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Chair

Mr. Gary Goodyear

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•(1105)

[English]

The Chair (Mr. Gary Goodyear (Cambridge, CPC)): Colleagues, let's start our meeting this morning. I want to advise members right off the bat that the meeting will be held in public.

As well, I want to advise that you have received this morning the information from the Chief Electoral Officer and Elections Canada. That was circulated this morning. Hopefully, you've had an opportunity to read that. A second copy is being circulated to members right now, just in case that might drum up some questions for our witness this morning.

Colleagues, the order of business today will be to pose any questions we may have regarding Bill C-54 to our witness today, who I'll introduce in just a moment. At the conclusion of these questions, and I'm certainly hoping we will have time, we have two other pieces of business.

The first one, following the witness, will be dealing with the subcommittee's report on the conflict of interest code.

On the second one Monsieur Guimond has just approached me and we will give him some time at the end of that, following that, if in fact we still need the time. I will offer that to Monsieur Guimond.

Colleagues, pursuant to the orders of reference of Monday, May 28, the committee will now resume its consideration of Bill C-54, An Act to amend the Canada Elections Act (accountability with respect to loans) 2007.

I want to advise the members that we did in fact contact all the witnesses that the steering committee, and ultimately the committee itself, agreed to, and as the committee agreed, those witnesses who could appear would appear here on Thursday. Those witnesses who could not appear would be requested to submit something in writing, so that we could review that for our Tuesday meeting, and then we would start clause-by-clause on Tuesday.

I have to tell members that Equal Voice was in fact e-mailed. We do have acknowledgment that the e-mail was received. However, we have had no response whatsoever from Equal Voice.

The Supreme Court judge we were trying to reach was not reachable, and the other gentleman is simply not available.

Elections Ontario has accepted our offer to appear here and has sent to us this morning a witness whom we can question.

As to the other witnesses who have responded or we've been in touch with, again, I just want to repeat that they've been asked to submit so that we can get their opinions on this issue.

Without further delay, colleagues, let me introduce Mike Stockfish. He's the director of election finances for Elections Ontario.

Madam Redman, please.

Hon. Karen Redman (Kitchener Centre, Lib.): Sorry to interrupt, but I have had correspondence with the National Women's Liberal Commission, and my understanding is that they too will be submitting a report. If you are not in receipt of it yet, it's coming.

The Chair: Excellent. Thank you very much, Madam Redman.

Again, just let me introduce and thank Mr. Stockfish for coming this morning.

We certainly appreciate your being able to be here this morning. Perhaps I could offer you the floor for a few minutes, if you'd like to introduce yourself and then make an opening statement, and then we'll go to our rounds of questions.

Mr. Stockfish, please.

Mr. Mike Stockfish (Director, Election Finances, Elections Ontario): Thank you, Mr. Chair.

Thanks to the committee for the opportunity to appear before you today.

My name is Mike Stockfish. I'm the director of election finances at Elections Ontario.

I understand that I have approximately five minutes to give you a bit of an overview of the current requirements under Ontario's Election Finances Act as they relate to loans.

Loans and guarantees are regulated by sections 35 and 36 of the Election Finances Act of Ontario. The chief electoral officer of Ontario also provides guidelines to help our stakeholders interpret the legislation; G36 is the one that's specific to loans and guarantees.

I'll provide you with a very brief overview of the rules and regulations within the Ontario system overall.

First, I thought I'd take a couple of minutes to talk about borrowing. A registered political party, a constituency association, candidates, and leadership contestants can borrow money from one of the following groups: a chartered bank or other recognized lending institution, a registered party, or a registered constituency association. Those are the three that those groups can borrow moneys from.

Loans from eligible sources made at a market interest rate and for which payment has not been waived are not contributions; they're loans. However, if the interest rate the lender charges is below the market rate, the difference between that actual interest rate that's charged and the market rate does become a contribution and is subject to the contribution limits.

In addition to actual loans, any delay in paying suppliers or other liabilities could be considered a loan outside the intent of the Election Finances Act. Other payables could turn into loans; for example, suppliers' accounts must be paid within the suppliers' normal credit terms. Also, the repayment of any prohibited contributions that would be required to be forfeited cannot be delayed and ultimately become a loan.

That's the overview of borrowing.

In terms of guarantees and forgiveness, only a person, a corporation, or a trade union eligible to make a contribution under the Election Finances Act can guarantee a loan. In Ontario, those who are eligible to contribute moneys to those political entities would include those groups: individuals, trade unions, and corporations.

Any payment made by a guarantor for forgiveness by the lending institution of a loan—i.e., the guarantor or lending institution forgives or waives all or any part of the borrower's indebtedness—is considered to be a contribution for the purposes of the Election Finances Act and may be forgiven or waived only to the extent of the contribution limits. However, a payment by a guarantor for a guarantee is not a contribution unless the guarantor waives the right to recover the loan. In that instance, the loan becomes a contribution that is subject to contribution limits.

In terms of candidates, any existing campaign deficit, which would include unpaid loans left over at the end of the official candidate's campaign, becomes the responsibility of the constituency association; if it's there at the end of the campaign, by default it becomes the obligation of the association. Independent candidates are responsible for their own debts, but any surplus at the end of the campaign needs to be forfeited to the chief electoral officer of Ontario.

In the event that the borrower defaults on a loan and a guarantor has to make payment to the lending institution, the guarantor may choose to treat the payment as a contribution, subject to the limitations under the Election Finances Act, so in the case of default, the guarantor pays that. As a result, it is possible for the guarantor to forgive the indebtedness over several years. However, once this procedure has begun, it must continue without interruption until the debt is cleared, and that would be up to the contribution limits for that entity.

