



House of Commons
CANADA

Standing Committee on Finance

FINA • NUMBER 068 • 1st SESSION • 39th PARLIAMENT

EVIDENCE

Tuesday, February 20, 2007

—
Chair

Mr. Brian Pallister

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• (1110)

[English]

The Vice-Chair (Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.)): Good morning. We're going to try starting.

We don't have the *ordre du jour* because it's apparently 20-something pages long, so it's being photocopied. I suggest that we start and then we'll try to do this with the least amount of pain as possible.

Can I get the unanimous consent from everybody that I refer the bill to the House? Just joking.

We're going to try to take the amendments one at a time.

We're here pursuant to the order of reference of Thursday, December 7, 2006, Bill C-37, an act to amend the law governing financial institutions and to provide for related and consequential matters. We're here for clause-by-clause.

There are no amendments for clauses 1 to 19. Can we move that clauses 1 to 19 be adopted?

(Clauses 1 to 19 inclusive agreed to)

(On clause 20)

The Vice-Chair (Mr. Massimo Pacetti): We have amendment NDP-1 on clause 20. On the left-hand side there is a reference number, so we're going to go by the reference number. So you have reference number 2707464.

[Translation]

We shall discuss one amendment at a time.

[English]

Ms. Wasylycia-Leis, would you like to speak to this?

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Thank you, Mr. Chairperson.

I'm pleased to propose this amendment, which is a significant change to the clause on page 8. You will note that it changes the word "Minister" to "Parliament". So that is basically what I'm moving. I would speak to that, when you're ready for me.

The Vice-Chair (Mr. Massimo Pacetti): Yes, go ahead, please.

Ms. Judy Wasylycia-Leis: This clause, as you know, is about mergers of a relatively small nature in comparison to the big banks, for any institutions with an equity of less than \$8 billion. Some may argue that this is insignificant in terms of Parliament, and I would

argue that in fact any time we're dealing with mergers of financial institutions it's important for Parliament to be involved.

We know from all the testimony that banking concerns and access to financial institutions are of major concern to Canadians. We know that there are a growing number of problems around access and around fair treatment, and fundamental to all of this is sufficient competition in the market. So we're recommending that no matter the size, Parliament needs to have some oversight and overview in terms of mergers.

So we are suggesting that this would be an appropriate role for Parliament, and I hope that committee members would find their way clear to supporting me on this.

The Vice-Chair (Mr. Massimo Pacetti): Ms. Ablonczy.

Ms. Diane Ablonczy (Calgary—Nose Hill, CPC): Thank you.

As my colleague mentioned, this clause deals with fairly small institutions. It's small banks, credit unions. These are issues that I don't think need to come before Parliament for a vote. The minister has dealt with them in the past. There haven't been any difficulties. I think this will tie up the time of Parliament unnecessarily. Also, of course, for any significant mergers Parliament would always have to vote on those.

So I really don't think we need this. Also, if we change this clause, it will change a whole web of other rules dealing with small institutions, so there's a huge domino effect by this amendment. I don't really think it's necessary, and it would necessitate us going into a whole web of rules to accommodate it.

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

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

(Clauses 20 and 21 agreed to)

(On clause 22)

• (1115)

The Vice-Chair (Mr. Massimo Pacetti): Now we're at NDP amendment 1.1. The reference number on the left is 2715025.

Quickly looking at this, I've been advised that the amendment is inadmissible. According to *House of Commons Procedure and Practice*, "...an amendment is inadmissible if it amends a statute that is not before the committee or a section of the parent act unless it's specifically being amended by a clause of the bill". In this case, the bill is not amending that clause.

Ms. Judy Wasylycia-Leis: Are you referring to amendment NDP-2?

The Vice-Chair (Mr. Massimo Pacetti): I'm referring to 1.1, which is reference number 2715025.

Ms. Judy Wasylycia-Leis: Yes; sorry.

Could I just make a comment, Mr. Chairperson?

As we know, the bill before us amends a whole variety of acts and is fairly far-reaching in terms of its coverage. We heard yesterday very strong presentations and very comprehensive reports from some of the witnesses around this whole area, and in fact the recommendation for this change came from PIAC and the Canadian Consumer Initiative.

It actually deals with an issue that I think ought to be considered by the committee in this context. You could argue that everything's out of order, basically, on that basis, and I think we would miss an opportunity to do something significant and to make some important changes that we heard about yesterday.

I ask again if you could tell me specifically why this would be out of order and how we could deal with the concern raised yesterday.

The Vice-Chair (Mr. Massimo Pacetti): I'll have the legal counsel speak to that, but I think Mr. Conacher also stated yesterday that some of the amendments he was proposing were not going to be ruled in order, so I think he was ready for any of the amendments that were going to be put forward.

I think we do have a procedure in the House in terms of admissible and inadmissible amendments, but I'm going to have legal counsel speak to that.

Mr. Marc Toupin (Procedural Clerk): Mr. Chairman, as you've basically just indicated, it's a very simple rule. It's referred to as the "parent act rule". The proposed amendment would have modified a portion of the statute that is not being amended by Bill C-37. That kind of amendment, according to our rules, is not admissible.

The Vice-Chair (Mr. Massimo Pacetti): Okay.

Go ahead, Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): I'm prepared to accept the ruling of the clerk on this, and I tend to agree with him, but I also regrettably agree with Judy that a good portion of the testimony had to do with electronic transfers—you could top this up with a little gin; when I am agreeing with Judy, I need everything I can get—and that the government has not seen fit, for whatever reason, to come forward with a bill that incorporates electronic transfers.

The Canadian Payments Association spoke to it at length on questioning from all members, and I think it is time to come into the 21st century. I would prefer that this committee not let it go—that in fact this committee take some initiative with respect to electronic transfers and within a very short time call the relevant folks together, including the folks from the department, and tell them that this seems to be a huge rip-off on consumers, so we want to deal with it, and deal with it then.

I take it from the vigorous head-nodding from the department that it is their concern as well, and therefore the government's concern and the members' concern. I think we could leave it there in the good faith that we will come back to it sooner rather than later, Mr. Chair.

•(1120)

The Vice-Chair (Mr. Massimo Pacetti): I think we have unanimity around the table except for Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I will accept the ruling as well, obviously. I just wanted to make sure that given the way this bill is worded, and how when you tamper with one piece it affects another piece that may be beyond the scope of this actual bill, and since we are dealing with the issues of approval for the power of collecting, manipulating, and transmitting information, I thought it would only be appropriate that we could amend this bill to create that.

Let's begin the pursuit of that idea of a separate electronic payments framework, which would address some of the concerns.

I will accept the decision, however, I would ask if beyond this five-year review period and the fact that there's an automatic review and then the proposals come forward as a result of a white paper, are there other opportunities for us to reopen the Bank Act or any of the related statutes at any point?

The Vice-Chair (Mr. Massimo Pacetti): That's a fair question.

I'm going to ask that question to finance department officials, because I spoke to them last week as well.

Do you plan to open a study on the electronic transfers? I don't want to put words in your mouth, but can you help us?

Mr. Serge Dupont (Assistant Deputy Minister, Financial Sector Policy Branch, Department of Finance): I indicated, Mr. Chairman, that the Canadian Payments Association indicated they will be undertaking a consultation on this. It is certainly fair to say that from the representations we've heard and seen from many members of the committee, it is something the department itself will become more engaged with. As I indicated last week, we'll also be working on building an electronic transaction code for the various parts of the industry and if, through these various processes, we see that some amendments to legislation would be required, then certainly. There has been a bank review every five years, but it's never precluded other initiatives in the meantime.

The Vice-Chair (Mr. Massimo Pacetti): Thank you. There is nothing that precludes that further amendments could be made to this bill.

Could we move on?

(Clause 22 agreed to)

(Clauses 23 to 28 inclusive agreed to on division)

(On clause 29)

The Vice-Chair (Mr. Massimo Pacetti): We have an amendment to clause 29. It is amendment G-1, page 2 in the package. Who wants to speak to this?

Ms. Ablonczy.

Ms. Diane Ablonczy: Thank you, Mr. Chairman.

This amendment affects clause 87, clause 163, and clause 361 as well, so we could group those, Mr. Chairman, if you wish.

The bill makes improvements to the unclaimed balances regime for consumers, to make it more efficient. The bill would now provide that consumers have to receive notice from their financial institution after two years, after five years, and after nine years of inactivity. After the nine-year notice, the funds would be transferred to the Bank of Canada.

The current wording in the bill may seem ambiguous, possibly suggesting that the federally regulated financial institutions need to provide information to the Bank of Canada upon the transfer of the unclaimed funds, even if they don't know the information. That means they'd have to try to find a lot of details about the account, so this technical amendment in those four sections would clarify that deposit-accepting institutions only need to provide the information that is known to them with respect to the unclaimed deposits and instruments transferred to the Bank of Canada. That is what the amendment is about.

• (1125)

The Vice-Chair (Mr. Massimo Pacetti): Mr. McKay.

Hon. John McKay: How would a bank not know there had been no activity on an account for two years or nine years or whatever?

Ms. Diane Ablonczy: It's not that; they would know that, but for example they might be asked for the address of the account holder while the account holder might have moved several times.

Hon. John McKay: Okay, it is communicating the information.

Ms. Diane Ablonczy: Exactly.

The Vice-Chair (Mr. Massimo Pacetti): Mr. Thibault.

Hon. Robert Thibault (West Nova, Lib.): Perhaps I could ask the officials or Diane or whoever can help. There is now a certain onus on the banks to find out if that person still exists or is available or where that money should go. This doesn't reduce that onus in any way.

Mr. Serge Dupont: There is currently a requirement for the bank to seek to notify the customers after two and five years of inactivity. This bill proposes to add a further requirement that after nine years they also do that, before such time as the account is moved over to the Bank of Canada. So it increases the obligation.

The Vice-Chair (Mr. Massimo Pacetti): Okay, that's fine.

