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The Honourable Don Boudria

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● (1105)

[*English*]

The Chair (Hon. Don Boudria (Glengarry—Prescott—Russell, Lib.)): Order, please.

Pursuant to the order of reference of Wednesday, June 22, 2005, this morning we are considering Bill C-312, an act to amend the Canada Elections Act. Of course, we are also dealing with the order of reference of October 18, 2005, regarding Bill C-63, an act to amend the Canada Elections Act and the Income Tax Act.

Our witness this morning is the Honourable Mauril Bélanger, deputy leader of the government in the House of Commons.

Welcome, Minister. Thank you for being with us.

We also have someone I happen to know very well, Madam Kathy O'Hara. Welcome.

[*Translation*]

We also welcome Mr. Luc Dumont, Director of the Democratic Renewal Secretariat.

Mr. Minister, do you want to make a statement before we hear the witnesses?

Hon. Mauril Bélanger (Deputy Leader of the Government in the House of Commons): Yes.

The Chair: Committee members have agreed to allot 45 minutes for the first bill, then 45 minutes for the second, to the extent that's possible. Then we'll continue our proceedings.

Hon. Mauril Bélanger: I'll have a statement to make on each of them, but I'm going to start with Bill C-312.

Should I make both statements together? Do you prefer to dispose of Bill C-312 first?

The Chair: We had planned to deal with the bills one after the other. However, if my colleagues so wish, we can proceed otherwise.

We'll deal with one bill at a time.

Hon. Mauril Bélanger: Thank you, Mr. Chairman, committee members.

I am pleased to have the opportunity to appear before you to comment on Bill C-312, which proposes to amend the Canada Elections Act to give the Chief Electoral Officer the power to appoint and remove returning officers. Committee members are well aware of the essential, invaluable role that returning officers play in the electoral process. Returning officers come to the forefront at election time and are at the heart of every well-conducted election.

As I hope you'll all agree, Canada's electoral system is admired around the world, and the method we currently use to appoint returning officers has in no way undermined our ability to mobilize at election time. Although he has criticized the present appointment system, the Chief Electoral Officer has said that the number of problems involving returning officers has been very small.

[*English*]

That said, the government is always interested in improving our electoral system whenever possible. You should know that since 2000, the government has appointed a total of 277 people as returning officers. During the same period, only five returning officers were terminated due to ineligibility, and that was based on residency. There were 229 who resigned and six who died. So no returning officers were dismissed for reasons of misconduct during this period.

We recognize, however, that improvements can be made to the existing system. We believe we can also make positive changes to the appointment process by including modern management practices to ensure that the appointment of returning officers will follow the government's commitment to making appointments professional, transparent, and competency-based. That is why we supported the bill in principle at second reading. But at that time, we also made it very clear that amendments were needed to address weaknesses and gaps in the proposed bill.

As member of Parliament Peter Adams stated during second reading, and I quote:

> However, the adoption of a new system must undergo rigorous review to rule out any potential unwanted, unanticipated effects... Ultimately, we want to ensure that the various aspects of our electoral process, whether it be political financing, registration of political parties or the appointment of returning officers, meet the needs of Canadians and reflect our vision of a modern democracy.

In my view, there are a number of important elements of a robust management regime for returning officers that are simply not addressed in this bill. Key elements, such as accountability and oversight, legal and policy frameworks that will guide human resource management, and modern management practices within that framework, will ensure that the appointment of returning officers is based on the principles of professionalism, transparency, competence, representativeness, timeliness, and efficiency. These elements must be considered first. Otherwise, we will simply be transferring authority without ever having any necessary assurance on how it will be exercised or even knowledge of same. Moreover, we must not just seek change for the sake of change.

● (1110)

[*Translation*]

First of all, for a management system to be sound, authorizations, accountabilities and supervision mechanisms must be established. The bill does not take this crucial necessity into account.

[*English*]

However, it does propose to give sole authority for the management of returning officers to one person only, the Chief Electoral Officer, to give unilateral control from selection to the end of the appointments and at every step in between without ever ensuring that appropriate oversight mechanisms are put in place and certainly with none of the checks and balances we find elsewhere across the public sector. This is fundamentally inconsistent with what the government believes are essential elements of both rigorous and current public administration.

[*Translation*]

For example, the present version of the bill gives the Chief Electoral Officer full powers respecting the establishment of selection criteria for returning officers, for choosing members of the selection committee, selecting persons recruited and disciplinary measures, where applicable.

The public service is heading toward a system established by a new act and supported by a revised strategic framework, a system that modernizes the way we manage public servants — in particular how they're appointed — and a system that promotes accountability through disciplined supervisory measures and relations.

[*English*]

Under this bill the Chief Electoral Officer would have sole control over all aspects of appointments, including assessing and then reporting on just how well it's being done. I'm reminded here of how Mr. Justice Dubin discovered much the same when he reported on the Department of Transport being both author and regulator of civil aviation safety policy plus, rather conveniently, sole air accident investigator within the same ambit of rules it had set.

So I ask, Mr. Chair, what mechanism is there in this bill as proposed to ensure that Elections Canada will meet standards of modern staffing in appointing returning officers? This amounts to unusual if not unprecedented control over the management of people being vested in one person.

[*Translation*]

For Order in Council appointments, the government is improving its selection processes in order to ensure that they are professional, transparent and based on qualifications, as recently described in the Review of the Governance Framework for Canada's Crown Corporations.

The government has also begun to restructure the selection processes of some of our major agencies, such as the Veterans Review and Appeal Board, the Immigration and Refugee Board of Canada and the National Parole Board. The purpose of this restructuring is to increase transparency and establish a more disciplined evaluation and selection process based on qualifications, using banks of highly qualified candidates from which selection can be made quickly and efficiently. Similar improvements would be possible in the case of the evaluation and selection of returning officers.

[*English*]

Similar improvements could also be made to the assessment and selection of returning officers; we acknowledge that. Members only need look to the new transparency of other agencies like the National Parole Board and its success by way of an open call against a national statement of qualifications to provide a constant, pre-qualified pool of candidates, then appointment by the Governor in Council.

We and the committee would benefit from hearing from one or more of these organizations on how they have made pre-qualified pools successful. I would encourage you, Mr. Chairman, to extend an invitation to an agency head or two to appear before this committee as expert witnesses on a pre-qualified pool model.

[*Translation*]

A sound management system is not based solely on qualifications, professionalism and transparency, but also on rapid, effective appointments. The bill requires that staffing be done by establishing candidates' order of merit. The staffing system would thus have to determine the best candidate, then the second best, third best and so on.

● (1115)

[*English*]

This was the system used for over thirty years in the public service, resulting quite often in obstacle courses for managers and employees alike. It was a staffing system that became clogged with process and red tape, a system where it became far more important to prove cumbersome processes had been followed than it was to appoint a competent person in a timely way to share the best possible service to Canadians.

Finding the best-qualified candidates for any given position under these rules can ultimately result in a staffing action that is tedious, time-consuming, and even constrained by legal precedent. It is clear to me that such a process would never be able to meet the critical demand for returning officers during an election period and would thus undermine the principles of both urgency and efficiency.

[*Translation*]

In 2003, Parliament passed Bill C-25, to radically modernize the way appointments are made in the public service. The concept of merit was restored to its initial purpose, that is to say to ensure that qualifications form the basis of appointments and to reduce paperwork. If we're trying to modernize the method for appointing returning officers, the obsolete model provided for under the old Public Service Employment Act is definitely not suitable.

Lastly, a sound management system must refer clearly to legal and strategic frameworks that guide human resources management. Bill C-312 proposes that the employment status of returning officers be changed, but unfortunately fails to designate the legal and strategic frameworks that would apply. It raises more questions than it answers with regard to the employment status of returning officers, their social benefits and the way in which human resources problems would be resolved.

[*English*]

In the instant case, while Bill C-312 does propose that the employment status of returning officers be changed, it is lacking in identifying any legal and policy frameworks that would apply. So it manages to raise even more questions than it answers regarding the employment status of returning officers, their benefits, and how important human resources issues will be resolved. As such, this bill merely proposes to replace the existing employment regime for returning officers without describing what would replace it.

Mr. Chair, there are also some fundamental questions regarding the employment status of returning officers on which Bill C-312 is quite silent. For example, would returning officers be eligible for collective bargaining, and how would disputes be settled? What about conditions of work? What about pensions?

[*Translation*]

As I've already said, Bill C-312 raises many questions without answering them. It is crucially important that all the consequences of Bill C-312 be examined and that answers be found for the questions that are raised. If the decision is made to make legislative amendments, we must know all the consequences thereof.

Today, I've reviewed what I believe are the weaknesses of this bill. It is not consistent with the modern concepts of human resources appointments and management. It could very well undermine our operational capacity to conduct an electoral process and to discharge our democratic responsibilities toward Canadians. For those reasons, I cannot support the bill in its present form. Furthermore, I am very much convinced that the argument that this proposal will result in a better system than the present one remains unproven. As I mentioned at the outset, Canada has one of the most admired political and electoral systems in the entire world. Returning officers play a key role in administering our electoral process and deserve thanks for the enormous work they've done over the years. Although not every aspect of the system can please everyone, the results are nevertheless there.