In the area of disclosure, the chief electoral officer has prescribed forms for reporting financial activity on an annual basis, a campaign basis, or a leadership contest period basis.

• (1110)

Contained in these forms are schedules that require full details of the name and address of the financial institution, the terms of the loan, including the amount borrowed, the name and address of each

guarantor, and the amount guaranteed, and the amount outstanding at the end of the reporting period.

That's just a very quick, five-minute overview of the rules in Ontario. There clearly are a lot of other differences that you may want to delve into in terms of contribution limits.

I guess the one closing remark I'd make before taking questions is that there clearly is a distinct difference between the framework in Ontario and the federal one in terms of who's eligible to make contributions.

I think this looking at loans as a separate piece needs to be taken into context. It's part of the bigger framework; it's a piece of the puzzle. One needs to be careful about looking at it just as one separate piece, without taking into consideration the whole package.

I'm open for questions.

• (1115)

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

Colleagues, I want to remind you that you have in front of you a preliminary financial analysis from the Chief Electoral Officer for Canada. That may initiate some questions as well for our witness today. I just provide that information for you. I'm sure you've come with your own questions regardless.

We will start our first round of questioning, colleagues. It will be seven minutes again, as per the usual format. Our first questioner is Mr. Owen, and then Madam Redman.

Mr. Owen.

Hon. Stephen Owen (Vancouver Quadra, Lib.): A central concern that has been raised, certainly by the official opposition, is that this could limit access to the political process in leadership contests and nomination contests for people who are of limited means, compared with access for people with high personal means, because they would not be able, without a guarantor, to receive the consideration and loans from financial institutions that someone of means would have. The concern, of course, is that this could create a barrier to democratic participation.

First of all, could you let us know the contribution limits under the Ontario system and how they might compare to the current federal ones, which as you know permit no unions or corporations, but only individuals and only up to \$1,100 a year, for various purposes.

I wonder whether, in your scheme—after you tell us about the difference in contribution levels—you have had the experience of there being a barrier to entry, at least a relative lesser access to participation, for people who didn't have the personal means to receive a loan from financial institutions without guarantors.

Mr. Mike Stockfish: In terms of contribution limits, I indicated in my comments who's eligible to make contributions: individuals, corporations, and trade unions based in Ontario. As to contribution limits, to a political party you can contribute up to \$8,400 per year, and on top of that, if there's an election or an event during the year, there'd be an additional \$8,400 that could be contributed.

I'll give this year as an example, where we have had by-elections in 2007 and we have a general election that's scheduled for 2007. You could contribute \$8,400 to the party on an annual basis, for the by-election, and a third \$8,400 through the general election. So it's \$8,400 for parties.

For constituency associations, the contribution limit is \$1,120, and it's the same for a candidate, \$1,120. Any contributor can only contribute to a maximum of five constituency associations—so \$5,600 in total—and similarly for candidates, up to a maximum of five candidates.

Those are the contribution limits in Ontario. Clearly, it's a different environment from that in place federally.

As to the experience we've had or what has come to our attention with respect to barriers to entry, it's not our experience, and I have no evidence indicating that there are systemic barriers in our system for candidates to run or for parties to be created. Obviously, all eligible contributions receive a tax credit receipt, so there's some opportunity for smaller parties and entities to raise funds, not necessarily through borrowing money, but in fact through the normal contribution process.

Hon. Stephen Owen: On the loans, though, do you have any evidence—maybe you have no experience with it—of financial institutions rejecting loans to individuals who don't have guarantors or significant resources themselves to pledge as collateral.

• (1120)

Mr. Mike Stockfish: Through feedback, we certainly have experienced that associations, and candidates in particular, have some challenges when it comes to dealing with financial institutions. Primarily they don't really know how to treat them and who they are. In terms of opening bank accounts and lending money, the practices of financial institutions are dictated in terms of what they need for collateral or guarantees to issue and grant those loans. I can't give you a direct answer.

By the nature of that banking relationship, I suspect there will potentially be some challenges to those who may not have the security, collateral, or the guarantors to support them. Again, there's no indication that this has been problematic on a regular basis. I suspect that—

Hon. Stephen Owen: But that is an inherent restriction in the financial services business.

Mr. Mike Stockfish: That's true. It's probably not a whole lot different from a small business trying to get money versus somebody who is well-heeled.

The Chair: There are two minutes left, if you'd like to go ahead.

Madam Redman, please.

Hon. Karen Redman: I don't want to usurp anybody else's spot, but I know I have more questions than two minutes—

I'm wondering what the incidence of borrowing for nominations is in Ontario. If this has been in place for a while, notwithstanding the different thresholds of donations, has Elections Ontario tracked the incidence of the loans at all? I'm wondering if you've had any feedback from institutions as to what their criteria is and whether or not they grant the application for a loan.

Mr. Mike Stockfish: To answer the first question with respect to the nomination process, our legislation does not have us play a role in the nomination process, so there are no reporting requirements. There are no financial rules around the nomination process under the Election Finances Act of Ontario.

In terms of the incidence of loans, I apologize; I didn't have enough time to do a lot of research with respect to how many loans and their values. But I can give you a general anecdotal summary of our experience. Certainly as you'd expect, the large parties are the ones who borrow money most consistently from financial institutions. The larger and more active associations would do that as well. Certainly candidates do borrow money in some instances to help finance their campaigns. What we see is a very cyclical nature of the loans, as you'd expect.