Ms. Ablonczy, can you tell me what other clauses it affects? I didn't get that.

Ms. Diane Ablonczy: If we wish to group them, Mr. Chairman, these are the same amendments to clause 29, clause 87, clause 163, and clause 361.

The Vice-Chair (Mr. Massimo Pacetti): It's better if we amend them as we get there so that we don't lose track. When we approve the clause, we have to approve it as amended.

Ms. Diane Ablonczy: I'm easy. Yes, that's okay.

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

The Vice-Chair (Mr. Massimo Pacetti): We'll just go back for one second. There is an amendment that I don't think everybody has. It's a Bloc amendment. It's reference number 2710003. We can make this painless and I can rule it inadmissible because of the....

It's not part of the package; it's on a loose paper.

Ms. Judy Wasylycia-Leis: I know, but I don't have it.

The Vice-Chair (Mr. Massimo Pacetti): I didn't have it either. It's being circulated. It's loose.

Can I read it? It says that Bill C-37, in clause 27, be amended by adding after line 43 on page 11 the following:

(1.1) The bank shall not claim any amount from or enforce a security interest against the victim of an identity theft resulting from a contract between the bank and a person who has appropriated the identity of the victim. On the request of the victim, the bank shall cancel any security interest registered by the bank on the basis of such a contract.

Unfortunately, or fortunately, I have to rule this as being inadmissible because it references identity theft.

[*Translation*]

Since there is no reference to this anywhere in the bill, the amendment is admissible.

[*English*]

Ms. Diane Ablonczy: Mr. Chairman.

The Vice-Chair (Mr. Massimo Pacetti): I have Mr. St-Cyr first. Is that okay?

Ms. Diane Ablonczy: No problem.

[*Translation*]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): I agree that this is outside the original scope of the bill. However, when the minister appeared before us, he said he was open to suggestions and to other changes to the Banking Act in general. I think the committee should deal with the issue anyway and, if at the report stage, the minister believes it is inadmissible, he will still be able to have it excluded. I believe the amendment is a good one and I know everyone is concerned by the problem of identity theft. There is the criminal aspect, which the amendment does not deal with, but the responsibility of financial institutions should be included in the Banking Act. So I believe we should deal with this issue anyway, knowing that the minister will be able to object at the report stage if he does not want this in his bill. However, I would think he would find this interesting.

[*English*]

The Vice-Chair (Mr. Massimo Pacetti): Ms. Ablonczy.

Ms. Diane Ablonczy: Yes, Mr. Chairman, I accept your ruling, but I would point out to the committee that this matter of identity theft is serious. It's actually a Criminal Code matter, and the justice minister is already in consultations to deal with this issue. We should possibly follow what's happening there, and that may be of assistance to us in any further work we might want to do on this issue.

• (1130)

The Vice-Chair (Mr. Massimo Pacetti): Okay.

[*Translation*]

Mr. Thierry St-Cyr: I agree with—

The Vice-Chair (Mr. Massimo Pacetti): Mr. Thibault.

Hon. Robert Thibault: Thank you.

I agree with the member. However, notwithstanding any studies and without even looking at the amendment, if it is not in order, we cannot deal with it. However, we will get a chance to vote on a motion of which I gave notice and which invites the minister of Justice to take steps to include this in the Criminal Code.

[English]

The Vice-Chair (Mr. Massimo Pacetti): Okay, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I guess I'm curious, Mr. Chairperson.... I accept your ruling, but it seems to me that this issue is very much an integral part of everything we've been talking about and doing with respect to this bill and the Bank Act review and so on.

I'm not sure I really comprehend the notion that it's a criminal matter and therefore we can't deal with it, when in fact through the Bank Act we're able to require disclosure, set limits, and restrict banks from charging certain fees and doing certain things. Surely in this case, at a time when there's an explosion of issues around identity theft and the possibility of skimming, as was raised yesterday by Dean Del Mastro....

There is a burning issue here that can't really wait for a long, protracted hearing on the part of our committee. I think we have an obligation to try to close this loophole and fix the problem; one would be to ensure that the bank can't go after the victim for any charges or costs.

Also, to Mr. St-Cyr, does this in fact ensure that moneys lost by the victim are in fact compensated by the bank?

[Translation]

Mr. Thierry St-Cyr: I would like to answer...

The Vice-Chair (Mr. Massimo Pacetti): No, I will be the one to answer.

[English]

The reason we ruled it out was that it's not within the scope of the bill. Ms. Ablonczy stated that it was criminal...and I ruled this way because it's not within the scope. The key words here, identity theft, are not anywhere in the bill itself.

Monsieur St-Cyr.

[Translation]

Mr. Thierry St-Cyr: This amendment does not concern at all the criminal aspect, it deals with something else. The criminal act of identity theft must be dealt with elsewhere. Here, we only deal with responsibility. When there is identity theft, is the consumer responsible for the loss or is it the bank? For example, if someone fraudulently takes out a mortgage on your house, the provision proposed in this amendment says that the bank must take responsibility because it is its mistake. Therefore, it will have to go and recover the money, while at the present time, as we have seen in previous court decisions, it is the victim of the fraud who must pay the mortgage and seek reimbursement from the thief.

As for the fact that this is not within the scope of the bill, I would say that the concept here, the key word that must be considered, is not the identity theft but rather the responsibility for the mortgage. It seems to me this is clearly part of the Banking Act. Since we are

amending the Banking Act and the minister said he was open to suggestions, I believe we should at least consider this matter and we will see at the report stage what will happen. We still should find out whether the members of this Committee agree to hold banks responsible in this regard.

The Vice-Chair (Mr. Massimo Pacetti): I just want to remind you that we have before us a motion of Mr. Thibault which says:

That the Committee require the minister of Justice to take measures necessary to incorporate what is currently called "identity theft" under the Criminal Code and report on his actions to the House.

We have not yet debated this motion and I believe it still can be amended. I just want members to keep this in mind.

Mr. Dupont, do you want to speak to this?

[English]

Then I'm going to end with Ms. Wasylycia-Leis.

[Translation]

Mr. Serge Dupont: I would simply mention, Mr. Chairman, that I fully understand the issue behind the amendment, which is a very serious matter. However, when we incorporate in a piece of legislation, here in the Banking Act, words such as: "... claim any amount from or enforce a security interest against the victim of an identity theft...", the notion of identity theft must be defined, and the crime established and proven, etc. We cannot simply incorporate these words into law and create confusion with regard to the Banking Act without having established certainties within other bodies of law.

Therefore, I fully agree there is an issue but it is difficult to improvise, to put into words...

● (1135)

Mr. Pierre Paquette (Joliette, BQ): We would need to amend the Criminal Code before amending the Banking Act.

Mr. Serge Dupont: Exactly. We should at least have a definition and only then decide on the sharing of responsibilities in the light of that definition.

[English]

The Vice-Chair (Mr. Massimo Pacetti): Before I go to Ms. Wasylycia-Leis....

[Translation]

The amendment has been tabled by Mr. St-Cyr, has it not?

[English]

Okay, thank you.

Yes, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: On a point of order, Mr. Chair, I need some clarification. If this is being ruled as being beyond the scope of the bill because there is a word in here that doesn't appear anywhere in the Bank Act, I find that quite shocking and ludicrous.

[Translation]

Mr. Thierry St-Cyr: Precisely.

[English]

Ms. Judy Wasylycia-Leis: If you're ruling it out of order as beyond the scope of the bill because it amends another part of the act, I can accept it; but a heck of a lot of developments occur in the banking field and there are new words and new terminology. Next you're going to tell me that when we get to ATMs, the word "ATM" doesn't appear anywhere in Bank Act and therefore is out of order, even though ATMs have been around forever.

Surely, Mr. Chairperson, you've got another explanation for ruling it beyond the scope of the bill.

The Vice-Chair (Mr. Massimo Pacetti): The member who tabled the motion is in agreement, so let's move on, because we have other ones we're going to tackle.

(Clause 29 as amended agreed to)

The Vice-Chair (Mr. Massimo Pacetti): Let's not be so enthusiastic.

Some hon. members: Oh, oh!

The Vice-Chair (Mr. Massimo Pacetti): I bring to everyone's attention to reference 2712074, which is NDP-2.

Would you like to speak to this, Ms. Wasylycia-Leis?

Ms. Judy Wasylycia-Leis: Yes, Mr. Chairperson.

Before you rule it out of order and beyond the scope of the bill, let me make the case that in fact this is a critical issue for Canadians now. The whole question of ATM fees is causing considerable hardship for many in our communities. Certainly low-income families are finding it really hard to deal with these charges.

Yesterday we had a discussion on this, and some of my colleagues around this table were shocked to learn about some of the charges and the fact that if you were withdrawing money from your own ATM—your own bank—you could still be charged up to \$1 in total. If you are taking money out of an ATM of another financial institution, your charges could be as high as \$4.65.

• (1140)

Mr. Mike Wallace (Burlington, CPC): Six dollars.

Ms. Judy Wasylycia-Leis: I'm not done yet.

If you're taking money out of a private operator's ATM, the charges could go as high as \$6.15.

I ask members to consider the fact that in many parts of this country, the banks have left. They keep an ATM for a while, then they sell that off to a private operator, and suddenly low-income communities like mine—average communities and older neighbourhoods—are without a bank and have to go to a private, white-label ATM and pay that kind of money to access their own money. Keep in mind, these are seniors and average Canadians, or people who are scraping by. They take out \$30, \$40, or \$50 because they don't have a lot and they don't want to carry a lot of cash, and they're forced to pay those fees.

We've seen the banks acting responsibly and deciding not to charge fees in other jurisdictions, like in Britain. We've got examples in the United States where in fact a TD Bank has a project in one part

of that country where they are not charging fees, yet here in Canada the TD Bank does.

