Mr. Jean-François Morin: No. With this amendment, only a vacancy that would occur on the last day or the last few days could be rolled into the general election, and only in years that are not leap years.

Mr. Nathan Cullen: Really? Do leap years affect us?

Mr. Jean-François Morin: Yes.

Mr. Nathan Cullen: Okay, then. Is it because of just that one day?

Mr. Jean-François Morin: It adds one day.

But seriously, all the vacancies that would occur up to very close to the nine months would have to be held and conducted fully up to polling day before the general election.

Mr. Nathan Cullen: Can you explain why, though? Could I not interpret this to say that 10 months out from the fixed election day, if somebody says, "I'm out," the Prime Minister has a minimum of 11 days that he or she can call—

Mr. Jean-François Morin: That's it. Ten months out would be, for example, December 21. Then there would be a minimum 11-day delay before the election can be called. The Prime Minister would have before the 11th and the 180th day to call the election. If the Prime Minister were to wait for the full extent—

Mr. Nathan Cullen: Yes, now we're into spring.

Mr. Jean-François Morin: —the election would be called somewhere around June 21. Because there is now a maximum of 50 days for the writ period, the election would be held at the beginning of August. Under Bill C-76—

Mr. Nathan Cullen: With this amendment...

Mr. Jean-François Morin: No, not with this amendment. But with Bill C-76, again with the maximum period of 50 days, in 2019 the first day on which the writ for the general election could be issued, I think, is September 1. The by-election would be held. The candidate who won would be declared the winner up to mid-August, and then the general election would be called.

Mr. Nathan Cullen: That's contemplating a nine-month window, not the six-month window.

Mr. Jean-François Morin: Yes.

Mr. Nathan Cullen: That is with this modification. Is that right?

Mr. Jean-François Morin: Yes.

Mr. Nathan Cullen: I'm just trying to understand. This might seem technical to folks—and it is.

I'm imagining our existing... Right now under Bill C-76, with this as an amendment, and somebody in Parliament right now saying, "At the beginning of December, I'm done," is there a scenario where, from that moment all the way through to the general, the people in that riding don't have representation? You're suggesting not. You're suggesting that timelines would require the PM to call the by-election, which would result sometime around June, or later. You said later than June.

• (1240)

Mr. Jean-François Morin: The earlier the vacancy occurs, the earlier the maximum day on which the by-election can be called will occur.

Mr. Trevor Knight: Perhaps I'll add one more piece of context.

In Bill C-76, as it stands now, the trigger is that the writ may not be issued within the nine months before the general election.

Mr. Nathan Cullen: The writ may not be issued without this amendment.

Mr. Trevor Knight: That's right—without this amendment. That actually extends the period of the vacancy, which could lead to a period of non-representation back to 15 months or so.

That wasn't the intention of our recommendation, although I don't think our recommendation, to be honest, was perfectly well crafted. Our idea was to have a period where a by-election does not need to be called, and a clear period where it does not need to be called. By drawing it from the vacancy period, it makes it clearer.

This amendment responds to a concern we had about the way the provision exists in Bill C-76, and it reduces the time in which you will not have representation.

The Chair: I think we're up to our five minutes.

Mr. Cullen.

Mr. Nathan Cullen: Thank you, Mr. Chair, but we also said that we would be somewhat adaptable to this.

What I'm trying to understand, which was just revealed now, I think, is that the.... If anyone is comfortable with citizens not having representation for 12 months because someone is playing around with the schedule—

The Chair: That's what this precludes.

Mr. Nathan Cullen: That wasn't explained up until 30 seconds ago.

The Chair: Okay.

Mr. Nathan Cullen: Forgive me for going over the five minutes, but if anybody else had the insight, then they might have offered it at any point.

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

Mr. David de Burgh Graham: It was seven minutes well spent.

Mr. Nathan Cullen: Thank you.

The Chair: We will vote on Liberal-64.

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

The Chair: That's unanimous.

CPC-193 can't be moved because it's related to the same line as the amendment we just did.

(Clause 378 as amended agreed to)

The Chair: Clause 379 had one amendment. It was CPC-193.1, but that was consequential to CPC-171, which was defeated.

(Clause 379 agreed to on division)

(Clauses 380 to 383 inclusive agreed to)

The Chair: There is a new clause proposed. It was originally proposed by CPC-194, but that was withdrawn and it now will be proposed by the new CPC amendment with reference number 10008080.

Mrs. Stephanie Kusie: This clause is in regard to third parties, to apply the pre-Bill C-76 rules in the event that Bill C-76 takes effect during the pre-election period.

The Chair: Sorry. This is CPC-195. It's not a new one.