That said, the government would still like to modernize and improve the electoral process where it can, and that includes returning officers. That is why I wrote to you last year, Mr. Chairman, to suggest that the committee examine the matter in greater detail. That is also why the government agreed, during debate on this bill, that improvements to the system should be considered. For example, it could be advantageous to adapt the system by assigning the Chief Electoral Officer an additional role. There can be no doubt that he has a thorough knowledge of the system and knows the kind of person and qualifications required to make an effective returning officer.

It would thus be beneficial for the Chief Electoral Officer to participate more closely in the electoral process so as to ensure a broad candidate pool is available, as necessary. However, although we are considering improvements, we have no room for error: we must do this correctly. The final condition is that we ensure that the changes contemplated do not cause an entire series of new problems. Change for change's sake, as I indicated earlier, is not what we're seeking. Our electoral system works well and we do not want to risk it all on the line.

In our view, maintaining a strong electoral process requires that the committee examine the matter attentively and carefully consider the concerns I've raised.

● (1120)

[*English*]

This bill, as proposed, is still at variance with fundamental management principles such as delegation of clear responsibilities and a rigorous oversight. It raises unresolved issues related to authority, employment regimes, undefined staffing processes, and accountability. It even proposes outdated management practices. If we are going to change how we manage returning officers, then we need to get it right.

Most importantly, we also need to ensure that any changes contemplated do not create a whole set of other problems.

I would hope that this would be taken as constructive input, because, as the government has said, we are favourable to changes and we're looking forward to continuing discussion on that.

I would welcome any questions, Mr. Chairman.

[*Translation*]

The Chair: Thank you, Mr. Minister.

[*English*]

For the official opposition, Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): Thank you, Mr. Chair, and thank you, Minister, for being with us here today.

Let me just start with a really simple question. Actually, I have several questions for you, but I'll start with the simplest one. You supported the bill at second reading, but the very long litany of concerns that you've expressed today would suggest to me that you actually think it is not something that can be amended and improved, that it ought to be rejected. Would that be a correct interpretation?

Hon. Mauril Bélanger: No, that would not be, Mr. Reid.

We had indicated support in principle with the notion of improving how returning officers are chosen and appointed, and that's why the government voted in favour of the bill at second reading.

We had also indicated at second reading that we would be seeking changes, as we had some difficulties with what was proposed. I've set out what you have called the litany of difficulties that we believe the bill poses, but I also believe these can be addressed.

Mr. Scott Reid: “Litany” is probably the wrong choice of word; “extensive list” might have been the more appropriate way of putting it.

You, of course, don't sit on the committee, but your parliamentary secretary does, which I think would give you the ability to introduce suggested amendments that would deal with the concerns you have. Is that something you are planning on doing?

Hon. Mauril Bélanger: That's certainly something the government can consider once the committee has finished hearing witnesses and has determined that that's it. I'm not aware that is the stage you're at. I've suggested, for instance, that one or two heads of agencies that have used the method of pre-qualified pools be asked to testify as to how they see that method functioning. We believe it's a system that is quite legitimate. It is being introduced gradually, and it could perhaps be applied in the selection process of returning officers.

Mr. Scott Reid: As opposed to the detailed suggestions you made, you started with some principled concerns, or concerns in principle of a broader nature. It seems to me that the most fundamental of them is a concern with placing too much power in the hands of the Chief Electoral Officer. You enumerated a number of the powers that effectively make that officer judge, jury, and executioner—although this isn't your terminology.

In listening to this, I've made some notes to myself. One of them was whether or not you thought it might be beneficial in working within the text of Bill C-312 to add something similar to what exists currently vis-à-vis someone else—the Ethics Commissioner—under our code of conduct. He is able to come up with rules for the administration of the conflict of interest code, but he is required to submit those rules to this committee in advance of using them.

It strikes me that, potentially, if the bill were to include something of that nature, and the hiring rules, and so on, effectively had to be vetted in advance of being adopted, it might to some degree deal with that concern that you have. Am I correct in that assumption or not?

● (1125)

Hon. Mauril Bélanger: I believe that if you were to ask either the representatives of the Public Service Commission or management advisers, they would generally caution you to have someone in the position with sole authority to set rules—which might address that part of your question—but also sole authority to choose, sole authority to supervise, and sole authority to evaluate and then discipline.

I think you will find that most people in the management field—and, I believe, the people in the Public Service Commission as well, with the principles we work under—would find a great deal of difficulty with that approach.

Mr. Scott Reid: Thank you.

[*Translation*]

The Chair: Now we'll go to the Bloc québécois.

Ms. Picard.

Ms. Pauline Picard (Drummond, BQ): Thank you, Mr. Chairman.

Good morning, Mr. Minister. First I'm going to make a comment. You said earlier that you wanted to propose that we send for witnesses. I would like to point out to you that, after this meeting, we'll be at the clause-by-clause consideration stage. It's a little late to move amendments.

Bill C-312 is based solely on the system in effect in Quebec. We're going to make a few minor amendments for the sake of consistency. Among other things, the idea is to change some names. These are ultimately amendments of no major importance.

Are you claiming that the system currently in effect in Quebec is harmful to the exercise of democracy?

Hon. Mauril Bélanger: Not at all, madam. It is not for me to judge what kind of system the Quebec National Assembly wants to establish in its province for the Chief Electoral Officer or returning officers. However, as regards the clause-by-clause consideration, I would point out to you that the committee has until February 6 to consider this bill in accordance with the rules and to report back to Parliament.

When November 17th was set down as the date for my appearance, I wasn't aware that the committee intended to proceed with the clause-by-clause consideration. In all good faith, I believe we still need to examine this bill as a whole before proceeding with its clause-by-clause consideration.

Ms. Pauline Picard: We've heard all the witnesses. I don't know how that's done, but we're on the clause-by-clause consideration.

I feel the present Chief Electoral Officer is the guardian of democracy. Year after year, report after report, he has denounced the returning officer appointment process, without the government showing the least intention of remeding this anachronism. In six Canadian provinces, including Quebec, the appointment of returning officers is the Chief Electoral Officer's responsibility, and it works well.

What are your fears? Why are you so wary when it comes to transparency, impartiality and accountability?

Hon. Mauril Bélanger: Allow me to assert my conviction that the guardian of democracy in Canada is, first of all, the Parliament of Canada. Then it's the Canadian public. The Chief Electoral Officer's role is to see to the proper administration of and compliance with the Canada Elections Act.

You ask me why the government has expressed reservations about the passage of Bill C-312 in its current form. I have stated them, and I can repeat them. First, there are management principles. Moreover, the committee could check with the Public Service Commission of Canada or other practitioners of management principles and see that the fact a single person is responsible for the process from A to Z is one way of proceeding that opens the way to criticism.

The bill asks that appointments be made on the basis of merit and that merit be determined. That process could prove to be extremely complicated. How could we determine which of 20 good candidates is the best? That's what the bill proposes. In a situation like the one we're currently in, when an election is in the air, and it is held in the spring or earlier, you have to make sure that every vacant position is filled quickly. Under the bill we would have a very complicated system that wouldn't allow us to do that. These fears are perfectly legitimate. I stated the other ones in my presentation.

● (1130)

The Chair: Mr. Broadbent.

[*English*]

Hon. Ed Broadbent (Ottawa Centre, NDP): Thank you, Mr. Chairman.

As members of the committee know, I've not been on this committee for some time—my colleague Yvon Godin has been—but I too am surprised at this stage, with the minister's observations coming in, some of which seem to me to be sensible, but others may be raising red herrings that are perhaps not pertinent to the substance of the bill.

My inclination would be to proceed, if it's the committee's intention, to clause-by-clause analysis, and in that context take up points made by the minister that are relevant and useful, but essentially stay on track where we are.

There have been a number of people before the committee—Mr. Kingsley and other experts—and I think, based on what we've heard, based on the original nature of the bill, and taking into account some of the minister's observations and his agreement in principle with the bill, that some of the very useful points he has made could be taken into account as we look at a clause-by-clause analysis. I think, speaking for my colleague on this committee, that would be the position we take.

If I have time also, since the minister did refer to electoral reform and the electoral process in general, I'd like to ask him, while he's here, what has happened to the proposals for electoral reform that this committee spent a fair bit of time on. I'm just wondering where we're going or where the government is going on that issue.

The Chair: I just want to remind colleagues that we're not in a general discussion on estimates; we're discussing a bill. But maybe the minister can give a brief answer to that and we can get back on track, because we have only 45 minutes for this item and I wouldn't want us to take the time to discuss other—

Hon. Ed Broadbent: In the rest of my time, if I could get that while he's here....

The Chair: Well, all right.

Hon. Mauril Bélanger: Mr. Broadbent is referring to the 43rd report of the committee, I presume.

Hon. Ed Broadbent: Yes.

Hon. Mauril Bélanger: Okay.

We've had discussions on this. The government has essentially accepted the substantial resolutions or proposals of the report but not the timeline. That's the short answer.

In terms of the seriousness of moving—

[*Translation*]

The Chair: Ms. Picard.