As they're heading into a campaign or going through a campaign, parties in particular will borrow money. That will be part of what they use in their campaign spending. Over the course of the subsequent four-year period, those loans will be repaid. When they get to the next event, then they start to build their bank accounts again for the purposes of supporting their campaign activity.

I did look at it quickly before I left, and certainly the size of the loans for the large parties in Ontario at the end of 2006 was dramatically lower than coming out of the 2003 election.

The Chair: Thank you.

At least we got one of them out there, didn't we, Madam Redmond? Good for you.

Next on the list is Mr. Lukiwski, for seven minutes, please.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thanks.

I have a couple of quick questions, Mr. Stockfish. I think I heard you say in your presentation—correct me if I'm wrong—that Elections Ontario has a provision that if loans are to be forgiven they can be forgiven over several years but that the loans become contributions to the yearly limit. Is that correct?

Mr. Mike Stockfish: I can give you a more detailed explanation of that. In the event that a loan is called by the financial institution—it is defaulted—and it falls to the guarantor to pay that loan, at that point it becomes a liability or a loan from the political entity to the guarantor. The guarantor has a choice to continue to have that loan. That political entity would be required to repay the loan, or they have the option of using the contribution limit on an annual basis to repay that loan.

So it would be in the event that it was called by the financial institution. It falls to the guarantor. The guarantor could use the contribution limit, year after year—the \$8,400 a year—to receive payment for that loan.

• (1125)

Mr. Tom Lukiwski: Over how many years could he extend that?

Mr. Mike Stockfish: That's not written in the legislation. Depending on the size of the loan, we would certainly monitor that from year to year. You need to remember that our constituency associations and the parties report to us on an annual basis, and we have the ability in that compliance review to track the progress they're making in that regard.

Depending on the size of the loan, there would need to be a reasonable period, but I can't say whether that would be two years or five years. I think we'd have to look at each situation based on the merits of what's there and what's reasonable.

Mr. Tom Lukiwski: So it would basically be up to the discretion of Elections Ontario.

Mr. Mike Stockfish: We would work with the political entity to determine what was reasonable. We would certainly look to that party or association to make some effort to raise funds and repay that debt.

Mr. Tom Lukiwski: Thank you for that.

I have another question, and perhaps you can validate this. I know this normally happens federally—and I assume this happens in Ontario as well—when candidates or constituency associations try to take out loans to finance campaigns.

Normally they put their anticipated rebate up as security to the financial institution. Of course, one has to be confident that they will get the minimum—10% or 15%, in some jurisdictions—number of votes to get a rebate. Has that been your experience as well? Do most electoral district associations or constituency associations assign that rebate to the bank?

Mr. Mike Stockfish: In the case of the rebate—the Ontario system is similar in that there is a public funding model—there's a reimbursement for campaign expenses if you meet the threshold of receiving more than 15% of the popular vote. But it's the candidate who's entitled to that.

It's not uncommon for parties and candidates, indirectly through their associations, to use the rebate to repay those loans and as collateral.

Mr. Tom Lukiwski: They use it as leverage, right? If you receive 50% of your eligible expenses in a rebate, you're talking about 50-cent dollars. So if a constituency association has \$20,000 in the bank, borrows \$20,000 from a financial institution, and assigns that to the bank, it ends up spending \$40,000. If \$20,000 comes back as a rebate, it goes directly to the financial institution to pay off the loan, which is normally what happens in my neck of the woods.

Is that what you've seen in Ontario as well?

Mr. Mike Stockfish: Yes, that is quite common.

It's important to note, as I'm sure you're all aware, that the banks are financial institutions. They will lend money to whomever based on their standards, lending practices, and criteria.

Mr. Tom Lukiwski: Then it's relatively easy for candidates, whether they are male or female, to enter into an agreement with a bank, as long as their riding association has some financial ability. They can literally use 50-cent dollars to help finance their own candidate.

I'm not sure. Does Ontario have a 50% rebate?

Mr. Mike Stockfish: In Ontario it's 20%.

Mr. Tom Lukiwski: Then we're talking about 80-cent dollars. Federally it's 50% to 60%. I didn't realize it was only 20% of the eligible amount.

Mr. Mike Stockfish: On the campaign expense subsidy for a candidate, if you receive more than 15% of the popular vote, you can get back 20% of the campaign expense limit, or whatever you spent, whichever is lower.

• (1130)

Mr. Tom Lukiwski: That's all I have, Mr. Chair.

The Chair: Thank you very much.

Does anyone from the Bloc have questions?

Monsieur Guimond is next, and then Mr. Godin.

[*Translation*]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Thank you, Mr. Chair.

Thank you for coming to testify before us, Mr. Stockfish. I have two quick questions to ask you.

First, under the Election Act of Ontario, are the parties ultimately responsible for loans taken out by candidates?

Second, are parties required to lend money to candidates or associations at current commercial rates?

Given that I made no introduction, that I am surprising myself with my speed this morning, and that I am impressed with myself, I am going to ask a third question and get a full meal deal like at McDonald's.

Third, in Bill C-54, if a party grants a loan to a candidate or to an association, and if the rate is lower than the market rate, for example if the market rate is 7% and the party lends money at 5%, we consider that the 2% difference would be seen as a contribution, and so could show in the books. Does Ontario have a similar provision?

Thank you, Mr. Chair. Those are my questions.