I would suggest to you, Mr. Chairperson, after we heard the testimony yesterday from the president of the Credit Union Central, that the credit unions have managed to find a way to have a network of surcharge-free services or ATMs. Why can't the banks? And if the banks won't—and we know they're balking at this—why don't we as a committee act and do something about it?

Mr. Chairperson, if you're going to suggest to me that we can't touch this issue because the word "ATM", or automated banking machine, doesn't fall anywhere in the Bank Act or in the regulations, I've tried to fix that problem with our NDP-3, which actually throws the words "use of automated banking fee" into the broad arena for providing information.

I think, Mr. Chairperson, we have to get away from this whole issue of the scope of the bill and do our job as legislators and allow it to be taken forward and get some action on this critical issue.

The Vice-Chair (Mr. Massimo Pacetti): Okay, thank you.

Not to repeat myself—but I obviously have to—this amendment is not inadmissible because of its scope, but because it "amends a statute that is not before the committee or a section of the parent act unless it is specifically being amended by a clause of the bill". That's what the problem is here.

I think the members have already shown an interest in or have acquiesced to the fact that we are probably going to hold some studies on the whole issue of electronic payment and automated machines. So it's not within—

Ms. Judy Wasylycia-Leis: It will take forever.

Hon. Robert Thibault: I have a point of order, Mr. Chair.

We have a lot of amendments to go through on this bill, and we're having a lot of debate and political speeches on amendments that you're ruling inadmissible. I would suggest that if it's inadmissible and the presenter isn't requesting to challenge the chair, then I think we should go on.

The Vice-Chair (Mr. Massimo Pacetti): Yes. I think this is only the second or third.... It's not a point of order, but I will explain to you my logic. We are only starting this process. If the members choose to speak to their amendments, I'm going to allow them to speak to their amendments. If they feel they must speak for ten minutes, it's of their choosing. But at a certain point, my patience will also wear thin.

Monsieur Paquette, I recognize you.

[Translation]

Mr. Pierre Paquette: Maybe I should direct my question to Mr. Dupont.

It has been ruled that the amendment is inadmissible because of how it is written, but there also might be a jurisdictional problem. Indeed, we can regulate banks but not private ATMs which are regulated by provincial consumer protection legislation.

Mr. Serge Dupont: The words

[English]

“by another person”

[Translation]

indeed raise questions of jurisdiction.

Mr. Pierre Paquette: Even if I agree with the principle I think more work needs to be done.

[English]

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

So we move on.

(Clause 30 agreed to)

The Vice-Chair (Mr. Massimo Pacetti): Basically, the rule is if you see on your paper that we're putting in new clauses, more than likely they'll be inadmissible.

On clause 31, we have potentially three amendments. So we'll start with the government amendment.

Do you want to speak to that, Ms. Ablonczy?

Ms. Diane Ablonczy: Yes, thank you, Mr. Chairman.

The Vice-Chair (Mr. Massimo Pacetti): Just so that everybody knows, this one does not have a reference number, but it's circled number 5 in your package, and on the right-hand side it says Bill C-37, clause 31, pages 15 and 16.

A voice: Numéro 6 en français.

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): It is number 6 in French.

[English]

Ms. Diane Ablonczy: Mr. Chairman, this would also, by the way, affect three other clauses. But we'll probably get to those.

What happens is that the current disclosure provision for accounts currently set out in financial institutions' statutes is not well tailored for registered plans and products like RRSPs and RIFs and RESPs. The white paper in June committed to developing new disclosure requirements for registered plans. These are now included in the bill. However, when we had discussions about the wording of the bill, it was pointed out that the wording, which closely parallels the one used for transaction accounts, could have some undesirable practical implications.

Registered plans are often the result of complex financing arrangements that exist between banks and their trust subsidiaries, which are needed to offer these plans. The current wording may not adequately address the issue of which organization is responsible for providing the information: the bank as the agent, or the trust company as the plan trustee. And this could result in unnecessary duplication of disclosure documentation and bring about confusion for the consumer. Also, the current wording would limit the ability of consumers to open a plan by telephone to only when they already have such a plan with the institution. This again is an unintended consequence. It would take away unintentionally a convenience for consumers, particularly during RRSP season.

So the amendment would maintain the legislative requirement for financial institutions to disclose information to the consumers, while providing the authority to set the specifics in regulations. And this would allow us some flexibility to address these issues by setting more detailed, specific, and appropriate amendments, our requirements through regulation, Mr. Chairman.

(Amendment agreed to)

● (1145)

The Vice-Chair (Mr. Massimo Pacetti): We have amendments NDP-3 and NDP-4. We'll try to rule on these at the same time. So we're looking at reference number 2712026 and reference number 2707473. Both of them are inadmissible.

Go ahead.

Mr. Marc Toupin: Essentially, Mr. Chairman, it's just that NDP-3 and NDP-4 are amending lines of clause 31 that have already been amended by the committee when the committee adopted government amendment 2. Therefore, NDP-3 and NDP-4 cannot be put.

The Vice-Chair (Mr. Massimo Pacetti): Yes, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: So are you saying that because we went first to the government amendment and passed that, our amendments are out of order because they have to do with the same clause? On what basis then did that get precedence over ours? Why didn't we start with the two minor amendments and then proceed to the larger amendment? That does not make sense. I'm sorry, Mr. Chairperson.

The Vice-Chair (Mr. Massimo Pacetti): Why didn't yours have precedence? I don't know. I just picked the one that was in order.

Ms. Judy Wasylycia-Leis: Because they're separate issues from the one we've just dealt with.

The Vice-Chair (Mr. Massimo Pacetti): Okay.

Ms. Judy Wasylycia-Leis: This is a mischievous move on somebody's part to prevent two amendments from being considered that normally would be in order. We're not talking about big amendments here; we're talking about adding three words so that information is provided on ATMs.

The Vice-Chair (Mr. Massimo Pacetti): Actually, here it is. In order of preference because it was received first—that's why we addressed it. How's that for another reason? And “G” is before “N”, the government is before “N”. If the committee would like, we can go back and not adopt G-2 and adopt NDP-3 and NDP-4. Would you like me to ask the committee that, Ms. Wasylycia-Leis?

Ms. Judy Wasylycia-Leis: Could I make a suggestion?

The Vice-Chair (Mr. Massimo Pacetti): I'm always open to suggestions.

Ms. Judy Wasylycia-Leis: I'm not asking to pre-empt the government amendment. I've accepted it. But the government amendment has nothing to do with these two subamendments in that section. All we're asking for is to say that there should be information provided. It's defining “registered product” to say “charges arising from the use of an automated banking machine”. That's all we're saying. So it has nothing to do with the one we've just passed. It's a subamendment. So could I move it as a subamendment to the government's amendment?

The Vice-Chair (Mr. Massimo Pacetti): The problem we're having here is that you're rewriting the whole clause, and that's why it's not admissible. I'm looking at the legislation here.

Ms. Judy Wasylcyia-Leis: I'm adding words on paragraph 448.3(1)(a). All I'm doing is adding the words after "registered product": "including all charges arising from the use of an automated banking machine". It's very simple. It's not talking about charges and fees.

The Vice-Chair (Mr. Massimo Pacetti): You cannot be rewriting paragraph (a), that's the problem. That's not what the amendment says.

Ms. Judy Wasylcyia-Leis: It says line 15.

[Translation]

Mr. Thierry St-Cyr: Mr. Chairman, the changes in amendment G-2 ended at line 9. This amendment here starts at line 13. So it is not a part which we have already considered: it is a new amendment dealing with a clause that has not been amended.

The Vice-Chair (Mr. Massimo Pacetti): Amendment G-2 says: "replacing line 1 on page 15 to line 13 on page 16..."

Mr. Thierry St-Cyr: But this is not line 13 on page 15 but line 13 on page 16.

The Vice-Chair (Mr. Massimo Pacetti): No, it is line 9 page 16.

Mr. Thierry St-Cyr: Right.

The Vice-Chair (Mr. Massimo Pacetti): These are not sections, these are lines.

• (1150)

Mr. Thierry St-Cyr: Right.

The Vice-Chair (Mr. Massimo Pacetti): It covers all of page 15 and the top of page 16.

Mr. Thierry St-Cyr: On the amendment it says line 13 on page 15, but that is not correct.

[English]

The Vice-Chair (Mr. Massimo Pacetti): I was just trying to make him understand.

Ms. Judy Wasylcyia-Leis: I find this very strange and ludicrous. First of all, I want to clarify that all we are doing in this section of the bill is adding the words, in paragraph 448.3(1)(a), regarding ATMs. The government's amendment still has that same clause in. It's (a) in their amendment and it's (a) in the bill. So all we are suggesting is that we add those few words to (a). It's not earth-shattering. It's not changing anything. It's simply giving consumers information, that's it.

Could I ask then the government to accept this as a friendly amendment?

The Vice-Chair (Mr. Massimo Pacetti): On your amendment you did not have the letter (a), and that's why we thought it was for replacing the clause.

Ms. Judy Wasylcyia-Leis: That's not my fault.

The Vice-Chair (Mr. Massimo Pacetti): I'm not the one who wrote the amendment, and if we're going to fix the fault, it's not my fault, this is your—

Ms. Judy Wasylcyia-Leis: In the haste of trying to meet the deadlines, we worked with good, hardworking staff and legislative

counsel who did their best. We did our best. You know the intention. It says the line it involves.

The Vice-Chair (Mr. Massimo Pacetti): We're going to work this out.

Hon. Robert Thibault: She's a Tory for a few months and she's already frustrated.

Ms. Judy Wasylcyia-Leis: Go jump off a.... Jesus Murphy.

Mr. Mike Wallace: You're on TV.

Ms. Judy Wasylcyia-Leis: You mean you have nothing to say on this? You don't even want the word "ATMs" added? You have nothing to say on this?

[Translation]

Mr. Thierry St-Cyr: Mr. Chairman, I have to admit I do not know if it is a good thing. I am somewhat uncomfortable with the idea of declaring amendments inadmissible without the Committee being able to take a position on those issues. Many public organizations are able to...