Ms. Pauline Picard: I have a point of order. The committee has met to consider the bill clause by clause. I don't believe the minister has the authority to tell the committee what to do. I don't agree with Mr. Broadbent's proposal to delay the bill so that the government...

The Chair: Pardon me, madam, perhaps something was lost in the translation. Mr. Broadbent's question didn't concern the bill, but rather a different subject. The minister didn't address the question.

Mr. Minister, you may finish answering. Then we'll go back to the bill, which is the reason we are here.

Hon. Mauril Bélanger: Ms. Picard, I've sat on committees for a long time. I would never suggest that the government can dictate conduct to the parliamentary committees, absolutely not, quite to the contrary. Let's agree on that.

[*English*]

To conclude on Mr. Broadbent's question—and I'll have to do this quickly—if you look on the MERX now, at the proposal call for the public consultation recommendations of the committee, they're listed. It's quite extensive and detailed. I have a copy of it here. So the basic substantive proposition that the committee put to the government is accepted.

The timelines, for a number of reasons—and I don't know if I have time to get into them, but if I don't, fine, I'll talk with you, Mr. Broadbent, separately—are not, in the government's opinion, realistic and could not be adhered to. But as to the basic proposition of reaching out to consult Canadians, to find out what they want to see, what values they want reflected in their institutions, in a deliberative dialogue process, the formation of a special committee, a crossover of both so that the committee can benefit from the exercise of reaching out to Canadians, and then the committee making recommendations, the government has accepted that.

● (1135)

The Chair: Okay, thank you for that. We do have to get back to the bill, though. Perhaps the minister could table that information, the proposal that's on the MERX, for members to note. We thank the minister for that.

Do any colleagues on the government side have a question?

Monsieur Simard.

Hon. Raymond Simard (Saint Boniface, Lib.): I have a quick question, Minister, with regard to some of the comments you made.

I am a relatively new member of this committee. My understanding is that you've already heard from several—four or five—electoral officers from different provinces. Is that correct? Okay.

When you spoke of pre-qualified pools, to me, that is something that sounds interesting. You mentioned the National Parole Board as one of the options.

My understanding is that some of these agencies, the pre-qualified boards, are working better than others. I think it would be beneficial for us to hear from a few of these agencies to see, from the ones that are working well, what is working well, and the ones that aren't. It would give us some benefit.

If we want to change the system, it seems to me we should give it every opportunity to pass. This seems to me a reasonable option.

Are there agencies, other than the National Parole Board, that we could communicate with or contact?

Hon. Mauril Bélanger: There are currently three boards: the latest one, the one I mentioned, the Veterans Review and Appeal Board, which has also adopted the pre-qualified pool approach; the National Parole Board, as you mentioned; and the Immigration and Refugee Board. Of those three, I believe the Immigration and Refugee Board was the first, and then the Parole Board, and lately the Veterans Appeal Board. So those are the three, and I believe any three or all three would have information that might be pertinent to considering whether this committee could agree or would want to recommend that approach to the selection process of returning officers.

Hon. Raymond Simard: Thank you.

[*Translation*]

The Chair: Thank you very much. We'll go back to the official opposition. Is there a question? If there isn't, it will be the turn of Ms. Picard, who had requested a second round. Actually, it's Mr. Roy's turn to speak.

Mr. Jean-Yves Roy (Haute-Gaspésie—La Mitis—Matane—Matapédia): Mr. Bélanger, I conclude from your fears that you doubt the Chief Electoral Officer's ability to hire returning officers, to put criteria in place and to select people.

How is the staff of the Chief Electoral Officer currently selected? Isn't there already a process enabling the Chief Electoral Officer to select his staff? Local returning officers are nothing other than staff members of the Office of the Chief Electoral Officer. That's how it works in Quebec. The selection criteria for the staff of the Office of the Chief Electoral Officer could also apply to local returning officers. I don't understand your fears. You say the Chief Electoral Officer isn't currently able to select returning officers. I find it hard to understand why because the Chief Electoral Officer already selects his staff, and returning officers are part of that staff.

Ms. Pauline Picard: They're not employees of the Public Service Commission.

Hon. Mauril Bélanger: I didn't say that the Chief Electoral Officer wasn't able to do that. I'd like someone to tell me when I've said something like that. I don't in any way doubt the abilities of the Chief Electoral Officer. What I said, Mr. Chairman, is that all modern personnel management systems recommend that a distinction be drawn between selection criteria, the selection process, selection, supervision, evaluation and disciplinary measures, if necessary. All those who consider these questions, at least the majority of people consulted, say it's preferable that all the stages of the process not be under the same authority. You can put the question to anyone working in the field. Furthermore, returning officers are not staff members because they are appointed by Order in Council. There is a supervisory role.

● (1140)

Mr. Jean-Yves Roy: That's correct, Mr. Bélanger, but what...

The Chair: You shouldn't speak at the same time; it's hard for the interpretation service. You may raise a final point, then we'll move on to someone else. We're almost out of time.

Mr. Roy.

Mr. Jean-Yves Roy: Ultimately, at the Office of the Chief Electoral Officer, the criteria you refer to aren't applied to staff selection. That's what you're suggesting.

Hon. Mauril Bélanger: Mr. Chairman, I'm saying that there is a system for public service staff. The Chief Electoral Officer is an officer of Parliament. He reports to Parliament, not to the government, but he must nevertheless comply with legislative frameworks.

Under this bill, it's not clear what framework would apply. Under what system would these people be, if they aren't under the Order in Council system, and what would be the conditions of their employment? That has to be clarified at the outset.

The Chair: Ms. Redman will close the period of time we had for consideration of this bill. Then we'll hear testimony on the other bill.

Ms. Redman, over to you.

[*English*]

Hon. Karen Redman (Kitchener Centre, Lib.): Thank you, Mr. Chair.

Monsieur Roy actually makes the exact point that I wanted to touch on.

I've looked at this bill all along and wondered if this is simply change or is it improvement. I have to be very candid. I don't know what's broken in the system. You gave the statistics at the very beginning, Minister Bélanger, of how many people have been appointed: five have become ineligible, 229 have resigned, and six have passed away. It's an issue that we investigated when we had the Chief Electoral Officer here. I'm not convinced the system is broken, so if we're going to change it, it needs to reflect some kind of improvement.

Those questions were asked of the Chief Elector Officer, exactly what the status would be of these returning officers. I'm not convinced that enough research or investigation has been done to ensure that we aren't going to be looking at people who are almost in this in-between state. There's not going to be order-in-council any more, so why can't they have collective bargaining?

I think there are issues here. Monsieur Roy, your comments, to me, would say that you think they are employees of the Chief Electoral Officer. As such, I would say that creates a really murky area as to how we look at these.

I think the statistics speak for themselves and I think the caution the minister raises is very valid. I'm not convinced that we would have a very clear view of how these electoral officers relate to their employment.

Hon. Mauril Bélanger: Very quickly, Mr. Chair, the government has indicated that we do accept that the system could be improved upon. But we've indicated that in the current format that the bill presents, we would not support it.

We encourage the committee to look at other elements of a system. One of them is perhaps the notion of pre-qualified pools with GIC appointments. If the committee chooses not to do that, it's the committee's prerogative. As the bill stands, the government cannot support it and will not support it, but we do accept the premise that the system can be improved upon. So it's at matter of whether or not we can come up with a system everyone can live with that meets the standards of some of the tests we've put forward.

[*Translation*]

The Chair: Thank you very much, Mr. Minister. We'll now ask you to present what you have to tell us on the other bill. Then the committee will be free to continue its scheduled proceedings.

I turn the floor over to you, Mr. Minister.

Hon. Mauril Bélanger: As for Bill C-63, An Act to amend the Canadian Elections Act and the Income Tax Act, this refers to an amendment adopted by Parliament in 2004, an amendment called Bill C-3, which dealt with new registration rules for political parties. Bill C-3, and the new registration rules it contained, came into effect on May 15, 2004.

It was necessary to adopt new party registration rules — people will remember this — after the Supreme Court's June 2003 decision in *Figueroa*, which struck down the previous requirement that a party field 50 candidates at an election to become registered.

The Court found that the 50-candidate threshold in the Canada Elections Act was contrary to section 3 of the Canadian Charter of Rights and Freedoms, which guarantees to every Canadian the right to vote and to run for election. The Supreme Court suspended its decision for one year to provide an opportunity for Parliament to amend the Canada Elections Act. It was under this one-year constraint that Parliament considered Bill C-3.

I would like to begin by briefly reviewing the key aspects of Bill C-3. Most importantly, the bill reduced the threshold for registration of political parties. A party now has to endorse only one candidate at an election.

Further, it included measures to ensure that benefits flowing from registration were only accessed by legitimate political parties. In particular, this included a new definition of political party, namely that a party is an organization one of whose fundamental purposes is to participate in public affairs.

In that regard, it is important to remember that the purpose of the former 50-candidate threshold was to ensure that groups could not easily masquerade as political parties simply to gain access to the benefits. These benefits are generous, and they include access to the tax credit for political contributions, and access to guaranteed free and paid broadcasting time during elections. Registered parties that meet a specific voter-support threshold at a general election are also entitled to other benefits, including the partial reimbursement of election expenses, and an annual allowance.