Mrs. Stephanie Kusie: Yes, and it's in regard to political parties, not third parties. I'm sorry.

The Chair: Is there debate on CPC-195?

Mr. Cullen.

Mr. Nathan Cullen: Stephanie, can you explain what the impact of this would be?

Mrs. Stephanie Kusie: Let's say that the election is called. If the election is called at a time when we are in the pre-election period and Bill C-76 has not taken effect yet, then we are applying the pre-existing rules prior to Bill C-76 during the pre-election period.

Mr. Nathan Cullen: The circumstance you're imagining is that an election is called and Bill C-76 is not law.

Mr. David de Burgh Graham: The coming into force comes in during the pre-writ period. That's what they're talking about.

Mr. Nathan Cullen: Bill C-76 comes into force—

Mr. David de Burgh Graham: The coming into force during the pre-writ period is what it's about.

Mr. Nathan Cullen: Regardless of—

• (1245)

Mr. John Nater: Just to clarify, because the bill has a six-month delay in coming into force, this amendment relates to the fact that if royal assent is received on January 6 and six months later—

Mr. Nathan Cullen: The government decides to call an election....

Mr. John Nater: The pre-writ period would have started on July 1.

Mr. David de Burgh Graham: The government doesn't call the pre-writ period.

Mr. John Nater: This wouldn't come into effect until what the pre-writ period would have normally have been. We would have been into the pre-writ period. It's in a case like that.

Mrs. Stephanie Kusie: Yes...in the context of calling an election.

Mr. David de Burgh Graham: To me, this is an incentive to delay this bill further at the Senate.

Mr. Nathan Cullen: Why?

Mr. David de Burgh Graham: Because then it would not come into force. It would be to affect the coming into force of the pre-election period.

Mr. Nathan Cullen: Would it prevent it from coming into force in the pre-election period?

Mr. David de Burgh Graham: Am I correct that this prevents the coming into force of the pre-election period rules if the bill is delayed past a certain point?

Mr. Jean-François Morin: This amendment provides that if clause 262 of the bill, which is on page 153 and provides for the maximum partisan advertising expenses for a political party during the pre-election period, were to come into force after June 30, 2019, then it wouldn't apply to the pre-election period, which means that there would not be any maximum partisan advertising expenses for political parties during the pre-election period preceding the 2019 election.

Mr. Nathan Cullen: Is the effect of this, then, that all the pre-election advertising limits we've placed in Bill C-76, if the election were called earlier, would be voided?

Mr. Jean-François Morin: It's irrelevant of the date on which the election is called. This is only relevant to the beginning of the pre-election period, which is June 30. This amendment would only affect the limits on political parties. It would not affect the limits on third parties.

Mr. Nathan Cullen: Yes, and how would it affect those limits?

Mr. Jean-François Morin: On third parties...?

Mr. Nathan Cullen: No, on the political parties.

Mr. Jean-François Morin: They just wouldn't apply at all.

Mr. Nathan Cullen: That's my point. All the limits that we've just placed on political advertising in the pre-writ period, if we were to pass CPC-195 and an election were called early—

Mr. David de Burgh Graham: No.

Mr. Nathan Cullen: No? It's irrelevant to that.

Mr. David de Burgh Graham: It is an incentive to delay the royal assent past January 1.

Mr. Nathan Cullen: Because if royal assent is delayed then—

Mr. David de Burgh Graham: Then they don't have a spending limit.

Mr. Nathan Cullen: You crafty....

Voices: Oh, oh!

Mr. John Nater: Actually, I have a question of clarification for our officials.

Mr. Nathan Cullen: That is very sneaky.

Mr. John Nater: In a scenario where the government doesn't take the wisdom coming from the Conservative Party, in a case where royal assent is provided for this bill at a date past January 1, so that in fact the coming into force of this bill would be mid-July of 2019, how would Elections Canada deal with the coming into force in the middle of a period where this would apply?

Mr. Jean-François Morin: I'd first like to mention that the Chief Electoral Officer has the power to bring into force various provisions of the act upon the publication of a notice in the Canada Gazette, provided that the preparation for the coming into force of those specific provisions has been completed. The fact that the bill would receive royal assent after January 1 would not be an indication of the applicability of this section.

Mr. John Nater: You're saying that the CEO would, in fact, provide written notification that this would be something he could implement.

Mr. Jean-François Morin: I'm not saying he would. I'm saying he could do it.

Mr. John Nater: If he didn't, though, and if it were to come into effect during the pre-writ period, how would Elections Canada deal with that? That's what I'm wondering.

Mr. Trevor Knight: Unfortunately—I think I have to be honest—I can't say I have information on that particular case. Part of the issue, of course, is exactly what has just been expressed. There is the possibility of bringing things into force earlier. We're monitoring the situation, and depending upon when it is passed, we'll have to consider it.