The Vice-Chair (Mr. Massimo Pacetti): Mr. St-Cyr, I did not give you the floor. Give me 30 seconds.

[English]

Ms. Wasylcyia-Leis, it's because the (a) was missing. So if we go back to government amendment 2 and we look at (a) that we just adopted, if we just look at government amendment G-2, the section on (a), what we adopted would be "information about all charges applicable to the registered product", and then you would add, "including all charges arising from the use of automated banking machines". Is that correct?

Ms. Judy Wasylcyia-Leis: Yes, that's correct.

The Vice-Chair (Mr. Massimo Pacetti): Okay. We thought this was replacing it.

I would prefer if we had the finance department officials speak first.

Mr. Serge Dupont: I was going to perhaps address that, Mr. Chairman, because I understand the interest in the ATM fees.

The clause, however, deals with disclosure requirements for registered products. These registered products are RRSPs, RRIFs, and RESPs, and for the government to have authority to regulate what kinds of disclosures are required for those products. There really are no ATM fees generally involved with these products, so whether the clause is there or not, they don't apply on those particular accounts. You don't deal with these products on ATM machines.

The Vice-Chair (Mr. Massimo Pacetti): Yes, Ms. Wasylcyia-Leis.

Ms. Judy Wasylcyia-Leis: I appreciate the explanation, and I had understood that to be the case, but in fact what we are dealing with is a situation where automated banking machines have become a part of our way of doing banking everywhere. There is no reference anywhere in the Bank Act or the regulations except for one specific reference dealing with foreign banks. Here we have a situation where it's a prominent part of our banking system and there is not a single reference anywhere. So I'm taking the only available clause to try to get this in the act so at least it's referenced.

If someone can come up with a better idea, fine, but I think we can't leave this whole process and not have some reference to information around ATMs and fees when time has evolved and we're dealing with a change in the whole banking world.

I just want to say that and to note the silence of the Liberals on this issue.

The Vice-Chair (Mr. Massimo Pacetti): Okay, so we're just dealing with NDP-3 right now. I'm not going to touch NDP-4.

Monsieur Paquette.

[Translation]

Mr. Pierre Paquette: Mr. Chairman, as Mr. Thibault mentioned earlier, if you decide it is inadmissible...

The Vice-Chair (Mr. Massimo Pacetti): It is not any more. There was a problem with the drafting: there was a letter a) missing.

•(1155)

Mr. Pierre Paquette: In the future, if you decide that something is out of order and there is a debate, your ruling should be put to a vote.

The Vice-Chair (Mr. Massimo Pacetti): Right now the discussion is on an amendment to amendment G-2. It is proposed to add the words "including all charges arising from the use of an automated banking machine" after the words "registered product".

Mr. Wallace.

[English]

Mr. Mike Wallace: Thank you, Mr. Chairman.

To the amendment NDP-3, as we call it, I understand the opposite member's frustration on the issue of automatic banking machine fees and that she wants to get that in the act, or at least on the table. But as was indicated by the staff, this is not the appropriate place. This is not about registered products. So I would suggest that the committee turn this amendment down.

Thank you.

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

Ms. Judy Wasylycia-Leis: May I have a recorded vote, please?

The Vice-Chair (Mr. Massimo Pacetti): Not really. We just finished voting.

Ms. Judy Wasylycia-Leis: Let it be noted that the Liberals voted against.

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

On NDP-4, we're going to go with the same logic, Ms. Wasylycia-Leis, that we're going to try to amend government amendment 2—

Ms. Judy Wasylycia-Leis: Yes.

The Vice-Chair (Mr. Massimo Pacetti): In proposed paragraph 448.3(1)(a) you want to add after "to the registered product" the words "that gives equal prominence to each charge".

Do you want to speak to it?

Ms. Judy Wasylycia-Leis: This is a separate issue entirely, so I think the same arguments can't be applied to this amendment as were just given to us.

This is based on a strong recommendation from the Consumers' Association of Canada. It has to do with the practices of some financial institutions to advertise a product at a very appealing rate without disclosing that it's a limited product or has a limited timeframe, and that there are other rates at a much higher level for the needs of the consumer.

So it really is an attempt to require the financial institutions to give equal prominence to that sale item, what the other items are, and what the consumer most likely needs. Someone could advertise this great deal at 8%, when in fact it only applies to a very narrow issue or a narrow timeframe. The consumer gets locked into this process and thinks they're getting 8%, when in fact it's 19%.

It's to do in banking what supermarkets do when they advertise Coke on sale for this period of time, and the regular price is such and such. The banks don't have to do anything like that. So it's simply requiring some basic information for consumers.

I hope we can at least support this one.

The Vice-Chair (Mr. Massimo Pacetti): It's in order.

Mr. Dupont.

Mr. Serge Dupont: The government amendment that the committee reviewed earlier provides that the requirements for disclosure be set out in the regulations. It's typically a concern in the development of those regulations that all of the relevant information be provided with equal prominence.

So through the regulatory process there will be an opportunity—which of course will involve consultation with consumer groups and others—for these considerations to be taken into account when the government comes forward with the regulations.

The Vice-Chair (Mr. Massimo Pacetti): Mr. McKay.

Hon. John McKay: I understand that amendment NDP-3 tried to back-door ABMs on a product for which ABMs are never used, so it is an irrelevant movement—

Ms. Judy Wasylycia-Leis: We're not talking about the ABMs.

Hon. John McKay: You've had the floor for a while, Judy.

Ms. Judy Wasylycia-Leis: What's your point?

The Vice-Chair (Mr. Massimo Pacetti): Go through the chair.

Hon. John McKay: On NDP-4 the issue is the prominence of each charge to register products. Is that correct? I frankly don't see the issue here, but if prominence means anything—and I doubt it does—I don't see what the issue is when you mix the NDP amendment and the government's amendment.

Presumably there'll be a listing of the charges that are relevant to the registered product. If you want to give equal prominence to each one of them, I don't see the issue there.

•(1200)

The Vice-Chair (Mr. Massimo Pacetti): I think Mr. Dupont just answered that question, but if you want to repeat it for Mr. McKay's sake... I think the answer is that they're going to be in the regulations.

Ms. Judy Wasylycia-Leis: On a point of privilege, please.

The Vice-Chair (Mr. Massimo Pacetti): Go ahead.

Ms. Judy Wasylycia-Leis: I will accept this ruling and come at it another way, but I would like to ask for an apology from my colleague—

The Vice-Chair (Mr. Massimo Pacetti): There hasn't been a ruling, and the question is on the—

Ms. Judy Wasylycia-Leis: On a point of privilege dealing with the insinuations of the member, Mr. John McKay, who suggested that we back-doored the—

The Vice-Chair (Mr. Massimo Pacetti): Ms. Wasylycia-Leis—

Ms. Judy Wasylycia-Leis: Excuse me, I have the floor on a point of privilege.

He suggested I back-doored the issue of ATM fees by the previous amendment that simply calls for information about ATM fees. So I would suggest that the member apologize and explain to Canadians why he's not interested in even having consumers made aware of what ATM fees are.

The Vice-Chair (Mr. Massimo Pacetti): Ms. Wasylycia-Leis, I haven't heard a point of privilege yet.

The question is on NDP-4.

(Amendment negatived)

The Vice-Chair (Mr. Massimo Pacetti): Shall amendment G-2 carry as is?

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

(Clause 31 as amended agreed to)

The Vice-Chair (Mr. Massimo Pacetti): I think we're at amendment NDP-5. This is a new clause 31.1. It's referenced as 2711199. It's inadmissible because "...it amends a statute that is not before the committee or section of the parent act unless it is specifically being amended by a clause of the bill".

Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Mr. Chairperson, I'm trying to understand the ruling. You're saying that it amends a section that's not part of this bill.

Is there any part of this bill that would allow us to deal with the concerns we heard from numerous groups about the fact that there are no limits on credit card interest rates other than, of course, the Criminal Code's limit on interest of 60%? Is there anything that allows us to deal with the recommendations that have been before Parliament for about two decades now?

I'm going back to 1987 in this committee, when Brian Mulroney was in power. The Conservatives, and I think the Liberals, supported these recommendations on dealing with putting limits on credit card interest rates. All we're suggesting is prime plus 5%, which would be 11% today, instead of the 19% or higher on average.

The Vice-Chair (Mr. Massimo Pacetti): If you're asking for my opinion, I think it's easy: it's not just banks that issue credit cards. We're going to rule it inadmissible.

Ms. Judy Wasylycia-Leis: On a point of order.

The Vice-Chair (Mr. Massimo Pacetti): Yes, of course.

Ms. Judy Wasylycia-Leis: For clarification, I think this bill amends more than just the Bank Act, does it not?

The Vice-Chair (Mr. Massimo Pacetti): Not from my understanding.

Ms. Judy Wasylycia-Leis: It does. There are a number of legislative—

The Vice-Chair (Mr. Massimo Pacetti): Mr. Dupont.

Mr. Serge Dupont: It amends other acts—the Companies Act, and so forth—but it does not, of course, purport to reach to cover other sectors that are not regulated by the federal government, such as credit unions.

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

We have NDP-6—and we are looking at reference number 2711517—on clause 32.

Ms. Wasylycia-Leis.

(On clause 32)

Ms. Judy Wasylycia-Leis: Thank you.

This is a very simple amendment, and I assume it's in order.

Thank heavens; there's one in order—the first one. Hallelujah!

This is basically asking that our government ensure that we live up to the International Organization for Standardization's criteria and standards, which would help in cases of complaints made by persons who are receiving from a bank products made in Canada. It's simply that there's an international standard out there, and we're saying, make sure we put it in law so that it's a guidepost for Canadian banks and financial institutions.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Ms. Wasylycia-Leis.

Ms. Ablonczy.