During Committee review of Bill C-3, some concerns were raised about the new rules. Some members felt that the single candidate threshold was too low, and would not weed out opportunistic groups that are not legitimate parties, but are pretending to be simply to access benefits.

The Chief Electoral Officer, for his part, objected to his role in determining whether an applicant for registration is eligible under the Act. Performing this role can require that the Chief Electoral Officer reviews a party's constitutional, administrative and operational documents. When he appeared before this Committee, the Chief Electoral Officer indicated that he feared that this would be an intrusion into the internal affairs of a party, and would undermine the independence of his Office.

Since not all these issues could be resolved in time to meet the Court's one-year suspension period, all parties represented in the House agreed to include a two-year sunset in Bill C-3 at Committee stage. This ensured a valid registration system continued to exist, while also ensuring that a substantive review of these concerns would be carried out at a later date.

● (1145)

[*English*]

When the bill was later considered in the Senate, a further concern was raised about the fact that the bill did not address other thresholds in the act that may be challenged using Figueroa-type arguments. These include the thresholds for access to the partial reimbursement of election expenses and to the annual allowance that I mentioned earlier. In order to qualify for these benefits, a registered party must obtain 2% of the national vote or 5% of the vote in the ridings where they fielded a candidate.

Soon after the opening of the 38th Parliament, on October 5, 2004, this committee, through its chair, wrote to me to ask about the government's preferred approach in carrying out the planned review of Bill C-3. At that time, it was expected that the Chief Electoral Officer would issue his report on recommendations following the 2004 elections, in the spring of 2005 at the latest. This is important, because the Chief Electoral Officer's report triggers a mandatory review by this committee of the new political financing rules that were adopted in 2003 through Bill C-24.

In my November 17 response to your letter, Mr. Chairman, I indicated that the government's view was that it would be highly advisable for the committee to review Bill C-3 and Bill C-24 at the same time. This is a logical approach, given the linkages between political financing and party registration. The first volume of the Chief Electoral Officer's report, dealing with the general amendments to the Canada Elections Act, was submitted on September 29, and you have that. Interestingly, in this report the Chief Electoral Officer himself recognized the need to act now to repeal the sunset clause.

We are advised that the second volume dealing with political financing will be tabled later, in December. We were advised of that in August. This later report is the one that will trigger the mandatory review of Bill C-24 and, if the committee is agreeable, the review of registration rules adopted by Bill C-3.

The Chief Electoral Officer's delay in tabling his recommendations—which was wholeheartedly justified, in our opinion, due to some events of last spring, if you will—has led to an unfortunate delay in the planned joint review of Bill C-3 and Bill C-24. Combined with the possibility of an election in the near or nearer future, it will be unlikely that the committee will undertake its review and subsequently adopt legislation to repeal the sunset clause without running the risk of having the sunset clause become inoperative beforehand. If that were to occur, it would lead to the repeal of all rules concerning the registration of political parties. In essence, only parties registered on May 15, 2006—that being the date that is two years after the coming into force of Bill C-3—would then have registered status and be able to access the benefits flowing therefrom. Correspondingly, it would not be possible to register new parties. Essentially, there would be a legal void in the Canada Elections Act. It is therefore the government's duty and, I believe, our duty as legislators to act now to ensure that valid registration rules remain in effect past this date.

In addition to repealing the sunset clause, Bill C-63 also provides a requirement for a review of the new registration rules by this committee within two years. The two-year period, we believe, provides enough flexibility for this committee to undertake this review completely in light of possible election scenarios, as I've alluded to. Furthermore, the committee will have the discretion to decide whether it wants to consider these rules when it reviews political financing rules, as required by the Canada Elections Act.

Before I close, I'd like to raise an issue with the committee that has surfaced since the tabling of Bill C-63 and since its debate on passage in second reading. As I alluded to earlier, the Senate was very engaged when the new party registration rules were being debated. As members are aware, the Senate usually takes a special interest in electoral legislation. In that context, it has been brought to my attention that the Senate will likely make an amendment to this effect and send the bill back to the House, should the committee decide to proceed in the House with the bill as it now stands, which of course would cause further delays in the passage of this legislation.

I have already spoken about the importance of moving quickly to ensure the integrity of the Elections Act, so given the likelihood of a Senate amendment, the government believes the best course of action would be to amend the bill in committee to add a requirement for Senate review. I hope the committee will give this serious consideration, and there is a proposal of an amendment to that effect.

● (1150)

Mr. Chair, committee members, I will conclude my presentation today simply by restating that it is important that we act now to repeal the sunset clause in Bill C-3. By its nature, the bill that is before you today is procedural, but it is also a step in a process that will lead to a comprehensive review of the Canada Elections Act.

I would be pleased to try to answer any questions that members of the committee may have, Mr. Chairman.

The Chair: Thank you very much, Minister.

For the official opposition, Mr. Reid.

Mr. Scott Reid: Thank you for that presentation, Minister.

There are a number of thoughts I have on this. One is that you point to some gaps in Bill C-3. It seems to me that the absence of something from Bill C-3 cannot logically be part of a reason to want Bill C-3 not to lapse. What is in Bill C-3 may be valuable if it's lost, but what is not in Bill C-3 cannot, I think, be lost, because it wasn't there in the first place. So it doesn't matter if there's a sunset clause with regard to those particular points to which you've drawn attention, those lapses in Bill C-3.

My more fundamental point would be this. I'm hearkening back now to the comments I made in the House when this bill was in second reading. To be consistent with what your predecessor did when he introduced the bill, it seems to me that rather than terminating the sunset clause, it would be more appropriate to simply recognize that for a variety of reasons, time has passed, and the two years for the sunset clause has become a much shorter period of time. Therefore, to set a new sunset clause that gives us about the same amount of time as your predecessor had given.... By the same token, the idea of putting a sunset on a piece of legislation or on a set of rules that everybody recognizes is not perfect was also done by the Supreme Court when it struck down the predecessor legislation in November 2003.

So my question, really, is this. Would it not be preferable, rather than saying we're going to give this to the committee to take a look at within two years.... There are no sanctions if the committee doesn't do anything. Nothing happens if the committee doesn't do anything. There's no encouragement other than our own good will. All of us on this committee know that despite abundant good will on our part, and presumably on your part, Minister, all this time has passed, and this hasn't come to the forefront until now. Would it not make sense to put in a new sunset clause in order to keep with the spirit that was in the original legislation and that has governed discussions since the time of the Supreme Court decision in November 2003?

● (1155)

Hon. Mauril Bélanger: I suppose that could be one other way of addressing that. The one the government is putting forward is legislation that would mandate the committee, by law—so the will of Parliament would have been clearly expressed—to do the review within two years, and at that point, if there were changes to be made, they could be made. In the absence of that, the provisions would carry on.

We've had a situation already where as soon as we found out that the report that would trigger the review of political financing was only coming in December—and the government found that out in August—we moved immediately to prepare something, because we thought there could be a situation where there'd be a vacuum. We don't want that to happen again in two years' time. Therefore, the onus would certainly be transferred to the committee to a certain degree to make sure that the review does occur in that two-year timeframe. This is something we thought the government and the committee could live with.

Mr. Scott Reid: Leaving aside the political financing, because that really does deal with Bill C-24 rather than Bill C-3, do you actually have any recommendations for changes to the substance of Bill C-3 that you and your department have been working on? You do have some of the experts, of course, at your disposal. Do you have any thoughts on the proposed substantive amendments?

Bill C-63 is about putting off a decision and giving us the time to do it. But in terms of what we would do in making that decision, has your department done any work? Are there any suggested amendments? You pointed to a couple of shortfalls. Do you have anything to...?

Hon. Mauril Bélanger: Not at this point, Mr. Chairman. Having said that, the resources we have at our disposal can be called upon by this committee at any time. That's number one. Number two, I think out of respect for the role of this committee, in terms of being the first to address the report of the Chief Electoral Officer, both in Bill C-24 and in the overall election legislation, I think we would demur to the committee.

I would have to mention, also, that we are convinced that the two—Bill C-24 and Bill C-3—are intricately linked. When I suggested on November 17 last year to the committee that the review of the two be done together, no one said anything against that, Mr. Chairman. So that's why we thought that every member of the committee had decided that it made sense. We still maintain that it makes sense, therefore, to delay Bill C-63 and give the committee the chance to review both the political registration and the political financing portions of the Elections Act, along with the rest of the Elections Act, on which the committee has already received fifty-some recommendations, I believe, from the Chief Electoral Officer.

[*Translation*]

The Chair: Thank you for your question, Mr. Reid.

Mr. Broadbent, do you have any questions to ask?

Hon. Ed Broadbent: No.

The Chair: What about the government side?

[*English*]

Are there any questions?

Madam Longfield.

Hon. Judi Longfield (Whitby—Oshawa, Lib.): You alluded to the amendment that you thought would assist that was proposed by the Senate. What effect does this have?

● (1200)

Hon. Mauril Bélanger: It means that if adopted there would be two exercises to look at the Elections Act in terms of the registration of political parties.