Mr. Nathan Cullen: Your worry is that any delay means that the pre-election limits on advertising by political parties—

Mr. David de Burgh Graham: They would not apply to next year.

Mr. Nathan Cullen: —would not apply to the 2019 election, unless the CEO—

Mr. David de Burgh Graham: Whereas if they don't do this, the CEO has a pretty strong incentive to make sure it's in place on time.

Mr. Nathan Cullen: I thought I just heard that the CEO could place those limits through the Canada Gazette. Is what you were suggesting, Monsieur Morin, that the CEO could do it, through gazetting only?

Mr. David de Burgh Graham: He could, but if this passes he doesn't have to. If this doesn't pass, he pretty much has to bring it in before that pre-writ period starts, so if you want those spending limits in next time, this amendment can't happen.

Mr. Nathan Cullen: You don't see it that way.

Mr. David de Burgh Graham: I'm not surprised they don't see it that way.

The Chair: Mr. Nater.

Mr. John Nater: I thought the Liberals liked giving discretion to the CEO. This seems to be going against it.

I would just point out—and I'm not going to dwell on this any longer—that the coming into force provisions of this bill are awfully unique. I wish I had some insight into exactly why this unique coming into force provision was added to this bill, but it does muddy a lot of things by having this “six months, oh but maybe if we're able to”. It's unique, and I suspect that's a challenge. I would have loved to have been a fly on the wall when that was done.

I'm going to leave it there, Chair.

• (1250)

The Chair: Okay. We'll vote on CPC-195.

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

The Chair: There is no new clause 383.1.

I am of the understanding that because we're so close, a majority of the committee is willing to stay a little later if we have to.

Mr. Nathan Cullen: No, I have a one o'clock commitment.

Mr. David de Burgh Graham: We have eight amendments left to deal with.

Mr. Scott Reid: Let's see if we can do it in the next eight minutes, then.

Mr. Nathan Cullen: Is now the appropriate time?

I haven't done any of these but there's an amendment I'd like us to consider. It will require unanimous consent, because it goes back. We were working with Elections Canada in a previous iteration to try to figure out language around this. You and I would have this experience, but perhaps other committee members don't. This is about the timing of when results are released during election night. Many of our constituents are still going to the polls when results are coming out from the east coast: how Newfoundland, Nova Scotia or P.E.I. have voted already.

I think there are provisions in the act in terms of the availability of information being somewhat equal to voters across the country. That privileged information can't be given to some voters and not others. This is affected in section 283. This is why it will need unanimous consent.

Just allow me to read it out, explain it, then one comment to the elections officials and then move on. It would say, “One and a half hours after the polling stations close in Newfoundland and Labrador, one hour after the polling stations close in the Maritimes and immediately after the polling stations close in the rest of the country, an election officer who is assigned to the polling station shall count the votes in the presence of” Then it continues through section 283, which is the counting of votes.

We've been struggling for years. It's been taken all the way to the Supreme Court, as some people know. This was about transmission of results initially but this is also just about the fairness.

I grew up in Toronto so I didn't experience this until I became a voter and was living on the west coast. When heading to the polling station the results of the election were announced already, at four o'clock, five o'clock, six o'clock. I think Elections Canada has also contemplated and tried to find ways around this.

It's very difficult to open the boxes, start the counting and then not to release the results. That was one of the things that was contested at court. We're suggesting a delay until the counting begins but not an extensive delay, 60 minutes and 90 minutes in the extreme case. Then the counting begins. Then the results start to come out.

It narrows the gap as to how much we're hearing the results in the western provinces of what the eastern provinces have already decided. Other countries deal with this in totally different ways, which we're not suggesting. We're just attempting to do this by saying, when the polls close, the boxes are sealed, have a cup of coffee, wait 60 minutes, then open them up, start to count, and release the results as per normal.

The Chair: What did you want to ask the officials?

Mr. Nathan Cullen: I want to ask the officials if what I'm suggesting here is feasible logistically.

It makes for extra long days, a longer day.

Mr. Trevor Knight: It is logistically feasible but it does make for longer workdays. We already have very long days and tired poll workers are often a problem at the end of the day. That would be the main operational concern in holding the results.

It could be done.

The Chair: Do we have unanimous consent to go back to the clause where this would be amended?

Some hon. members: No.

(On clause 384)

The Chair: On clause 384, we have Liberal-65.

Does someone want to present?

[*Translation*]

Ms. Linda Lapointe: The purpose of this amendment is to replace all mentions of "section 299" with "section 1" in clause 384 of the bill.