[*English*]

Mr. Mike Stockfish: On the first question, any liability that remains at the end of a candidate's campaign becomes the responsibility of the constituency association. So if a candidate has a loan outstanding at the end of the campaign that they haven't repaid, it becomes the liability of the association. If the association were to be deregistered for any reason, its liabilities would become the liabilities of the party. There is a link there, but on the campaign itself, the candidate's loans would fall to the association.

On the second question, a candidate can receive a loan from a party or an association, but it has to be at a market rate. They cannot lend money at a commercial rate—depending on the terminology. If they were to lend money at a rate below the market rate, that difference would become a contribution and would need to be receipted and charged against the contribution limits.

[*Translation*]

Mr. Michel Guimond: Thank you, Mr. Chair.

[English]

The Chair: Thank you very much.

Mr. Godin.

[Translation]

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Stockfish, and welcome.

That is the reason why it is better for a political party to give a candidate money rather than to lend it, correct?

Let's say that the constituency association goes to a financial institution for a loan. First, in Bill C-54 only a loan of \$1,100 can be guaranteed, and if someone has made a contribution of \$1,100, he cannot then guarantee a loan. No guarantee can be made because it is the same as a contribution.

If the association makes the loan, can the association president, the election agent or anyone who signs the loan also give \$1,100? Are these people just guaranteeing the loan, or do they represent the association? Is my question clear?

• (1135)

[English]

Mr. Mike Stockfish: I wasn't sure whether that was a statement or a comment around whether it was better to transfer or not.

Mr. Yvon Godin: That was just a comment. Forget it, but just wish us that!

Some hon. members: Oh, oh!

Mr. Mike Stockfish: But I was going to state there is the ability within our legislation for the transfer of funds to go—So a candidate could receive either a loan from a party or could receive money transferred.

Mr. Yvon Godin: And if the money is transferred, then there is no interest on it, right?

Mr. Mike Stockfish: Yes.

Mr. Yvon Godin: Okay. You answered my comment. Good.

Mr. Mike Stockfish: As for the second question, there's a difference in Ontario, in terms—

Mr. Yvon Godin: Did you understand what I said when I was talking about the guarantor? If the association made the loan to the institution, would they become the guarantor, or would they just become an association and not be counted as a guarantor, because it would then just be the association? The association could make a loan of \$20,000, whereas a guarantor could only make a loan of \$1,100.

Mr. Mike Stockfish: From the Ontario perspective, I don't think it makes a difference, because if you guarantee a loan in Ontario to one of the political entities, that does not get charged to your contribution limit. The limit to contribute to a constituency association is \$1,120. So you could contribute that \$1,120 to the association. If that association were to borrow money from a financial institution and you stood up as a guarantor for \$10,000, that guarantee does not get charged—

Mr. Yvon Godin: Where Bill C-54 will do it, then we have to study what will happen. If an association wants to borrow \$20,000,

do they need 20 people in the association to make the loan? It's a question that should be answered, but you don't have that answer.

Mr. Mike Stockfish: To be honest, I'm not in a position to pass judgment as to what works and what doesn't work in terms of Bill C-54. I've certainly read it and I understand it, but this gets back to my earlier comment that it's part of a bigger framework. The election finances framework and the philosophy behind it are determined by the legislators. So there are distinct differences in Ontario versus federally. But if you guarantee a loan in Ontario, that does not get charged against your contribution limit.

[Translation]

Mr. Yvon Godin: As you read Bill C-54, do you see any problem for a woman to run, compared to previously? I do not know if you have studied the bill at all. We know that even if women can take out loans these days, I think that the big loans still go to men.

In Ontario, have you seen the previous situation change since you passed your bill?

[English]

Mr. Mike Stockfish: There's been no evidence of a difference between males and females, but again, we haven't done any research in that regard. Our system is distinctly different from what's proposed in Bill C-54, from the vantage point of the contribution limits and the \$1,100.

I really can't pass judgment in terms of the lending practices.

I don't get the sense that there is a distinct disadvantage for certain groups versus others with the system we have in place.

[Translation]

Mr. Yvon Godin: Thank you.

[English]

The Chair: Merci.

We're on our second round of questions, so I'll just remind members it's five minutes this time.

Five minutes, please, Madam Redman.

Hon. Karen Redman: Thank you, Mr. Stockfish.

I have to ask the question—and I think everybody does when they say your name—but do you ever get called Fishstock?

Mr. Mike Stockfish: Yes!

Hon. Karen Redman: I keep looking at your name and think, "Now, say it right."

I really appreciate some of the enlightenment you can bring us from Ontario with your having a track record.

Quite frankly, I have read Bill C-54, and I wonder what the government is trying to fix with this. It may be what Monsieur Godin was trying to get at a little bit. If somebody defaults on a loan and is a candidate, do the members of the riding association then become personally liable? I guess that's the hard part of it, if Bill C-54 allows riding associations to guarantee a loan.

The other issue I'd also like to cover off is floor crossing. You may or may not have had a lot of floor crossings in Ontario, but in our last election we had a Liberal candidate, Mr. Emerson, who crossed the floor to become a Conservative two weeks after the election. I see nothing in this legislation that would ever cover that eventuality. I can well appreciate that a riding executive of one party stripe would not want to be the guarantor and indeed be paying off the campaign loan debts of somebody who was no longer a member of that party.

So I guess I have a two-part question: who is liable in default, and have you covered off floor crossings at all?

● (1140)

Mr. Mike Stockfish: In terms of who's liable in default, I can repeat that if a candidate has a loan and that loan becomes the responsibility of the association because it's not repaid at the end of the campaign period—I should mention that certainly the expectation, the requirement, is that any campaign expense subsidy cheque that comes to the candidate would be used to repay any outstanding loans.