Ms. Diane Ablonczy: I think it would be helpful if the officials could talk about ISO and what's happening there and what it would mean for Canada to comply with the amendment the NDP is suggesting.

● (1205)

Mr. Serge Dupont: Mr. Chair, at this time I'm not able to speak to what the standard is of the International Organization for Standardization. I have never seen that particular standard and therefore do not know how it would apply to the world of banking; I'm therefore reluctant to comment further on what the implications would be.

At this time, the act requires that they have procedures in place; that those procedures be disclosed, as indeed this bill is doing by providing for further disclosure; and that, as the minister indicated last week, essentially a notion of competition play its part in the marketplace.

The Vice-Chair (Mr. Massimo Pacetti): Are you ready for the question?

Yes, Ms. Wasylycia-Leis?

Ms. Judy Wasylcyia-Leis: I want clarification, Mr. Chairperson. This is from the Consumers' Association of Canada. I assume they've done their homework. They reference ISO 1002 as a guidance standard rather than a prescriptive standard and suggest that the financial service providers would have to disclose both where they fail to meet the standard and where they exceed it.

My question is, what does the Consumers Association know that the finance department doesn't? Or is there a miscommunication? Why can't we get some information on this in order to be able to act on it?

The Vice-Chair (Mr. Massimo Pacetti): Just before you answer that, I want to go to Mr. Thibault.

Hon. Robert Thibault: I understand the subamendments by the member. The concern I have is this. We have an opportunity, and I believe it's working, to have domestically created rules and procedures. Here we may fall into the trap of globalization by going into an international standard or organization. I'd worry about doing that without having fully consulted.

The Vice-Chair (Mr. Massimo Pacetti): Mr. Dupont.

Mr. Serge Dupont: In response to the member's question, I just want to indicate that I'm not questioning at all the legitimacy or the soundness of the proposal. I'm simply saying that I've not been apprised of it. I'm not aware that my colleagues at this table have been apprised of it, so I don't really know what's in there. I would certainly be pleased to undertake to look into it and to have those discussions with the Consumers' Association, but it's difficult for me to comment further at this time.

The Vice-Chair (Mr. Massimo Pacetti): Okay, I will call the question.

(Amendment negatived)

(Clauses 32 and 33 agreed to)

(On clause 34)

The Vice-Chair (Mr. Massimo Pacetti): Does the NDP want to speak to their amendment to clause 34, reference number 2708438?

Ms. Wasylcyia-Leis.

Ms. Judy Wasylcyia-Leis: Mr. Chairperson, this issue was raised by a number of witnesses. It's a major issue in many of our communities when families try to cash a cheque. They need the money for day-to-day living and they are encumbered with the fact that there's a hold on that cheque for currently up to ten days. Somewhere I heard over the course of these hearings that this is being changed to four to seven days, although I couldn't find the reference in the bill. If I could get that, it would be helpful.

I'm suggesting we need to do better than that. What we heard yesterday from folks was that it could even be as soon as processing happens—the hold lifted. I'm saying let's at least say 24 hours, which I think would take into account the cheque-imaging issues, and give people some quick way to access their own money without having to turn to payday lenders because they run out of money and then get into a vicious cycle of indebtedness.

The Vice-Chair (Mr. Massimo Pacetti): Ms. Ablonczy, and then Mr. Del Mastro.

Ms. Diane Ablonczy: Mr. Chairman, I certainly appreciate my colleague's concern for the consumer, and I think it's something we all need to be aware of. But 24 hours just isn't prudent. We don't even have automatic electronic cheque-imaging yet. That's just being put into place in this act. We don't have it yet. So requiring the banks to have a 24-hour turnaround hardwired into this act would simply be extremely imprudent. I think it's just not a reasonable request.

• (1210)

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Ms. Ablonczy.

Mr. Del Mastro.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chair.

I'd also like to comment that I think the intention of the amendment is good; however, at the present time it's not prudent. The banks do have to take a measure of security, a caution, when they're clearing cheques. They have indicated they will immediately move to seven days for cheque clearance, and then down to four.

I would suggest to the member, and to everyone, that if their constituents are in need of an immediate clearance of a cheque, they might request a bank draft for payment, as opposed to a standard personalized cheque, which clears immediately.

The other thing is that once this new regime, a four-day clearance, comes into effect, if they can actually exceed that standard, then I would think we would seek, through regulations, to further speed that process up.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Del Mastro.

Ms. Wasylcyia-Leis.

Ms. Judy Wasylcyia-Leis: Perhaps I can just get information from the finance department officials around what is the actual.... We've heard different figures, different statistics. Yesterday, Duff Conacher said that the vast majority of cheques were cleared within 24 hours. Is that the case? Would it be reasonable to say that once cheque imaging is in place that in fact this 24-hour turnaround is appropriate?

Mr. Serge Dupont: The provision we're talking about really deals with the maximum cheque-hold period. Indeed, in the vast majority of cases—probably 99%—cheques clear basically within 24 hours, instantly. The issue is simply this: what is the maximum hold period?

The bill purports to give the government regulatory authority to prescribe limits on maximum cheque-hold periods. At this time, the government has secured an agreement from the banks that the maximum cheque-hold period will be reduced immediately from ten to seven days, and from seven to four days when cheque imaging is implemented.

Without the regulation being invoked yet, there is a voluntary commitment to go to four days. The regulation authority will be there, so if, upon cheque-imaging implementation, there's opportunity to go further, the government may consider it at that time.

So it's the maximum hold period, not the typical hold period, that we're talking about.

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Mr. Dupont, and thank you, Ms. Wasylycia-Leis.

Just on that, do you have any statistics on how long it takes to clear a cheque? Because the Canadian Payments Association wasn't in agreement with what we'd heard previously, in previous panel testimony.

Mr. Serge Dupont: I don't have the detailed statistics with me, Mr. Chair, but we can certainly check and see.

The Vice-Chair (Mr. Massimo Pacetti): No, I don't need it now.

Mr. Serge Dupont: My understanding is that the vast majority—

The Vice-Chair (Mr. Massimo Pacetti): Okay, that's fine.

Question on NDP-7.

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

(Clause 34 agreed to)

The Vice-Chair (Mr. Massimo Pacetti): We have a new clause proposed, new clause 34.1, in NDP-8, reference 2712095.

Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: As we know, Canadians rely on banks to provide financial services needed for daily living in the 21st century. So when a bank closes...

That's what I'm doing, right, bank closures?

Yes, it is about bank closures. Sorry.

You threw me off. Would you leave me alone?

Mr. Mike Wallace: Who, me?

Ms. Judy Wasylycia-Leis: Yes.

Some hon. members: Oh, oh!

Ms. Judy Wasylycia-Leis: This is about information to clients of banks and to consumers in all of our neighbourhoods, trying to ensure that they're given proper notice and information about looming closures. In this clause we are simply trying to make sure that the information is available. It requires banks to share basic information about their particular plans.

I think it's a rudimentary, preliminary step that has to be taken as we build more accessible financial services at the community level.

•(1215)

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Ms. Wasylycia-Leis.

Monsieur Thibault.

Hon. Robert Thibault: Once again, I appreciate the sentiment, but I wonder how that comes with this wording:

requiring a bank to establish procedures for informing a customer or a class of customers when the bank has reason to believe that any prescribed information about the customer or class of customers that is or was in the possession of the bank may have become available to a person who is not an officer or employee of the bank;

I have a hard time making the link.

Mr. Mike Wallace: There isn't a link, you're right.

The Vice-Chair (Mr. Massimo Pacetti): Are we ready for the question?

Ms. Diane Ablonczy: Not to drag it out, Mr. Chairman, but perhaps I can give my colleague opposite a level of comfort here.

This whole matter is being studied right now by the ethics committee of the House of Commons. If such a disclosure is required, it would apply to all sectors. It would be a huge change, so I think we should let that committee finish its work. Perhaps my colleague would want to follow that issue there before she follows up here, in our committee.

The Vice-Chair (Mr. Massimo Pacetti): The ethics committee is studying on...?

Ms. Diane Ablonczy: It's studying the degree to which business disclosure will be required.

Mr. Mike Wallace: The Privacy Act.

Ms. Judy Wasylycia-Leis: I need to clarify. I was speaking to the wrong amendment, and I thank Mr. Thibault for pointing that out. I accept that clarification. It is about privacy and it is about the issues we've been dealing with lately. I accept these suggestions from the parliamentary secretary.

The Vice-Chair (Mr. Massimo Pacetti): So you're removing it, or do we vote?

Ms. Judy Wasylycia-Leis: Notwithstanding that—

The Vice-Chair (Mr. Massimo Pacetti): Yes or no.

Ms. Judy Wasylycia-Leis: —accepting doesn't mean that I still don't want to see this happen, so I'm still voting in favour of it.

The Vice-Chair (Mr. Massimo Pacetti): You're still voting in favour. Okay, so you want me to call the question.

Ms. Judy Wasylycia-Leis: Yes, I do.

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

(Clauses 34 and 35 agreed to)

(On clause 36)

The Vice-Chair (Mr. Massimo Pacetti): We're on clause 36, NDP-9, reference number 2708516.

Ms. Judy Wasylycia-Leis: This is a very straightforward amendment dealing with the role of the commissioner in the Financial Consumer Agency of Canada. It changes the word "may" to "shall", so that in fact there is a way for consumers, clients, and community persons to actually have the information at a meeting and to know all the facts.

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

The Vice-Chair (Mr. Massimo Pacetti): NDP-10, on page 14... It's reference number 2711883.

Ms. Judy Wasylycia-Leis: This is an amendment to actually give some clout to the role of the commissioner under the Financial Consumer Agency of Canada, when dealing with the possibility of bank closures. As members will know, it's been very hard for communities to get all the information for clients of banks to know exactly what's happening. Part of the reason for that is that the banks are not compelled to give information about the reasons for the closure in terms of profitability, to give actual bank statements or statements of how well the bank is doing financially. It just makes some basic requirements calling for a cost-benefit analysis, for descriptions of alternative services that might be available, and for a full outline of what the bank does in terms of its corporate responsibilities, so that communities will know what happens, what will happen when that bank closes its doors. Then they can make a full case and try to persuade the bank to either stay or to think about what alternatives they have to put in place.