Mr. Nathan Cullen: What effect would that replacement have?

Ms. Linda Lapointe: That's easy: it would read "section 1" instead of "section 299".

Mr. Nathan Cullen: Maybe. I don't know. I'd like to hear Mr. Morin's comments on that.

Mr. Jean-François Morin: In drafting transitional provisions, it's common to write the first clause that's concerned by the transitional provision in question as a benchmark clause in that transitional provision.

That specific provision in this case states that, if the act comes into force during the election period, the previous version of the act applies with respect to the election and all related obligations and rights, including obligations to report and rights to reimbursement of election expenses.

Section 299 was selected in accordance with this legislative drafting convention. It is the first section in the act that concerns candidates' obligations. However, the Chief Electoral Officer raised a concern about this section in one of the appearances he made before this committee after the bill was introduced.

"Section 299" has been replaced by "section 1" simply to express clearly that this transitional provision applies to all rights and obligations resulting from the act, particularly those with respect to third parties, candidates and registered parties, but also the other rights and obligations arising from the changes made by the bill.

For example, if the bill came into force during a by-election, none of these provisions would be in force for that by-election. The by-election would continue to be administered under the previous version of the Canada Elections Act.

This is a common transitional provision found in most bills amending the Canada Elections Act.

• (1255)

Mr. Nathan Cullen: In this bill or in...

Mr. Jean-François Morin: A similar provision very frequently appears in all bills amending the Canada Elections Act, especially where political financing rules are amended.

Mr. Nathan Cullen: Mr. Knight or Mr. Sampson, do you want to add anything?

[*English*]

Mr. Robert Sampson: We do agree and, in fact, these provisions are modelled very closely on Bill C-23, the Fair Elections Act, and other acts before. This is very much in keeping with the tradition of transitional provisions.

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

The Chair: Just so the committee knows, we need the majority support of the committee to go past 1:00 p.m. We're that close.

Mr. Nathan Cullen: Is that right? Is that a practice that we've been keeping?

Mr. Scott Reid: I'm really familiar with this. On this, there is no dispute.

The Chair: We don't want to revisit that.

On CPC-196 amendment to clause 384, do you want to present this?

Mrs. Stephanie Kusie: Sure. This is the Chief Electoral Officer's recommendation concerning transitional provisions in the event Bill C-76 takes effect during an election.

The Chair: Is there any debate?

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

(Clause 384 as amended agreed to on division)

(Clauses 385 to 394 inclusive agreed to on division)

Mr. David de Burgh Graham: That's easier. It's faster.

(On clause 395)

The Chair: CPC-197, do you want to present that, Stephanie?

Mrs. Stephanie Kusie: This maintains the authority to initiate prosecutions with the director of public prosecution.

The Chair: Okay, we know how that's going to go.

Voices: Oh, oh!

Mr. Nathan Cullen: You have no sense of drama, Chair.

The Chair: This is the drama.

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

(Clause 395 agreed to)

(Clauses 396 to 400 inclusive agreed to on division)

(On clause 401)

•(1300)

The Chair: The last clause is 401. We have CPC-198.

Do you want to introduce that?

Mrs. Stephanie Kusie: This is about pre-election spending limits on political parties, and deferring the implementation to 2021.

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

Mr. David de Burgh Graham: Does this apply to CPC-199?

The Chair: Is that the same type of thing?

Mrs. Stephanie Kusie: We're withdrawing CPC-199.

The Chair: Next is CPC-200.

Mrs. Stephanie Kusie: This one is requiring one year, not six months, for the coming into force of the bill.

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

The Chair: We'll move on to CPC-201.

Mrs. Stephanie Kusie: This one is to remove the Chief Electoral Officer's discretion to accelerate the bill coming into force.

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

The Chair: Next is CPC-202.

Mrs. Stephanie Kusie: This limits the Chief Electoral Officer's discretion to accelerate the bill's coming into force to five months after royal assent.

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

(Clause 401 agreed to on division)

The Chair: Shall the schedule carry?

Some hon. members: Agreed.

The Chair: Shall the short title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the title carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the bill as amended carry?

Mr. John Nater: I request a recorded vote.

(Bill C-76 as amended agreed to: yeas 6; nays 3)

The Chair: Shall the Chair report the bill as amended to the House?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Chair: Just so you know, next Tuesday we'll probably have a subcommittee meeting on the agenda.

Mr. David de Burgh Graham: Are we meeting Thursday?

The Chair: Next Thursday we won't meet because of the Dutch Prime Minister's visit.

I'd like to thank all the witnesses and also the clerk, as well as the interpreters and the researcher.

Some hon. members: Hear, hear!

The Chair: We're adjourned.

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