Regardless of that, if there are loans outstanding at the end, they do become the responsibility of the association. The individual officers are personally liable for those loans. I'm not sure, to be honest, whether that legally falls to those associations, whether they take on that responsibility, or whether it would become something that would be dealt with in a court of law. At our level, certainly it becomes a responsibility of the association.

That leads to your second question. Is it fair, if the person who incurred that loan and it becomes the responsibility of the association, that this individual is no longer aligned with—? I could offer you a personal opinion on it, but I don't think that's really appropriate. Whether there's legal recourse someone could take to deal with that, based on our legislation—the Election Finances Act—it would become the responsibility of the association. They may not be happy with it, but that's where it would lie.

Hon. Karen Redman: One would assume it would have been the initial association for the party that the individual is a candidate for and not necessarily the existing association of the individual that then became a different party, right? It would be attached to the candidacy.

Mr. Mike Stockfish: Right.

Hon. Karen Redman: This may not even be a fair line of questioning, given your specific area of expertise, but I have a real problem with the fact that we're going to be now putting financial institutions in the position of deciding whether or not certain individuals are a good risk as far as lending to them is concerned. For instance, if they don't pierce the requisite threshold—Say I'm the Brown Bread Party and I'm an independent or a small fringe party that may have a few candidates but never form government. I think we're putting the financial institution, then, in a position of saying whether or not this is a good financial risk and *de facto* saying whether or not I can exercise my right to participate in the democratic process.

I guess my other question to you would be this. Do you monitor abuses? Again, I would question what Bill C-54 is trying to fix. Does Elections Canada look at—? Do you have statistics—if you don't have them now, perhaps you could send them to us—of the number

of defaults, the number of years that typically large—recognizing, again, that you have different donors and different donor levels? How long does it take most of them to pay back those loans? And again, I would agree it's probably the major parties that take up most loans.

Mr. Mike Stockfish: I do not have statistics with me. I can certainly try to provide to the committee where we have those statistics available. We don't track the financial activity in terms of defaulted loans. What we do on an ongoing basis is make sure that the information we're getting in those financial returns is current. So we certainly can provide statistics around how many, the size of loans, and how much was outstanding at any point in time, and give you some anecdotal evidence around the default issues. But it would only come to us if it were a compliance issue. If they became non-compliant, if that loan fell to the guarantor, that's really not our business, in terms of—We certainly want to make sure things are followed beyond that.

So it's an interesting question. Our job is to make sure that people are in compliance, and when they get out of compliance, they come back into compliance with the Election Finances Act. The relationship with their financial institution is their business. We just want to make sure there's no contravention of contribution limits, things of that nature. So it would be if it were a default on a loan and it became an ineligible contribution. That's where we would be most concerned.

● (1145)

The Chair: Just for clarity, though, I think Madam Redman has asked where you perhaps have statistics, you will undertake to provide them for us.

Mr. Mike Stockfish: Sure.

The Chair: Thank you very much.

We are on five-minute rounds. I saw Mr. Preston's hand go up first, although I did see Mr. Lukiwski's hand.

You guys can work it out, but I'm seeing Mr. Preston right now.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Thank you very much, Chair.

Mr. Stockfish, what you're saying is if it defaults from a candidate to a riding association, and an individual is guaranteed.... Let's start with an individual who is guaranteed a loan and it goes into default. You're suggesting they have two different ways of dealing with it. One is to take the default and then over a period of years take the contribution to the limit against that default, or to leave it as a loan and expect that the riding association will over time continue to make payments against that, as you said, in a reasonable attempt to repay.

So you're saying there are two different ways it could be dealt with?

Mr. Mike Stockfish: Yes, and we need to be clear. There's a difference between a loan defaulting and a loan being assumed, so in the event that a candidate has a liability at the end of the campaign, it's not defaulted; it would be assumed by the constituency association. So it may be that the financial institution, if that's who the loan was—

Mr. Joe Preston: Yes. I'm speaking more in the case of a guarantor of an individual.

Mr. Mike Stockfish: If a loan has a guarantor and that loan is called by the financial institution, it defaults, then the guarantor has those options.

Mr. Joe Preston: So under Ontario election finance law, there are two options. I'll leave the loan in place hoping the riding association comes back into money and I'll get repaid, or vice-versa.

I recognize this is a question probably more for financial institutions, but it has been my experience that not-for-profit organizations—and I guess we can count electoral districts or constituency groups to be those—for the most part require some sort of personal guarantee by the directors, on lines of credit or on establishing borrowing. Back to what Mr. Godin was asking, that would make them personally liable if they have signed a guarantee on behalf of the riding association. Does the same thing apply if the loan is not repaid and goes into default? Then those are contributions by the members who have guaranteed the loan? Do they then become contributions, or can they be taken that way, is the question?

Mr. Mike Stockfish: So if a—

Mr. Joe Preston: Five members of a riding association guarantee a loan. They would personally have to because it's not for profit—

Mr. Mike Stockfish: Right. The loan goes into default—

Mr. Joe Preston: The loan goes into default, and those five members who have been taken to—

Mr. Mike Stockfish: Right. So in that situation, those five individuals would have—the association would owe them those funds, their share of that—

Mr. Joe Preston: So they could do either, take it as a loss and then wait for the organization to get money.

Mr. Mike Stockfish: They can't waive that loan. If they waive that loan and say they don't have to be paid back, then that becomes a contribution.