It's very important in areas where whole communities have been abandoned by the banks. I'm not just talking about Winnipeg North. There are rural communities that have been left high and dry and the credit union movement has moved in. There are cases where many people, as I've said earlier, have to turn to payday lenders or to ATMs, and they pay a price for that kind of service and the fact that the banks have abandoned their communities. We're not talking about communities where they can just run off to these big box banks in the suburbs. We're talking about communities where there are individuals who haven't the luxury to be able to do that. They might not have computers in their homes to be able to access automated services. They might not be able to actually obtain the services without some sort of service in their community.

Basically the point here is that, as others said yesterday, including Duff Conacher, the issue of access to banking services is a right. There needs to be a recognition, somewhere in this bill, that community banking services are there and entrenched in our system.

• (1220)

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Ms. Wasylycia-Leis.

Ms. Ablonczy.

Ms. Diane Ablonczy: Thank you, Mr. Chairman.

I supported my colleague in her last amendment, that a meeting with the bank and the community was necessary. I think the community should have a chance to have a discussion with the bank. This amendment goes quite a bit further than that. It's like making a whole business decision in the court of public opinion. This is a private business, and these requirements in this amendment are hugely onerous. I think they would probably even contravene the Privacy Act that's already being studied by the ethics committee of the House. I think maybe we should have the officials comment on this as well, but this strikes me as going way outside what would be reasonable to expect a business to do.

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): Mr. Dupont.

[English]

Mr. Serge Dupont: Again, Mr. Chair, I wasn't able to see this before the meeting.

Obviously in addition to having the meeting with the community to discuss alternatives, as this bill is now asking the bank to do, it is introducing notions of a statistical report, a cost-benefit analysis and so forth. If the bank is engaged in that kind of discussion with the community, one would think the bank has come to the business determination that the branch is either no longer viable or it does not fit the business plan. It can report at length on it, but I would imagine it may not change the fundamental decision and that what is really necessary is for the bank and the branch to engage with the community on alternatives. I think that's what the bill is trying to do.

The Vice-Chair (Mr. Massimo Pacetti): Monsieur Thibault, and then Ms. Wasylycia-Leis to conclude.

Hon. Robert Thibault: Thank you, Mr. Chair.

I do have concerns with this, but I understand the point Ms. Wasylycia-Leis is making about the rural areas. In some instances, there might be enough business within those areas to warrant another smaller institution. I don't know that I want to put it in legislation, but it would be nice if there was some voluntary agreement with the banking sector and the department—without disclosing the secrets of the institution—so that pertinent information, which is necessary for another financial institution in making a decision about going in, becomes available.

I think you could make an argument that there is a duty by the federally chartered banks to give that type of information. They do get privileges by having a federal charter, for which you could expect some participation by them in the continuation of those communities.

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): Mr. Paquette.

Mr. Pierre Paquette: We are going to support this amendment, mainly because banks are an essential service. Indeed, they are a service one cannot do without. This is why we have regulations requiring banks to open accounts for individuals under certain conditions.

I would add that during the debate on bank mergers, banks themselves made all sorts of commitments of that sort in order to provide reassurance to people who were concerned about potential branch closures. Therefore, I believe the bill should impose more specific requirements in terms of meetings between the people in the community and the branch that is closing.

• (1225)

[English]

The Vice-Chair (Mr. Massimo Pacetti): Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Thank you very much. I appreciate all the feedback.

However, I would point out that it is not a novel idea to require this from banks and to have that included in some form of legislation. I would remind committee members that in fact the Community Reinvestment Act in the United States, which we've heard a great deal about, does exactly this. It puts the onus on the banks to prove that they are not viable and that there are other alternatives. There is nothing now that requires banks to say, to show, or to prove that it's not profitable or viable. They can simply assert that, without any kind of disclosure to the clients who have been loyal to that bank for years and years and years.

We are talking about something that is a vital service, for which people have a right to access.

The Vice-Chair (Mr. Massimo Pacetti): Okay, thank you.

Ms. Judy Wasylycia-Leis: Let me say, Mr. Chairperson, that the kinds of remarks we're hearing from the Conservatives across they way do not address the issue of adequate information.

The Vice-Chair (Mr. Massimo Pacetti): Okay, Ms. Wasylycia-Leis. Thank you.

Are you ready for the question?

Ms. Judy Wasylycia-Leis: Mr. Chairperson, before we leave this, I would like—

The Vice-Chair (Mr. Massimo Pacetti): We're not leaving it; we're going to vote on it.

Ms. Judy Wasylycia-Leis: I know, but before we vote and people oppose it, as it seems they likely will, let me say that we need to pursue this in a real way.

The Vice-Chair (Mr. Massimo Pacetti): Okay. You have support.

Ms. Judy Wasylycia-Leis: I can tell you about communities that have been left with no banks and no avenues for pursuing the service.

The Vice-Chair (Mr. Massimo Pacetti): That's fine. Thank you.

Okay, now for the question on NDP-10.

Ms. Judy Wasylycia-Leis: Could we have a recorded vote?

The Vice-Chair (Mr. Massimo Pacetti): Okay, let's go with the recorded vote. By the time you guys raise your hands.... I think it's better if we do a recorded vote.

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

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

It doesn't look like we're going to finish by one o'clock. We have the room until two, so we're going to go until two. We're going to break right now for a minute and a half until I get my plate, and then we're starting again.

The meeting is suspended.

- _____ (Pause) _____
-
- (1235)

The Vice-Chair (Mr. Massimo Pacetti): Could we begin, please?

(Clause 36 as amended agreed to)

(Clauses 37 to 39 inclusive agreed to)

(On clause 40)

The Vice-Chair (Mr. Massimo Pacetti): We are now at page 16 in your package. It is government amendment G-3.

Ms. Ablonczy, will you speak to that?

Ms. Diane Ablonczy: Thank you, Mr. Chairman.

The bill here, Bill C-37, amends the financial institutions statutes to allow certain entities to act as mutual fund trustees. In light of recent comments from stakeholders, we have concerns that the proposed language could be overly restrictive and as such not fully convey our policy intent.

This amendment would add a fifth category—investment counselling and portfolio management services—of entities that would qualify for our proposed exemption to act as a trustee of a mutual fund. The amendment would also edit the language of the provision in order to more accurately reflect the policy intent of allowing these entities to be engaged in a combination of some of the permitted business activities.

Both these changes would reflect current market practices and are in line with our policy on trustees of mutual funds.

The Vice-Chair (Mr. Massimo Pacetti): We will now vote on the amendment.

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

(Clause 40 as amended agreed to)

(Clauses 41 to 58 inclusive agreed to)

(On clause 59)

The Vice-Chair (Mr. Massimo Pacetti): We have an amendment on clause 59. It is G-4 in your package, on page 18.

Ms. Ablonczy, will you speak to that?

Ms. Diane Ablonczy: Mr. Chairman, the Investment Canada Act provides a framework that aims to encourage investment in Canada. It gives power to the Minister of Industry to receive notice and review investments in Canada by non-Canadians. However, it exempts transactions that would already be approved by the Minister of Finance with regard to financial institutions. To do so, the Investment Canada Act borrows wording from the financial institutions statutes. Bill C-37 makes changes to the Insurance Companies Act to clarify that the legislation as it relates to foreign insurers applies only to their insurance business written in Canada, regardless of the location of the risk, so some consequential amendments were also made in other acts to ensure consistency in the legislative framework governing foreign insurers.

Another such technical amendment would be needed to the Investment Canada Act to ensure language consistency and maintain the broader integrity of federal legislation.

This amendment is designed to do those things.

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

(Clause 59 as amended agreed to)

(Clauses 60 to 86 inclusive agreed to)

(On clause 87)

•(1240)

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): We now go to amendment G-5. It is on page 20 of your package.

Ms. Ablonczy.

[English]

Ms. Diane Ablonczy: It's the same amendment I just spoke to. It just applies to other clauses, and clause 87 is one of them.

The Vice-Chair (Mr. Massimo Pacetti): We will now vote on the amendment.

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

(Clause 87 as amended agreed to)

(Clause 88 agreed to)

(On clause 89)

[Translation]

The Vice-Chair (Mr. Massimo Pacetti): We now go to amendment G-6.

[English]

Ms. Diane Ablonczy: This is the same amendment that we passed as G-1, and it also applies to clause 89, Mr. Chairman, as I mentioned earlier.

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

The Vice-Chair (Mr. Massimo Pacetti): We are now at NDP-11, page 24 in your package, reference 2712360.

Ms. Wasylycia-Leis, again we were missing the (a). I think you also want to amend the government amendment G-6 regarding paragraph 566.1(1)(a) to add, following "registered product", the words "including all charges arising from the use of an automated banking machine". Am I correct?

Ms. Judy Wasylycia-Leis: That's correct.

For the same reasons I enunciated before, this is simply to ensure that there's a way to capture the providing of information in the case of automated banking machines, so that it's somewhere in this whole package and in the Bank Act, and so that consumers have at least information based on which they can make decisions.

I would ask for a recorded vote on this.

The Vice-Chair (Mr. Massimo Pacetti): Mr. Wallace.

Mr. Mike Wallace: Thank you, Mr. Chairman.

I want to remind the committee that we've already voted on this specific amendment, which I spoke to earlier. It talks about registered products—RRSPs and so on and so forth. It has no reflection on automated bank machines. We voted it down before. I'd be happy to put my name beside voting it down, but there will be a number of NDP amendments that are a repetition of what has already been voted on. I would ask respectfully that the member withdraw them if they already know what the result is going to be.

Thank you.