Hon. Judi Longfield: Could that not happen without this amendment? Are you suggesting that the senators are saying they—

Hon. Mauril Bélanger: It could certainly happen without the amendment, but I suppose this would make sure it happens.

I've been quite clear and quite blunt. The information I have received is that in all likelihood such an amendment would be presented. If it were adopted, then the bill would come back to the House. So in the spirit of cooperation with the other House, we thought the government would present it here to dispose of as it wishes.

Hon. Judi Longfield: Do it now or do it later, it's going to happen.

Hon. Mauril Bélanger: That's not quite what I said, but it would be something along those lines.

Hon. Judi Longfield: All right. Thank you.

The Chair: Madam Redman.

Hon. Karen Redman: For clarification, Minister, when I read this you're talking about two parallel processes or two committees. I'm just wondering if it would add clarity if it said—and I'll have to look at the bill—"of the Senate and of the House of Commons". Does that make it really clear that it's not a joint committee, or is this suggesting that it be a joint committee?

Hon. Mauril Bélanger: We're not suggesting that it be a joint committee, but I don't believe that would prohibit a joint committee from being struck to do it. That would be upon the will of both houses.

Hon. Karen Redman: I don't know if that clarifies things or if it's necessary. It's just a thought.

The Chair: Just so all members know, the minister is saying, from what I gather, that it's not a joint committee. Each house will have a committee. And if they want to join them together, that's their business.

Hon. Mauril Bélanger: That's correct. That's the structure as it stands now. Each house has its own committee, and we respect that.

The Chair: Okay, just so we're clear. Thank you.

Madam Redman.

Hon. Karen Redman: Usually I would certainly look to you and the clerk, Mr. Chair, but the researcher just pointed out that in the French version it's much clearer than the English version. So if we're seriously moving on this, I wonder if we could put "of the Senate and of the House of Commons" so it's very clear.

The Chair: Okay. We're not doing clause-by-clause, but maybe those words could be looked at by the minister's staff together with MPs in the next little while, once we finish with this initial part. If no one has objections, they can make sure the English text is as clear as the French one. I'm told that the French one is clearer.

Are there any further questions to the minister?

[*Translation*]

No.

Since we have finished, we thank the minister for being here this morning. It is not impossible that we may have to recall him at some point to talk about the two reports of the Chief Electoral Officer, since that's also part of our program. We had to postpone those questions because we had to deal with questions of privilege. Those, of course, were priorities, since that's the very nature of this committee's work. However, that will soon be submitted to study by our committee, unless another event, which I won't name, alters our agenda.

Thank you, Mr. Minister, for being here this morning.

[*English*]

We have three items before us now. In the order in which we started this morning, we have the report we dealt with in camera this morning regarding the matter of privilege. I still need a motion, if the committee is so inclined, to have that report tabled in the House. Please remember that the adoption of the motion does not make the report public. The report is highly confidential until tabled in the House, which I hope to do tomorrow if these motions pass.

Would someone move that the draft report, as amended—because I think there were one or two minor amendments this morning—be adopted?

Mr. Dale Johnston: I so move.

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

The Chair: The second motion is that the chair, clerk, and researchers be authorized to make such grammatical and editorial changes as may be necessary, without changing the substance of the report.

Hon. Judi Longfield: I so move.

(Motion agreed to)

● (1205)

[*Translation*]

The Chair: The third motion is that the Chair report this bill to the House. Does someone wish to move it?

Mr. Johnston.

[*English*]

Mr. Dale Johnston (Wetaskiwin, CPC): I so move.

(Motion agreed to)

The Chair: We will report this bill as soon as possible.

I am here tomorrow, Mr. Clerk, if any grammatical changes, and so on, could be ready.... I think that when we're dealing with privilege, the sooner we complete the issue, the better. That's true in a general sense any time, but particularly with privilege.

That deals then with the first item that we had before us this morning. Now we have the other two, namely the two bills. What is the pleasure of the committee on how we deal with these things? The minister has given us his feelings, but of course this committee will decide what it wants to decide. What is the wish of the committee?

Maybe I can start with Bill C-312, because that's the way in which we dealt with them.

[*Translation*]

Ms. Picard.

Ms. Pauline Picard: I think we should follow the order indicated on the notice of meeting. We are meeting to conduct the clause-by-clause consideration. It was planned that we would start with Bill C-312.

The Chair: Am I to understand that you don't want us to hear additional witnesses on the idea of assigning responsibility for appointments to a person other than the one responsible for removals?

Ms. Pauline Picard: We convened today to conduct the clause-by-clause consideration. Summoning other witnesses is out of the question. If that's the government's intention, I demand a vote.

The Chair: Ms. Picard, I didn't want to give the impression I was taking a position. I'm simply asking the question in order to verify what the committee as a whole wishes.

Ms. Pauline Picard: Mr. Chairman, I believe I was clear enough when I raised a point of order earlier.

The Chair: Thank you, Ms. Picard.

Mr. Simard.

Hon. Raymond Simard: Thank you very much, Mr. Chairman. After hearing the minister, I've come to the conclusion that we should consider that a group of people be proposed. If we are to do everything in our power to improve this bill and to ensure its passage in the House of Commons and the Senate, I believe we should take the necessary time. We've heard witnesses from a number of provinces.

I think it would be entirely appropriate to send for witnesses from the National Parole Board. I wonder what objections might come from my colleagues in the other parties with regard to that possibility. Earlier we spoke with the minister about three agencies. It appears that things are going well at the National Parole Board. The idea here would be to understand the secret to their success. I'm honestly very concerned about the idea that an unelected person might have the option to elect and dismiss those who represent us electorally.

The Chair: Thank you, Mr. Simard.

Do any other colleagues wish to speak? No?

Ms. Picard, I turn the floor over to you once again.

Ms. Pauline Picard: If we're talking about not being elected, I would point out that the Senate isn't elected. But we don't remove its power to act. The Chief Electoral Officer is appointed and must be independent. He cannot be put under pressure by the government. I understand perfectly well why the government might want to confuse matters with regard to this bill. We are here to conduct a clause-by-clause consideration of the bill. If necessary, I will request a vote, Mr. Chairman.

The Chair: Do you move that we proceed with the clause-by-clause consideration? Then we'll debate that motion.

Ms. Longfield.

[*English*]

Hon. Judi Longfield: I don't want in any way to suggest that he can't act in an independent fashion.

I'm very concerned, and I raised this issue before, about the rights of the people who will be appointed. It is still unclear, and no one has been able to tell me, who they'll be. Will they be civil servants? Will they be contract workers? What are their rights in terms of pensions? What are their rights in terms of being dismissed, or who would they appeal to if they were dismissed? I'm very, very concerned about the individuals who are taking on this role. I don't see where they would fit; they're neither fish nor fowl. I would like to have anything that would protect the rights of these people. I just don't see it in this legislation.

I'm surprised that the Bloc and the NDP aren't concerned about this. You talk about the rights of individuals and workers and things, but you're not concerned about this. Under this particular scenario, one person has the right to hire and one person has the right to fire; it's the same person, and no other body looks at it. Are they employees of the Chief Electoral Officer? Are they employees of the House?

I'm prepared to say that it shouldn't come from members of Parliament who makes the appointments, but I also think that the idea of a pre-qualified pool is not a bad thing. At the same time, when we're looking at that, we need to put some protections in place for these people.

I just don't think we're ready. And it was before the minister came —

● (1210)

[*Translation*]

The Chair: I agree, madam, but motions are nevertheless subject to debate.

Ms. Pauline Picard: Is this a case of systematic obstruction?

The Chair: I don't believe so.

Is that all, Ms. Longfield?

[*English*]

That was it?

Hon. Judi Longfield: That's it.

[*Translation*]

The Chair: Without meaning to be disrespectful toward you, I repeat that that is subject to discussion. I hope we won't drag out this issue.

Mr. Broadbent.

[*English*]

Hon. Ed Broadbent: I've listened with care to what has just been said, as I did with the minister, but if we proceed with the bill as it is now, it's going to be the Chief Electoral Officer's responsibility. He will set up a process, and it will be gazetted in some way and we'll know what the process is. It is true that we'll be giving him or her—him right now—the authority to establish the terms and conditions under which people are going to be hired.

As I heard in previous testimony from other provinces that have already done it, they've done it. I and my party would not be concerned if the returning officers ended up having the status of public servants or public employees.

If he wanted to establish the kind of pool for selecting people that has been suggested, he would have the authority under this act, it seems to me, to do that too.

So I'm prepared, in terms of the information that we've got so far from previous witnesses, to simply proceed without our complicating, in my view, the process by having other witnesses. Obviously, I would not do this if I had some real apprehension about the way Mr. Kingsley, in this case, would set up the conditions of employment.

The Chair: All right.

Monsieur Simard.

Hon. Raymond Simard: Thank you very much, Mr. Chair.

This is a debatable motion; we are not filibustering here. I think there is a legitimate concern with regard to making the Chief Electoral Officer an all-powerful person. He's not elected, and I think it's very, very dangerous.