Mr. Joe Preston: That's what I'm saying. So they can take that option and just waive it and say they'll take it as a contribution, but over time.

Mr. Mike Stockfish: Right, within the contribution limits.

Mr. Joe Preston: Within the contribution limits. Okay.

Those are the only questions I had.

Mr. Mike Stockfish: And if the amount of loan was larger than the contribution limits and it all hit in one year, then the association would be required to either reimburse it—

Mr. Joe Preston: Read it as an asset or a debt until the next year?

Mr. Mike Stockfish: Or forfeit that amount of money to Elections Ontario. It then becomes an ineligible contribution, if it's over the limit.

The Chair: Mr. Lukiwski, would you like to take the rest of the time? You have two minutes.

Mr. Tom Lukiwski: Yes, thank you, Chair. Just a quick comment on Madam Redman's comments that perhaps if you have a newly established party, like the Brown Bread Party, I think you used as an example, your democratic right may be somewhat denied because

you haven't got the ability to access a loan through a financial institution. Again I go back to my point that it has been my experience, certainly federally, that almost any candidate who approaches a bank for a loan has to put up security, and they usually have the bankroll of the constituency association behind them.

My point is that if the constituency association didn't have the wherewithal or the ability to raise any funds themselves in order to leverage money from a bank, then perhaps that says something about the democratic right of that candidate. If a candidate doesn't have the support of enough people to put \$10,000 in the bank so he or she can borrow an additional \$10,000 in a sign-back to the bank, then I'm not sure if a democratic right has been denied or usurped, because it doesn't appear that that many people would be willing to support that person to begin with.

The point is that currently we have a system in which almost any legitimate candidate has the ability to borrow money from a financial institution because of the backing of the constituency association, and if the constituency association is broke, it means not very many people are willing to support that particular candidate. So I think it works itself out. I don't think there's any particular demographic or any group of individuals who would be unduly penalized by this bill.

• (1150)

The Chair: Thank you.

It sounds more like a comment, so there's no question. We're out of time, regardless.

Madam Guay.

[Translation]

Ms. Monique Guay (Rivière-du-Nord, BQ): I come back to what Tom has just said. He is quite right, except that when there are elections every two years or 17 months, raising the amount of money you need for a campaign is not easy. Here is what I do. You have financial agents—I suppose all associations have them—you go to the bank, with the money that you have accumulated for one, two or three years, depending on the timing of the election, and you borrow up to 60% of the difference, which represents the reimbursement you will receive.

I do not know if that is the way you do it in Ontario. How much time do you have to wait before being reimbursed in Ontario? We have to do a final report. I find that procedures at the federal level take a long time.

[English]

Mr. Mike Stockfish: The length of time depends on the volume of the returns that come in. We do not send out our campaign expense subsidy cheques until that return has been reviewed and approved. In the case of the parties, there is a clause within our legislation that allows the chief electoral officer to provide 50% before that, but that does not apply to the candidates.

In terms of time, we're trying to get better. That's one of our performance metrics, our key performance indicators, that we try to do our initial review of all returns within three months. The onus then becomes for us, the chief financial officer or the official agent, to deal with the compliance questions, to get that approval of the final return.

The Chair: Thank you.

Any other questions, colleagues?

Seeing that we appear to be done with our witness, I want to extend the committee's gratitude for your coming this morning, Mr. Stockfish. We certainly appreciate the time you have taken, as well as the time you took prior to coming, for your preparation. I think members have had some questions answered and perhaps a few others generated.

Having said that, I think what we'll do now is...I hate using the word "dismiss"; "excuse" is a much better word.

Mr. Stockfish, again, with the committee's thanks, we certainly appreciate your being here. The witness is excused.

Members, we do have a report in front of us from the CEO. We'll let you read that over, and we can debate it on Monday.

I need to remind members of what the committee agreed on at our last meeting, and this is that we would need any amendments that are recommended by the committee to get to the clerk Monday morning by 11 a.m., which would give us all 24 hours before Tuesday morning's 11 o'clock meeting. Just a reminder, if there are amendments, please have them no later than 11 a.m. Monday.

Just to remind you again, once the amendments are received, they will in fact be distributed to members in advance of the meeting.

Colleagues, I think what we're going to do now is suspend the meeting for one minute, so we can go in camera, as we need to discuss a potential report on a different matter by the committee, the matter of a conflict of interest code.

I'll suspend the meeting for one minute while we prepare to go in camera. Of course, I would like to remind members that once we're done with the code, Monsieur Guimond has asked for some time, and we're going to try to provide that.

[Proceedings continue in camera]

- _____ (Pause) _____
- _____

[Public proceedings resume]

• (1225)

The Chair: Colleagues, I will bring the meeting back to order. I would like to invite our witnesses to come forward to the table.

Audrey O'Brien is here with us today, if Monsieur Guimond or anybody has questions.

I appreciate your coming again on such short notice.

Monsieur Guimond, the floor is yours.

[Translation]

Mr. Michel Guimond: Thank you, Mr. Chair. This concerns your unsuccessful attempt to table the 53rd report on the statements and Commons questions of independent members. With the help of the clerk's office, I must just table a 53rd report which could amend the one that you tried to table. I am just tabling it, and I am asking that,

on Tuesday, there be unanimous approval to amend the 53rd report. If everyone here agrees, you could table it.

For your information, my colleagues the party whips will consult independent members about the new wording. The goal of my comments is simply to table this report, and to ask the clerk, with your permission, Mr. Chair, to see that all our colleagues here receive a copy. We could resume the discussion on Tuesday.