The Vice-Chair (Mr. Massimo Pacetti): Mr. Dupont, would you like to speak to this? It's the same as the last time—no change?

Mr. Serge Dupont: *Exactement.*

The Vice-Chair (Mr. Massimo Pacetti): Thank you.

We're voting on NDP-11.

(Amendment negated: nays 8; yeas 1)

The Vice-Chair (Mr. Massimo Pacetti): On NDP-12, Ms. Wasylycia-Leis, again I expect that we're going to just add that after paragraph (a). Is that correct? Can we just go directly to the vote?

•(1245)

Ms. Judy Wasylycia-Leis: You can apply the vote.

(Amendment negated)

The Vice-Chair (Mr. Massimo Pacetti): We're going to deal with NDP-14 because it refers to page 53, and since we're doing the bill in numerical order, we're going to address NDP-14 on page 27 in your package, reference 2712284.

Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: I think this is self-explanatory. I really wish I could persuade members to accept this as a fundamental, necessary change to the bill, but I'm doubtful that I will be able to. Maybe I will leave it at that, since I know members don't want me to keep taking time, except that maybe I could ask the finance department officials if they have any problem with this before we move to the vote.

The Vice-Chair (Mr. Massimo Pacetti): Monsieur Dupont.

Mr. Serge Dupont: I guess this is simply a replica of the earlier amendment that was considered by the committee, but this is in respect of foreign banks.

(Amendment negated)

The Vice-Chair (Mr. Massimo Pacetti): We're still addressing clause 89: NDP-13, which is in your package, page 26, which is reference 2711951. I have a note here that it's inadmissible. Again, it's related to the payment of credit or charge card.

(Clause 89 agreed to)

(On clause 90)

The Vice-Chair (Mr. Massimo Pacetti): NDP-15 is page 28 in your package. It's reference 2711559.

Ms. Wasylycia-Leis. I think this is a repeat of the previous—

Ms. Judy Wasylycia-Leis: Apply the vote.

(Amendment negated)

(Clauses 90 to 101 inclusive agreed to)

The Vice-Chair (Mr. Massimo Pacetti): I'm going to give you guys a hint: you guys have to carry this bill, so you have to say yes.

Mr. Dean Del Mastro: We did say yes.

The Vice-Chair (Mr. Massimo Pacetti): Okay. Thanks.

We have amendment BQ-1, page 29. This is going to be ruled inadmissible.

[*Translation*]

Mr. Pierre Paquette: Mr. Chairman, maybe I could just—

The Vice-Chair (Mr. Massimo Pacetti): Yes, go ahead.

Mr. Pierre Paquette: —point out that I do not challenge your ruling, but we are dealing here with an addition that could ensure fairness in terms of reinvestment, especially in regions and areas where the unemployment rate is higher than the Canadian average.

This is an issue we will eventually need to tackle. Yesterday, a witness raised it. This exists in the United States and we should take inspiration from it. We will get back to this at a later time.

• (1250)

[*English*]

The Vice-Chair (Mr. Massimo Pacetti): Thank you, Monsieur Paquette.

(Clauses 102 to 104 inclusive agreed to)

The Vice-Chair (Mr. Massimo Pacetti): We're on page 37.1.

This is inadmissible, consistent with the previous amendments that were ruled inadmissible due to the fact that the statute or a section of the parent act is not before the committee unless it is specifically being amended by a clause of the bill. This 37.1 was not in your package.

[*Translation*]

(Clauses 105 to 121 inclusive agreed to.)

[*English*]

The Vice-Chair (Mr. Massimo Pacetti): We're on to G-7, which is page 38 in your package.

Ms. Ablonczy.

Ms. Diane Ablonczy: Mr. Chairman, this is another clause that will be amended by the amendment that was already passed on clause 19.

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

(Clause 122 as amended agreed to)

(Clauses 123 to 162 inclusive agreed to)

(On clause 163)

The Vice-Chair (Mr. Massimo Pacetti): We are now at amendment G-8.

[*Translation*]

It is on page 40 in your package.

[*English*]

Ms. Ablonczy, do you want to speak to G-8?

Ms. Diane Ablonczy: This is another section affected by the fourth amendment of the government. It has already been passed.

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

(Clause 163 as amended agreed to)

(Clause 164 agreed to)

(On clause 165)

The Vice-Chair (Mr. Massimo Pacetti): Okay, we're on amendment G-9, page 42 of your package.

Ms. Ablonczy.

Ms. Diane Ablonczy: This is another section affected by the first amendment that was passed by the government.

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

The Vice-Chair (Mr. Massimo Pacetti): Now we're on amendment NDP-16, on page 44 of your package.

Ms. Diane Ablonczy: Did we pass the clause's amendments?

The Vice-Chair (Mr. Massimo Pacetti): No, because they affect —

Ms. Diane Ablonczy: Oh, I see.

The Vice-Chair (Mr. Massimo Pacetti): This is reference 2708421. This is the same thing.

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

• (1255)

The Vice-Chair (Mr. Massimo Pacetti): I think we have the same situation with amendment NDP-17.

(Clause 165 as amended agreed to)

The Vice-Chair (Mr. Massimo Pacetti): Amendment NDP-17 on page 45 in your package is going to be defeated if we apply the votes to the previous similar amendment.

(Clauses 166 and 167 agreed to)

(On clause 168)

The Vice-Chair (Mr. Massimo Pacetti): We are now at amendment NDP-18, on page 46 of your package, reference 2708468.

Ms. Wasylycia-Leis. Are we going to apply?

Ms. Judy Wasylycia-Leis: Yes.

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

(Clause 168 agreed to)

(On clause 169)

The Vice-Chair (Mr. Massimo Pacetti): We are at amendment NDP-19, page 47.

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

(Clause 169 as amended agreed to)

The Vice-Chair (Mr. Massimo Pacetti): Amendment NDP-20 was previously defeated.

(Clauses 170, 171, and 172 agreed to)

(On clause 173)

The Vice-Chair (Mr. Massimo Pacetti): Next is amendment G-10, on page 50 of your package.

Ms. Ablonczy.

Ms. Diane Ablonczy: It's another section affected by amendment G-3, and that has already been passed.

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

(Clause 173 as amended agreed to)

(Clauses 174 to 229 inclusive agreed to)

(On clause 230)

The Vice-Chair (Mr. Massimo Pacetti): There's amendment NDP-21, on page 52 of your package, reference 2711563.

Ms. Wasylycia-Leis, can we apply this one?

Ms. Judy Wasylycia-Leis: Yes.

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

(Clauses 230 to 234 inclusive agreed to)

(On clause 235)

The Vice-Chair (Mr. Massimo Pacetti): We are now at amendment G-11, which affects clause 235.

Ms. Ablonczy.

Ms. Diane Ablonczy: This is another clause impacted by amendment G-4, which has already been passed.

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

(Clause 235 as amended agreed to)

(Clauses 236 to 252 inclusive agreed to)

(On clause 253)

The Vice-Chair (Mr. Massimo Pacetti): Clause 253 is being amended by amendment G-12.

Ms. Ablonczy.

Ms. Diane Ablonczy: This is another clause impacted by amendment G-3, which has already been passed.

The Vice-Chair (Mr. Massimo Pacetti): Yes, it's similar.

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

(Clause 253 as amended agreed to)

[*Translation*]

(Sections 254 to 279 inclusive agreed to.)

[*English*]

The Vice-Chair (Mr. Massimo Pacetti): We are at amendment NDP-22, page 57 of your package, reference number 2711576.

An hon. member: Apply the vote.

The Vice-Chair (Mr. Massimo Pacetti): Apply? That's fine.

Where is she, on the...?

Mr. Mike Wallace: Telephone.

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

(Clauses 280 to 325 inclusive agreed to)

(On clause 326)

We're on amendment G-13, page 58 of your package.

Ms. Ablonczy.

Ms. Diane Ablonczy: It's impacted by G-3.

The Vice-Chair (Mr. Massimo Pacetti): All right.

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

[*Translation*]

(Clause 326 as amended agreed to.)

[*English*]

(Clauses 327 to 360 inclusive agreed to)

(On clause 361)

The Vice-Chair (Mr. Massimo Pacetti): We have amendment G-14, page 60.

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

(Clause 361 as amended agreed to)

(Clause 362 agreed to)

(On clause 363)

• (1300)

The Vice-Chair (Mr. Massimo Pacetti): We have amendment G-15, page 62.

Ms. Ablonczy, is this the same one?

Ms. Diane Ablonczy: This is another clause impacted by amendment G-1, which was passed.

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

The Vice-Chair (Mr. Massimo Pacetti): That means we're now looking at NDP-23.

We can apply, unless there's disagreement from the mover.

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

Mr. Massimo Pacetti: We are at NDP-24.

Since we're at it, we're going to apply? Okay.

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

(Clause 363 as amended agreed to)

(Clauses 364 and 365 agreed to)

(On clause 366)

The Vice-Chair (Mr. Massimo Pacetti): We are now at NDP-25, which is page 66 in your package.

We'll apply, so that's defeated.

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

(Clause 366 agreed to)

(On clause 367)

The Vice-Chair (Mr. Massimo Pacetti): We are now at NDP-26.

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

The Vice-Chair (Mr. Massimo Pacetti): Amendment NDP-27 is defeated, if we use the method of applying to the previous vote.

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

(Clause 367 as amended agreed to)

(Clauses 368 to 370 inclusive agreed to)

(On clause 371)

The Vice-Chair (Mr. Massimo Pacetti): Now we're on amendment G-16, which is page 70 of your package.

Ms. Diane Ablonczy: It's affected by G-3, which was passed.

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

[*Translation*]

(Clause 371 as amended agreed to.)

(Sections 372 to 435 inclusive agreed to.)

The Vice-Chair (Mr. Massimo Pacetti): I believe it is faster in French. My problem is that I think in Italian.