We have a system in place in the government with the National Parole Board that is working. It seems to me that we should give it the opportunity to function. The Chief Electoral Officer would in fact vet the list, if we desired so, and would thus be able to select from a list of proposed candidates and vet it. But the decision would in fact be made by elected members.

So I think the proposal that we are making is extremely reasonable, and I am very concerned that my colleagues across the way don't have the same concerns we have on this issue.

The Chair: Okay.

Well, colleagues, let's not attribute motives to one another.

If we've debated this sufficiently, are you ready for the question?

[*Translation*]

Who is in favour of Ms. Picard's motion?

(Motion agreed to)

● (1215)

The Chair: Then we will proceed with the clause-by-clause consideration of Bill C-312. If I understand correctly, amendments have been moved.

As the bill is limited to one clause, we would normally ask that the clause be agreed to. However, I believe that Ms. Picard or someone else intends to move an amendment.

Ms. Picard.

Ms. Pauline Picard: I have a few to move.

The Chair: We're talking about amendment BQ-1.

There are also amendments BQ-2, BQ-3 and BQ-4. They and BQ-1 are correlative. So I'll ask you to move the four amendments simultaneously, to the extent that's possible.

Is that done?

Ms. Pauline Picard: Yes.

The Chair: Do you now want to present them?

Ms. Pauline Picard: All right.

In the case of BQ-1, it is moved that Bill C-312, in Clause 1, be amended by replacing lines 11 to 19 on page 1 with the following:

by means of an external appointment process

The term “competition” is used in the bill. However, in the new Public Service Employment Act, no reference is made to “competition”, but rather to an “external appointment process”. That's why we want to replace the word “competition” with the expression “external appointment process”.

The Chair: All right.

We have heard the amendment.

[*English*]

Does anyone else wish to speak to the amendment?

Madam Redman.

Hon. Karen Redman: I'm sorry. Are there not more changes in this motion?

Are paragraphs 24(1.1)(a) and 24(1.1)(b) part of this amendment? If they are, I'd like to hear an explanation as to those paragraphs.

[*Translation*]

The Chair: Ms. Picard.

[*English*]

Hon. Karen Redman: In your proposal, paragraphs 24(1.1)(a) and 24(1.1)(b) are different.

[*Translation*]

Ms. Pauline Picard: Yes.

[*English*]

Hon. Karen Redman: There's a change here.

[*Translation*]

Ms. Pauline Picard: It's the English version that contains paragraphs.

The Chair: For your information, I would point out that, unlike the English version, the French version does not include paragraphs (a) and (b). That's because of the way it's drafted. That's frequently the case in bills.

Ms. Picard commented on the amendment as a whole. In the French text, it concerns only one element. Consequently, she did not divide it in two. I wouldn't want to say that for her, but it seems to me that's they way she presented it.

Ms. Pauline Picard: Yes, that's correct.

[*English*]

Hon. Ed Broadbent: Mr. Chairman, are we still on the first subclause that was proposed for the amendment?

The Chair: Four of them are before us now, because three are consequential.

Hon. Ed Broadbent: Okay, but in terms of discussion, can we still go back to discuss the first one?

The Chair: We're discussing all four at once because they're consequential.

Go ahead, Mr. Broadbent.

Hon. Ed Broadbent: I'd like an additional explanation about the change in the wording from the existing subclause, where it says “an open competition”, and so on. It seems to me to be more precise than the substituted wording. There may be some reason for the substituted wording, but it eludes me. Could we get an explanation?

[*Translation*]

The Chair: Ms. Picard.

Ms. Pauline Picard: The Public Service Employment Act has been amended. It no longer uses the word “competition”, but rather the expression “external appointment process”.

Public service employees have an internal appointment process. However, in the case of the employees of the Chief Electoral Officer, who are not part of the public service, we now refer to an external appointment process.

[*English*]

The Chair: Is that helpful, Mr. Broadbent? In other words, we're told this is the new terminology that is now utilized in the public service.

● (1220)

Hon. Ed Broadbent: It implicitly alludes to competition, I take it, for these positions, without using the word.

[*Translation*]

The Chair: All right. All those in favour of the amendment...

[*English*]

I'm sorry, were you wanting to debate?

Mr. Scott Reid: No, I thought you were voting. I was putting my hand up.

The Chair: That's what I was doing, but I kind of stopped because I thought perhaps you wanted to intervene. I'm sorry, Mr. Reid.

That being said, all those in favour of the amendment styled BQ–1. As I indicated, this applies to amendments BQ-2, BQ-3, BQ-4, because they're consequential. I ruled on that before we started, if you remember.

Hon. Raymond Simard: Shouldn't we be discussing all four then?

The Chair: I also indicated that earlier.

Colleagues, if you have another point to add on any of them, please do it now. Because they are consequential, I asked at the beginning that we debate all four, as colleagues will recall.

Hon. Karen Redman: We just got them, so we need to read through them.

The Chair: That's okay.

Again, I remind colleagues that amendments BQ-2, BQ-3, and BQ-4 are consequential amendments. I'm not debating whether they're good, bad, or otherwise; I'm only explaining that they're consequential.

Hon. Raymond Simard: I wonder if we could do the vote once again, Mr. Chair.

The Chair: We are ready to proceed now with amendment BQ-1. I remind you that the vote applies to amendments BQ-2, BQ-3, and BQ-4.

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

● (1225)

The Chair: I declare the amendments carried. Amendment BQ-1 is carried. Amendment BQ-2 is carried. Amendment BQ-3 is carried. Amendment BQ-4 is carried.

We now have amendment CPC-1. And I want to remind colleagues that if CPC-1 is carried, it means that we shall not entertain amendment BQ-5, because one has a conflict with the other.

In a similar way, the Speaker forewarns us when there are two amendments in the House when the passage of one could make another inapplicable.

That being said, amendment CPC-1 is before us now. Will someone move amendment CPC-1?

Mr. Scott Reid: I so move.

The Chair: Mr. Reid so moves.

Mr. Reid, the floor is yours to explain your amendment to us.

Mr. Scott Reid: Sure. Let me start at the outset by saying that I also think that amendment BQ-5 is good. While I prefer the amendment that I have put forward, if CPC-1 is voted down I will be voting in favour of amendment BQ-5.

Both amendments attempt to replace the arbitrary power that has been placed in the hands of the Chief Electoral Officer to appoint returning officers for different lengths of time. He could, under the current wording of the section, appoint one returning officer for ten years, another one in the riding next door for five years, and one over for seven and a half years, if so inclined. This probably wouldn't happen, but BQ-5 sets it firmly at ten years.

The proposal that I have with a term expiring six months after polling day comes from the testimony we heard from four returning officers, chief electoral officers. We had of course the chief electoral officers of Ontario, which doesn't have a law like this, Quebec, which does, and uses a fixed term, and then two provinces, B.C. and Alberta, both of which have copied and updated Quebec's law. What they have done in both cases is adopt a term that expires at a certain point after the general election. This allows for the parting of ways for people who might want to stay on but who really are not particularly well qualified, and avoids the messiness of a termination in which they would prefer to stay on.

Both the chief electoral officers who have that system in place, from Manitoba and British Columbia, indicated when they were asked by members in the committee that they thought it worked well. You probably all remember their testimony.

That's all I really have to say on this.

The Chair: Thank you very much, Mr. Reid.

Do others wish to speak to Mr. Reid's amendment?

Monsieur Simard.

Hon. Raymond Simard: If I had a choice between CPC-1 and BQ-5, I would certainly select BQ-5. I have a concern about eliminating a job six months after the election.

The person in my riding, for instance, who is the returning officer has already done two or three provincial elections, so that person was selected based on experience. It seems to me that when we have people who have very little experience, or if we're continually renewing them, it would cause some huge problems during election time.

My feeling is that once you have a person who has a few elections under their belt we would all benefit from it, so I would prefer the longer term.

[*Translation*]

The Chair: Ms. Picard.

Ms. Pauline Picard: I simply want to know whether I can talk about amendment BQ-5, or whether we're still on CPC-1?

The Chair: We're still on CPC-1. We won't deal with BQ-5 until afterwards. However, in commenting on CPC-1, you can tell us why you think yours is better. You're free to do that, madam.

Ms. Pauline Picard: By amendment BQ-5, we want to delete the words “not exceeding” because they give the Chief Electoral Officer discretionary power. Amendment CPC-1 suggests that the term expire six months after the election, when these people have just acquired experience. The Chief Electoral Officer would still be required to redo the competitions and selections. I believe this amendment would cause him a great deal of difficulty. I'm in favour of amendment BQ-5 because the words “not exceeding” are unnecessary. A fixed term of 10 years would take that power away from him.

The Chair: Ms. Redman.

[*English*]

Hon. Karen Redman: Further to Madam Picard's comments, there could be the scenario—and granted there may be people who would be reappointed—where you would have to replace all returning officers in the same period of time. I would think that if nothing else there would at least be a paper chase to assess how each district returning officer and deputy returning officer did.

I would see that as a major flaw in this amendment that's put forward, and I would not support it.

● (1230)

The Chair: Are there any other comments before we vote?

Mr. Reid.

Mr. Scott Reid: I was just going to respond to a couple of the comments, but maybe I should wait until the end.