Thank you.

• (1230)

[English]

The Chair: I agree.

Does everybody else agree?

Mr. Owen, go ahead, please.

Hon. Stephen Owen: Excuse me, colleagues. Ms. Redman had to leave, but she has asked me to express the concern that the independent members themselves have not been consulted in this process, and she would be willing to take on the responsibility of taking this around to the independent members prior to Tuesday.

Mr. Michel Guimond: I said that in French.

Hon. Stephen Owen: Oh, did you? I missed that.

Mr. Michel Guimond: Aren't you using the translation? We have a very good translation service.

The Chair: To the chair, please.

Mr. Michel Guimond: They are very competent.

I said that in French. I can repeat it in English. I'm not bilingual like you, but I try.

The Chair: Order, please.

Mr. Owen has the floor, please.

Hon. Stephen Owen: While Mr. Guimond was expressing the offer in French, Ms. Redman was distracting me by suggesting it in English. So if we are of one mind, I'm not sure where that's left it as to who will take the responsibility to check with the independent members. Was that left to Karen?

The Chair: My understanding, then, colleagues, just so we can sum this up, is that Madam Redman is going to speak with the independents. We're going to put this forth on Tuesday, and we will get concurrence or we won't, depending on how those negotiations go.

Monsieur Godin.

[Translation]

Mr. Yvon Godin: Mr. Chair, it was not only Ms. Redmond's responsibility. An amendment was tabled. This is a public meeting. Independent members will be able to read the amendment and express their views about it. They are members of the House of Commons.

[English]

The Chair: Madam O'Brien, please.

Ms. Audrey O'Brien (Clerk of the House of Commons, House of Commons): Mr. Chairman, I have just a small point of clarification. There are two versions of the document that has been distributed. One shows it with the track changes function to indicate where the changes that Monsieur Guimond is suggesting be made so that people can see what was discussed at the last meeting and what is now being proposed by Monsieur Guimond, and the other is a clean copy.

But I want to apologize. I didn't want it to seem as if we were presuming that this would be the new 53rd report. It just seemed a simple way of indicating the changes Monsieur Guimond would like to make.

That's all I have to say.

The Chair: Monsieur Guimond, just for my own clarification, we'll talk about this on Tuesday before I table the report. Is that correct?

Mr. Michel Guimond: To provide a better understanding for Mr. Owen, I will say yes to this question.

The Chair: Thank you very much. We certainly appreciate it.

Colleagues, the clerk has informed me of another technicality. The report number may change. It could end up being the 53rd report, just for the record.

Mr. Owen, please.

Hon. Stephen Owen: I will just repeat a comment that I made last Tuesday, of concern. That is with respect to the second subsections referring to parties not officially recognized.

I understand, and the clerk gave us the benefit of the conventional interpretation of that, but my concern remains that there might be an interpretation to suggest that members of parties not recognized, by not being independents, might not have any opportunity to pose questions.

I think the clerk's answer was that by convention the Speaker will proportionately take that into account and provide the opportunity.

But since my concerns expressed on Tuesday, members may have seen that Elizabeth May has expressed some concerns in the same way. I think if we were able to give some assurance to her or other people who might be in that situation, that might stop some of the public discourse and concern.

The Chair: Mr. Reid, please, and then Mr. Lukiwski.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): I must say this is one time when I don't think such a danger actually exists, and the reason is by the way it's worded here; it says, "for the purposes—of this Standing Order", which I assume means for the purposes of this section. Maybe it should say "this section", which would be section 31.1, which deals only with a caveat on an earlier section, "members of political parties not officially recognized in the House are not considered independent members". So it's just for the purposes of section 31.1.

I think by putting the caveat in that way, it makes it very clear it doesn't relate to the concern. It doesn't actually cause the harm that Ms. May legitimately raised. I think it's quite clear that there's no danger of members—I assume she's worried that, say, a Green Party

caucus of seven or eight members would be denied the right to pool their questions or give them to their leader.

• (1235)

The Chair: Mr. Lukiwski.

Mr. Tom Lukiwski: I interpreted Ms. May's comments on the paper a little differently. The way I read it is she was concerned that if she were the only Green Party member elected, she would only get perhaps one question a week. I think we're all satisfied that if there is only one member, they get up to one a week.

It certainly states that if the Green Party elects more than one member, they would have more than one a week, so I don't think there's a problem here.

Hon. Stephen Owen: Can I respond, Mr. Chair?

The Chair: Yes.

Hon. Stephen Owen: I have two points. I'm not so sure that it's stated anywhere that that's the case. I do understand that by convention that's the way the Speaker would treat it. On the application of this, I ask the question rhetorically: is there any standing order that deals with political parties not recognized as an official one? I assume there isn't, and if there isn't, it underlines, sometimes, the difficulty of dealing with Standing Orders as one-offs rather than checking comprehensively. That's why I voted against this and wasn't in favour of it as a general practice.

I am confident that no one will be disadvantaged by the practice that is followed, consistent with this.

The Chair: Thank you, Mr. Owen.

I want to ask Mr. Godin and then Madam O'Brien for a comment. But would it help anybody under subsection (2) if we were to add, "for the purposes of this Standing Order, members of political parties registered under the Canada Elections Act not officially recognized in the House are not considered independent members"? Does that help anybody with this issue?