[*English*]

We're at NDP-28, which affects clause 436, page 72. There's a number on this one.

Ms. Wasylycia-Leis, would you like to speak to this one?

Ms. Judy Wasylycia-Leis: Yes, I would. This is a new one, folks. You have a chance to support one more of my amendments. This is a very reasonable amendment, increasing the fines for bank violations from \$200,000 to \$500,000.

Let me finish my remarks, Mr. Wallace.

Mr. Mike Wallace: I just put my hand up to get on the list.

Ms. Judy Wasylycia-Leis: As you will know from the testimony, there does not appear to be much incentive for the banks not to violate the Bank Act. We heard of hundreds and hundreds of violations. I'm still waiting for the actual information from the FCAC. I'm not sure if we've received it here. I understand there's a chart in my office that has come through, but just talking on the phone it's very hard to actually get at how many banks have been in violation. I would assume that all the major banks have been in violation at one point or another. We're dealing with a significant number of charges between 2001 and the present, and it seems to me that as a committee we have to deal with this in a way that means something and has an impact. If \$200,000 doesn't do it, others have suggested, as we heard in testimony, going as high as \$50 million. I'm not here to suggest we go that high, but I am saying it has to be more than \$200,000 to have an impact.

Given the profits of the banks this year, \$19 billion, given the ability of one bank to give a bonus to one CEO of \$4 million to \$5 million, on top of a \$1 million to \$2 million salary, I suggest that in fact our system of protecting the consumer and ensuring essential services are available where they're needed is not working and we've got to do something that makes it work.

So this is my last attempt in this bill. I realize I didn't have much support for many of the other amendments, and we've got a lot of

work to do as a committee, but I would hope that perhaps this last one would see some support.

• (1305)

The Vice-Chair (Mr. Massimo Pacetti): In terms of information, the clerk just got the information from the Financial Consumer Agency, so we'll be—

Ms. Judy Wasylycia-Leis: I saw that chart. I can't read it.

The Vice-Chair (Mr. Massimo Pacetti): So you'll be getting it, because I don't think it has been translated.

Okay, we're going to go to Mr. Wallace, then Ms. Ablonczy and Mr. Thibault, and then Mr. McCallum.

Mr. Mike Wallace: Thank you, Mr. Chairman.

I'm encouraging members of the committee to vote against the change. It sounds great that it's half a million dollars, but I want to remind the committee that this recommendation we have in front of us, which is actually in the bill, goes from \$100,000 to \$200,000, which is a 100% increase already in the fines, and I think that is a significant enough change at this particular time that we don't need to be making such a drastic move. We'd be way out of line with other administrative fees or penalties that we have within other legislation, and I think that would put the Bank Act out of line with other penalty regimes that we have as the federal government.

The Vice-Chair (Mr. Massimo Pacetti): So what we were able to see is there are 135 violations from 29 federally regulated financial institutions.

Ms. Ablonczy and then Monsieur Thibault.

Ms. Diane Ablonczy: I'll pass, Mr. Chair.

The Vice-Chair (Mr. Massimo Pacetti): Monsieur Thibault and then Mr. McCallum.

[*Translation*]

Hon. Robert Thibault: Thank you, Mr. Chairman.

I would like the officials from the department to explain the difference between a violation committed by a person and one committed by an institution.

Mr. Thierry St-Cyr: That is a tough one, Robert!

[*English*]

Ms. Eleanor Ryan (Chief, Structural Issues, Financial Institutes Division, Financial Sector Policy Branch, Department of Finance): The frameworks, whether they be administrative money penalty or criminal law, usually distinguish between natural persons and entities. They recognize a fine for a natural person would be much more significant than for a larger corporate entity. So you usually see a gradation of fines on that basis.

I don't know if that answers your question.

Hon. Robert Thibault: I'm just thinking about the banking world. If my bank manager causes an infraction that does me harm, is he an individual or is he the institution?

Ms. Eleanor Ryan: It would depend—

Hon. Robert Thibault: Or a loans officer, or an investment dealer, or—

Ms. Eleanor Ryan: Right. It would depend on what the finding of the court would be as to whether or not it was the person acting in their own accord or representing the organization.

[*Translation*]

The Vice-Chair (Mr. Massimo Pacetti): Mr. McCallum.

[*English*]

Hon. John McCallum (Markham—Unionville, Lib.): Much as this is unusual for me, I see no reason not to support Judy on this. I think that for the major banks it's not so much the money as the reputation that is important. Still, I think for one of the smaller banks \$500,000 is not a terribly large sum. I don't see a reason not to support it.

But I'd like to ask the officials. Is there anything we're missing here? Can you think of a reason why we should not support this idea?

Mr. Serge Dupont: I guess the real issue is what the benchmark is and what other pieces of legislation, whether federal or provincial—for example, securities laws, and so forth—provide in administrative and monetary penalty regimes.

The \$200,000 is bringing the Bank Act essentially to the level of other legislation, be it federal or provincial, while \$500,000 puts us out of that ballpark. At the end of the day, of course, it's a number. But again, in terms of benchmarks, \$200,000 is the norm.

Hon. John McCallum: I will support this. I think banks are fairly large and can afford that sum.

The Vice-Chair (Mr. Massimo Pacetti): We'll be able to see that when the vote comes.

Thank you.

Mr. Paquette, and then Mr. McKay.

[*Translation*]

Mr. Pierre Paquette: It says here this is a maximum penalty. Therefore it is not a matter of imposing a \$500,000 fine every time. I note that from October, 2001 to 2006, 120 violations were committed and that the total amount of penalties paid was \$117,000.

This might be a message we are sending but in my opinion it will not have a major impact. However, we are going to vote for the amendment.

•(1310)

[*English*]

The Vice-Chair (Mr. Massimo Pacetti): Mr. McKay.

Hon. John McKay: I agree that this is pure symbolism; there's nothing of really any substance here. Apparently, according to the FCAC, the total number of violations found over five years was 120 violations, and the total sum of administrative monetary penalties was \$117,000. So for those 120 violations, it looks as though it's about \$1,000 a pop. It seems somewhat silly to be talking about an average monetary violation of \$1,000 a pop when in fact you want to up the maximum to \$500,000.

I think this is gratuitous bank-bashing, and I will not support it.

The Vice-Chair (Mr. Massimo Pacetti): Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you, sir.

I want to come at this from a slightly different angle. Whenever you put larger potential penalties in place, you run the risk of not being able to come to settlements on things. I think this could lead to litigation and unintended action on both sides, and I just don't see that it's necessary. A 100% increase in this amount to \$200,000 is significant, and I'd just ask that members of the committee think about what they're pondering.

I concur with Mr. McKay that it's a bit of bashing and not much more than that.

The Vice-Chair (Mr. Massimo Pacetti): Ms. Wasylycia-Leis, shall we conclude? Can we go to the question?

Ms. Judy Wasylycia-Leis: Let me just make a couple of concluding remarks. Obviously, when someone accuses me of gratuitous bank-bashing, I should respond to suggest—

The Vice-Chair (Mr. Massimo Pacetti): No, you don't have to.

Ms. Judy Wasylycia-Leis: —that in fact this amendment is well-intentioned. It is to deal with a growing, serious situation for many in our communities today. It is not to make the big banks appear as the big villains over and over again. It is to say that something is not working, so how do you fix it? How do you make it better?

John mentions 126 violations according to the FCAC report. Those are violations that went the whole gamut from being identified right to not being able to be resolved. They are therefore then posted as violations. There are hundreds more violations that are settled after someone speaks up. And no one knows which bank branches do it. There is no information for consumers to actually make wise decisions.

So this is just a constructive suggestion to help improve the situation. I thank John McCallum for his support and I hope others will give theirs.

The Vice-Chair (Mr. Massimo Pacetti): We're voting on amendment NDP-28.

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

(Clauses 436 to 438 inclusive agreed to)

(On clause 439)

The Vice-Chair (Mr. Massimo Pacetti): Amendment G-17, Ms. Ablonczy.

Ms. Diane Ablonczy: Clause 439 is impacted by G-2, which was passed.

(Amendment agreed to)

(Clause 439 as amended agreed to)

[*Translation*]

(Clauses 440 to 442 inclusive agreed to.)

The Vice-Chair (Mr. Massimo Pacetti): We now have a new section.

[*English*]

I'm not sure if this is receivable. We're on page 75, BQ-2.

[*Translation*]

Mr. Pierre Paquette: It is similar to the previous one. We withdraw it.

The Vice-Chair (Mr. Massimo Pacetti): It is outside the scope of the bill.

Mr. Pierre Paquette: It is out of order and I have withdrawn it.

The Vice-Chair (Mr. Massimo Pacetti): Very well.

[*English*]

It's removed.

(Clauses 443 to 452 inclusive agreed to)

• (1315)

The Vice-Chair (Mr. Massimo Pacetti): Pages 76 to 83 in your package are just explanatory notes.

Shall the title carry?

Some hon. members: Agreed.

The Vice-Chair (Mr. Massimo Pacetti): Shall the bill as amended carry?

Some hon. members: Agreed.

Ms. Judy Wasylycia-Leis: On division.

The Vice-Chair (Mr. Massimo Pacetti): On division.

[*Translation*]

Shall the Chair report the bill as amended to the House?

[*English*]

Some hon. members: Agreed.

The Vice-Chair (Mr. Massimo Pacetti): Shall the committee order a reprint of the bill as amended for the use of the House at report stage?

Some hon. members: Agreed.

The Vice-Chair (Mr. Massimo Pacetti): Okay, thank you for your cooperation.

We have a bit of committee business.

Mr. Thibault would like to present his motion, but I prefer not to address the motion. Not being the chair, I would prefer if this could be handled on Thursday, when the chairman is here.

Hon. Robert Thibault: Is there a problem with it? Is it unanimous?

The Vice-Chair (Mr. Massimo Pacetti): Okay, if I see no further questions from the floor, I deem this committee to be adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

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