The Chair: We'll let you do that at the end, if you don't mind.

Hon. Raymond Simard: One of my concerns on BQ-5 as well would be the lack of flexibility the Chief Electoral Officer would have. This way, if you have somebody who is not competent and it's up to ten years, you can maybe let them go. If you're appointing them for ten years, it's a huge issue, isn't that so? It seems to me that clause is probably in there for a reason: it gives the Chief Electoral Officer an opportunity to dismiss people who are not competent.

The Chair: I'm reminding all colleagues that we are of course debating CPC-1. I recognize that they amend the same thing, so much that we're always making the comparison; that's normal.

Are we ready to proceed with the vote?

Perhaps, Mr. Reid, you would like to speak to your amendment before that.

Mr. Scott Reid: As I say, the Bloc amendment is also good, and I won't be heartbroken if we get on to supporting that one. But in defence of what I propose, which I do think is superior, I have just two things. I had the impression that Monsieur Simard may have misunderstood what this does. It doesn't require that everybody be replaced at the end of six months after an election; it merely opens the possibility that those who, for example, frankly have not been competent can be replaced.

Mr. Dale Johnston: And those who are can be reappointed.

Mr. Scott Reid: That's right. In fact, normally they would be, based on the experience of the two provinces. We actually asked specifically how many replacements they'd had, and they gave the numbers. It's not a huge percentage, but presumably they were the most problematic cases.

Mrs. Redman made the observation that everybody in Canada could be replaced. I guess that's possible in the event of the clinical insanity of the Chief Electoral Officer, but it's hard to imagine any other circumstance under which that would occur. Who knows, maybe aliens are plotting to take over the world. There are all kinds of equally bizarre scenarios I can imagine. I just don't think it's likely.

Hon. Raymond Simard: If I understand correctly, it says a returning officer shall be appointed to hold office for a term expiring six months after the polling in the next general election following his or her appointment.

Mr. Scott Reid: It doesn't say it's a non-renewable appointment. This is essentially the wording that's used in the British Columbia and Manitoba statutes, and there a substantial majority of returning officers are in fact reappointed.

Let's imagine—this is not a hard scenario to imagine, given that we've just gone through a period like this—an election occurring less than a year following the prior election. You would actually need to move with some speed. I'm well aware of the fact that it could happen that the returns are not wrapped up a year or more after an election, but that doesn't change the fact that if you have someone who's not competent handling one election in a constituency, they ought not to be there messing up the next one as well. They ought to be gotten rid of and replaced, and moving with some speed—

Hon. Judi Longfield: He has the power to fire them.

Mr. Scott Reid: He does have the power to fire them, but I gather from the testimony of the various chief returning officers for the provinces who testified here that it's not necessarily done with that much ease. The purpose was to facilitate this.

As I say, I won't be heartbroken if it's defeated and we move on. I'll support the BQ motion if that's necessary, but I do think this is a little bit better.

The Chair: Are we ready to vote on the amendment styled CPC-1?

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

● (1235)

The Chair: We will now proceed with the amendment styled BQ-5.

[*Translation*]

That amendment will now be under BQ-5. I would point out to you that amendments BQ-6 and BQ-7 are correlative. I therefore ask the member moving them that we debate those three amendments at the same time, as we did earlier.

Ms. Pauline Picard: We'll have to vote on BQ-5. Amendments BQ-6 and BQ-7 are correlative.

The Chair: Pardon me, I believe I just said that.

Ms. Pauline Picard: No. I would have liked that.

[*English*]

The Chair: Let me repeat it: BQ-6 and BQ-7 are consequential to BQ-5. But now I'll ask for a motion to propose....

[*Translation*]

Amendments BQ-6 and BQ-7 are correlative with BQ-5?

Ms. Pauline Picard: Only BQ-6 and BQ-7 are correlative. Amendment BQ-5 isn't.

The Chair: The advice I noted in writing and that's being given to me are not the same.

Pardon me. Let me correct myself. Amendment BQ-5 is separate. Ms. Picard is right; amendments BQ-6 and BQ-7 will be dealt with together later on. For the moment, we're concerned with BQ-5.

Madam, do you want to move it? Ms. Picard is moving amendment BQ-5.

Ms. Picard.

Ms. Pauline Picard: This is the same thing I explained to you earlier. We're deleting from the clause the words “not exceeding” with respect to the length of the term because it grants the Chief Electoral Officer a power, discretion. We're deleting the words “not exceeding” for the sake of the conformity of the term of the mandate.

The Chair: Thank you.

Ms. Redman.

[*English*]

Hon. Karen Redman: Thank you.

Madame Picard picked up on one of the points I was going to make, that it actually says “not exceeding”; it doesn't say “up to”.

I can't help but feel there's a bit of irony here, as the members opposite and certainly the proposers of this piece of legislation have argued that they have eminent faith in the ability of the Chief Electoral Officer to make these decisions despite the fact that he is not elected, and now we're trying to limit his discretion on the other hand. It seems somewhat ironic to me.

[*Translation*]

The Chair: Do any others want to speak on this subject? Then we'll ask Ms. Picard to respond to what's just been said and to the other comments.

Mr. Simard.

Hon. Raymond Simard: Mr. Chairman, I'd like Ms. Picard to explain to us the point in removing a certain degree of flexibility from the Chief Electoral Officer by appointing someone for 10 years instead of a period not exceeding 10 years. It seems to me that removes the Chief Electoral Officer's flexibility to eliminate...

The Chair: You may respond right away to what has been raised, Ms. Picard.

Ms. Pauline Picard: I want to remind you, Mr. Chairman, that this bill was modelled on Quebec's Election Act, which works very well. The exercise of democracy is doing very well in Quebec. Furthermore, six Canadian provinces have adopted this kind of system. I'm aware that chief electoral officers are not elected by the government. I don't see why we would take away the independence of this democratic exercise from the person to whom we give this power. Moreover, I think that person should be entirely independent of government. It's not just a matter of elected representatives. Here we're talking about returning officers; we're not talking about the Chief Electoral Officer. The bill also states:

> (4) A returning officer shall be appointed to hold office for a term not exceeding ten years, but shall continue in office until a successor is appointed [...]

until there is a death, the position becomes vacant, that person resigns or is removed, or ceases to reside in that person's riding.

● (1240)

The Chair: Thank you.

Mr. Simard, you had another question?

Hon. Raymond Simard: It's just a comment. Even though it works in Quebec, that doesn't mean it's perfect. Mr. Reid has just told us that Ontario and another province have studied Quebec's process, and, if I'm not mistaken, they've amended it. It's possible that may happen in your province, but we should nevertheless have our own...

Ms. Pauline Picard: That's because it's transparent and appropriate, dear colleague.

The Chair: Please, I'd like only one person to speak at a time so that our poor interpreters and all those nice people can do their job, which is already complicated enough.

Mr. Simard, please finish.

Hon. Raymond Simard: I was saying that we had to make sure we have a bill that is as complete as possible. We shouldn't necessarily think that it's good because a province has it, because other provinces have studied it and apparently have made changes.

That was my comment.

The Chair: Mr. Roy, you said you wanted to speak.

Mr. Jean-Yves Roy: I would remind you that you yourself raised the maximum term problem.

The maximum term problem isn't just a discretionary matter. Supposing an individual is appointed to the position of returning officer at the age of 30 or 35, he could hold that position for 20 years. It should not be forgotten that, if a maximum term is stated, that means that, after 10 years, even if that person is efficient and competent, that person is terminated and replaced. That phenomenon also occurs.

A returning officer who is appointed could be appointed for more than 10 years. You have to understand that. That person could be in the position for more than 10 years, have two mandates. If we state a maximum term, that means that it's over after 10 years, that the person is terminated.

In that sense, this poses a problem. If a person 45 years of age is competent and you dismiss that person at 55, you have a problem. That's what this means.

The Chair: Thank you, Mr. Roy.

Mr. Broadbent.

[*English*]

Hon. Ed Broadbent: I don't know if this muddies the water or not, but I like the Bloc proposal. One of the advantages of saying “up to” as opposed to using the definitive ten years would be if you had someone who was very good for ten years and he or she would be happy to stay on for six more years but not another ten. It's an argument for some flexibility. As our Bloc colleague has mentioned, you can have a very good person who wouldn't be prepared to stay on longer.

I'm inclined to like the original wording of “up to”. There are a number of appointments that use that kind of language, and I think part of the reason is to give that additional flexibility for reappointing people.

[*Translation*]

The Chair: All right.

Ms. Picard may add something, but, without interfering in the debate myself, I would say it's clear than an individual can accept a position and state in advance, even if it's a position for a term not exceeding 10 years, that he or she intends to resign six years later.

Ms. Picard.

Ms. Pauline Picard: Mr. Chairman, I simply want to reread you the proposed subsection 24(4), from which we want to remove the words “not exceeding” in the first sentence.

> (4) A returning officer shall be appointed to hold office for a term not exceeding 10 years, but shall continue in office until a successor is appointed [...]

We've stated these reasons. They are resignation, death, removal of the returning officer and change of electoral district.