I'll tell you what I don't want to do. I don't want to have a big, long discussion on Tuesday. We're moving to clause-by-clause. I'm hoping this can be worked out by Tuesday. I think it's up to Madam Redman and Monsieur Guimond, both of whom unfortunately have had to leave.

Are there other issues we need to deal with, or is this becoming a bigger problem?

Madam O'Brien, please make a comment, and then I want to hear from Mr. Godin.

Ms. Audrey O'Brien: Just on what you were saying, Mr. Chairman, if I may, I think the suggestion you make might introduce new problems. Going on the experience we've had in the past, when I think it was the then Alliance caucus split and a number of members became the democratic reform members, they were not registered under the Canada Elections Act, but they occupied a group. They were like a little collective, if you will.

As I read this standing order, they would then be covered under subsection (2), that is to say, the Speaker would not have to treat them as "one question or one statement a week" people; it would be left to his discretion, as it's always been in the past before this.

The Chair: Thank you.

Mr. Godin, please.

Mr. Yvon Godin: I'd like to get more clarification. Were they recognized as a party? They were not. They were a group within the Progressive Conservative Party and they were part of the questions of the Progressive Conservative Party. The Progressive Conservative Party were giving them questions, if I recall. They were considered independents. I recall, myself, arguing that they should not get any questions at that time, and the answer was, "Well, if the Progressive Conservative Party wants to give them a question, that's their business".

Ms. Audrey O'Brien: I wasn't suggesting, Mr. Chairman, through you, that they were considered a recognized party in the House. All I wanted to point out was that they had moved from a caucus into this undefined status. They did get questions, and the questions were left to the discretion of the Speaker, that is to say, given the way Mr. Godin is accurately describing it, as I recall, they were using slots that had originally been allotted to the Progressive Conservatives, who decided to share with them, if I remember correctly. I wasn't suggesting that they were recognized in the House in any way. It's just that they were a collective as opposed to a sole individual.

•(1240)

Mr. Yvon Godin: Yes, but there again I'd like to know if they got any extra questions or if they just stuck with what the Progressive Conservatives were receiving. I don't recall how many there were. I think there were maybe six or seven or eight; I don't know, but did the Progressive Conservative Party have more questions than before? I'm not too sure about it. I'd like to know.

Ms. Audrey O'Brien: There were no changes made to the original agreement, but the Speaker did exercise discretion in the conduct of question period. There were no changes to the original arrangement.

The Chair: Thank you very much.

Go ahead, Mr. Owen, please.

Hon. Stephen Owen: I'm still worried about this issue of clarity.

After subsection 31.1(2), if we added the words "and so limited by subsection 31.1(1)", it would clarify the intention of subsection 31.1(2) as being not that members of political parties not officially recognized were excluded from asking questions, but rather that they were not limited to questions in the way that independent members are.

First I'll ask the clerk whether that would properly clarify the situation.

Ms. Audrey O'Brien: Mr. Chairman, I think that would.... Rather than saying they're not considered independent members, one could state it differently so that it said that for the purposes of this standing order, members of political parties not officially recognized in the House are not limited by the terms of this standing order.

The Chair: Go ahead, Mr. Godin.

Mr. Yvon Godin: Will that give the Speaker the opportunity to do what he's done in the past? We were a party recognized in the House, and from 1993 to 1997 we were a party not recognized in the House. We were a party when the Speaker decided to give us some

questions. It could be two, it could be four, and one person of the party could raise all the questions. There was no limit to it. At that time, Madame McLaughlin could have asked all the questions if she had wanted to. We don't want to be limited by this, that a recognized party....

The Chair: Colleagues, if I could just interject, it sounds to me as though there needs to be some work done on this motion.

I'm not sure how to get that information back to Mr. Guimond; it would be his responsibility to fix his own motion. We do not have a quorum to make a decision, so I'm going to have to stick with the committee's original decision to discuss this further on Tuesday. However, I think it would be appropriate for Mr. Guimond to be aware of our concerns with respect to this motion.

As the chair, I want to readvise members of decisions made earlier when we had quorum—that is, we're moving to clause-by-clause study of Bill C-54. I am going to be courteous to Mr. Guimond and offer him some time on Tuesday at the end of the meeting. If this is a long, drawn-out discussion, then I think we're in a little bit of trouble and I can't do anything about it.

Discussions on this issue are concluded, in my opinion. Is there any more business for this committee? We are in public.

I'll take a question from Mr. Godin.

Mr. Yvon Godin: I had one question. We're not in clause-by-clause. I could say it directly, but—

There is one question. We were supposed to get some experts, and they did not show up. Some of them are in retirement and they don't have to be here the day after we ask them, but we end up with no witnesses to question, except for one on the law of Ontario. We're not getting the expertise.

I don't know if we could get an answer to one of the questions I was looking for. What about the person and the association when they make a loan? It is three persons when they make the loan; is it the association that made the loan? Do you remember when I was raising that question?

The Chair: Mr. Godin, I wrote the question down exactly, and I believe we already have an answer, but we certainly have an opinion on the answer to that question.

Mr. Yvon Godin: Maybe it's not fair to give the answer because we don't have quorum, but before we start clause-by-clause—Could we get it before that, because we have to make amendments before 11 on Monday?

The Chair: We have asked the witnesses who could not appear today to offer their opinions on the report. We're not convinced we're going to get one, but it's been asked.

Mr. Yvon Godin: Could I get an answer by tomorrow at noon on the question I raised?

•(1245)

The Chair: *Oui.*

Mr. Yvon Godin: Okay. *Merci.*

The Chair: Any further business?

All good?

The meeting is adjourned.

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