We are removing the words “not exceeding” precisely because the members of the government party said that they granted a restrictive power. So, for the benefit of our government colleagues, we have removed the words “not exceeding” because it scared them.

The Chair: Are we ready to vote?

Ms. Redman.

[*English*]

Hon. Karen Redman: Madame Picard, I take it this is amendment BQ-7, because my version is all in French.

Thank you.

● (1245)

Hon. Raymond Simard: The whole of it, on BQ-7,

[*Translation*]

because both sides are in French.

[*English*]

But we're still on BQ-5.

[*Translation*]

The Chair: There's a reason for that. When the amendment concerns only one language, of course, it's only written in that language. That's one way of legislating. Similarly, if we only amended the English text of a bill, there would be no copy of the amendment in French. Since we're amending the text of a bill, we're amending specific words. In this case, it concerns specific words, but only in one language.

Do you understand? Are we ready to vote on BQ-5?

[*English*]

All those in favour of BQ-5?

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

The Chair: We'll now deal with BQ-6 and BQ-7.

[*Translation*]

Ms. Picard, can you move amendments BQ-6 and BQ-7?

Ms. Pauline Picard: I move amendments BQ-6 and BQ-7.

The Chair: Ms. Picard has moved amendments BQ-6 and BQ-7.

I turn the floor over to you, Ms. Picard.

Ms. Pauline Picard: Mr. Chairman, in order to help my colleagues understand these amendments, I'd like to ask to speak first to BQ-7 before BQ-6.

The Chair: Feel free to explain them as you wish, since we're debating both at the same time.

Ms. Pauline Picard: In response to recommendations by the Chief Electoral Officer... The French text is different from the English text. So we'd like the French version to be similar to the English version. The text of the English version is subdivided, whereas that of the French version is not.

The Chair: Do you want to add something concerning BQ-6?

Ms. Pauline Picard: With respect to amendment BQ-6, we should add to the reference made to subsection (4.2) paragraphs (b) and (c), both in French and in English.

Hon. Raymond Simard: Since we're adding paragraphs...

The Chair: Since this now concerns paragraphs (b) and (c), which appear in the other amendment.

Mr. Jean-Yves Roy: Because we're adding paragraphs, they must obviously be mentioned.

Ms. Pauline Picard: Yes, whereas only subsection (4.2) is mentioned in the bill.

The Chair: This is getting a little technical. I'll recap for my colleagues' information. In the case of BQ-7, the idea is to amend the French text in order to add paragraphs as they're all already in English. Then it's moved, in amendment BQ-6, that reference be made to them so that reference can be made to the paragraphs that have been added under BQ-7.

Ms. Pauline Picard: That's correct.

The Chair: Do we understand each other?

Are there any questions? If not, do you want us to go to the vote?

(Motion agreed to)

● (1250)

[*English*]

The Chair: The chair has received notice of three further amendments.

[*Translation*]

These three amendments are BQ-8, BQ-9 and BQ-10. I should bring to your attention what Marleau-Montpetit says:

> For a bill referred to a committee after second reading, an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent Act unless it is being specifically amended by a clause of the bill.

The bill we have before us amends only section 24 of the Elections Act. An amendment concerning another section of the Elections Act or another act would thus violate the Standing Orders. However, it appears that the purpose of the amendments I have stated is as follows. BQ-8 is designed to amend section 25, whereas the bill concerns only section 24. It must therefore be rejected. As for BQ-9, its purpose is to amend section 28, whereas, I repeat, the bill only deals with section 24. I must therefore reject it as well. Lastly, the purpose of BQ-10 is also to amend section 28, at subsection 4. Thus, for the same reason, your Chairman must reject it.

I believe you'll recognize that that's what must always be done because section 25 has not been referred to this committee for study. What has been referred to this committee is a bill dealing solely with section 24. Similarly, I'll have to rule later on another amendment which is inadmissible for similar, though not entirely identical reasons.

Ms. Picard.

Ms. Pauline Picard: Mr. Chairman, these amendments were introduced simply to ensure concordance with certain sections. Section 25 of the Elections Act states:

> 25. The name, address and occupation of each person appointed as a returning officer and the name of the electoral district for which he or she is appointed shall be communicated as soon as practicable to the Chief Electoral Officer. Between the 1st and 20th days of January in each year, the Chief Electoral Officer shall publish a list in the Canada Gazette of the name, address and occupation of the returning officer for each electoral district in Canada.

It must therefore refer to the Governor in Council. However, as he now has the power to do so, he no longer has to report to or publish a list for the Governor in Council. These three sections were designed to ensure the concordance of this section with section 24.

The Chair: That's fine. However, this often happens. So, in every Parliament, a statute is passed, the English title of which has just been handed to me: the Miscellaneous Statute Law Revision Act. That act revises all these things that have occurred in the previous Parliament to ensure statutes are consistent, precisely because we're unable to do it in the way you suggest. Moreover, two bills of that kind are introduced in every Parliament. One is designed to do what I just described, the other to make minor corrections. These two bills are usually referred, I believe, to the Justice Committee, which revises, them, then returns them to the House. This occurs very often and, in each Parliament, is the subject of a bill about 2 cm thick to correct all kinds of similar things.

Since these amendments have been ruled inadmissible, we have finished the list of amendments. We'll go to the vote on Clause 1.

(Clause 1, as amended, agreed to on division)

[*English*]

The Chair: Shall the title carry?

Some hon. members: Agreed.

Some hon. members: On division.

The Chair: Shall the bill, as amended, carry?

Some hon. members: Agreed.

Some hon. members: On division.

● (1255)

[*Translation*]

The Chair: Shall the Chair report the Bill, as amended, to the House?

Some hon. members: Agreed.

The Chair: That completes our study of the bill. We now move on to point 5 on the Agenda.

[*English*]

Bill C-63 is the other bill that's before us. It's a very short bill, so we'll do our best to proceed.

There are two amendments here. One of them, as we know, has been proposed by the government. Will someone move amendment G-1, the government's amendment?

There are two amendments. They're stapled together. Amendment G-1 is the one that adds the word “Senate”. We're all familiar with what it does. Do we need a further explanation from the parliamentary secretary? I think the minister has explained it to us.

You have a question, Madam Redman?

Hon. Karen Redman: Further to my request for clarification of this, I understand that under proposed section 26, on the second line, if you just add “s” to “committee” that would be the clarification I would seek. I think that makes it clear, then, that there is a committee of the Senate and one of the House, and should they choose to be joint, they would have that ability.

The Chair: So procedurally, am I being asked here for a subamendment to change the word “committee” to “committees”?

Hon. Raymond Simard: To committees, yes; that clears it up.

The Chair: And I think it is only necessary to change the English.

So the amendment has been moved by Monsieur Simard.

Madame Redman, do you wish to move a subamendment to replace the word “committee” with the word “committees”?

Hon. Karen Redman: I do, unless we alter it with a friendly amendment.

The Chair: Okay, that being said, all those in favour of this subamendment?

Mr. Johnston.

Mr. Dale Johnston: I don't see that anywhere in this motion.

The Chair: It's a subamendment to add the word “committees”. Okay?

(Subamendment agreed to)

(Amendment as amended agreed to on division) [See *Minutes of Proceedings*]

● (1300)

The Chair: The chair has received notice of another amendment. This amendment is titled CPC-1. It involves a procedural situation. I will read into the record from page 654 of Marleau and Montpetit:

> ...an amendment which is equivalent to a simple negative of the bill or which reverses the principle of the bill as agreed to at second reading is out of order.

Colleagues will recognize that the purpose of the bill is to do away with the sunset clause. Therefore, an amendment that reinstates the sunset clause is a direct reversal of what's in the bill, and I must rule it out of order. For that reason, I cannot accept the amendment CPC-1.

That being the case, we'll go back.

Shall clause 1 as amended carry?

(Clause 1 as amended agreed to on division)

The Chair: Shall the title pass?

Some hon. members: Agreed.

Some hon. members: On division.

[*Translation*]

The Chair: Shall the Bill, as amended, carry?

Some hon. members: Agreed.

[*English*]

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Colleagues, thank you very much.

I just need to consult you for maybe one minute about the agenda for next week. As you know, we have wanted to bring Mr. Kingsley here for a very long time. We have pushed him back as a result of the two bills and as a result of the question of privilege. That time is now open to us, and there are the two matters the minister referred to us this morning, the matter of those two reports of Mr. Kingsley, Bill C-24, and so on. Would you wish me to invite him on Tuesday?

Madam Redman.

Hon. Karen Redman: Thank you.

Just as we go forward with our work, Mr. Chair, I would also remind colleagues I have a motion before this committee that I would like dealt with, sooner rather than later. It has to do with ten-percenters.

The Chair: Yes, okay, I'm sorry. We do have that item as well as... of course we have a long list of items.

Would it be your wish that we deal with either one of those two propositions? What if we did it this way: we will invite Mr. Kingsley on Tuesday and perhaps deal with the other point on Thursday. If Mr. Kingsley is not available on Tuesday, we'd just reverse it. Is that agreed? Okay.

Will someone move the adjournment? So moved by Mr. Johnston.

The meeting is adjourned.

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