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# **Standing Committee on Access to Information, Privacy and Ethics**

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**EVIDENCE**

**Wednesday, July 16, 2008**

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**Chair**

**Mr. Paul Szabo**

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## Standing Committee on Access to Information, Privacy and Ethics

Wednesday, July 16, 2008

• (1010)

[English]

**The Chair (Mr. Paul Szabo (Mississauga South, Lib.)):** I call the meeting to order. Pursuant to Standing Order 108(3)(h)(vi), this is a resumption of the study of the activities of the Conservative Party of Canada during the 2006 election campaign in relation to certain election campaign expenses and the ethical standards of public office holders.

Our witnesses again today are Mr. Marc Mayrand, who is the Chief Electoral Officer of Canada, and Mr. François Bernier, who is the director of legal services for Elections Canada.

We are going to resume questioning by the members. All the presentations have been made. I understand the members still have quite a few questions to ask, and we will continue until the members are at the point where they believe they have exhausted their substantive questions. It is indeterminate when that might be, so we'll just have to work through it.

I want to remind the members that we also have committee business to transact. We will continue this meeting for as long as it takes. Four o'clock may be on the notice, but that's only when the committee wants to adjourn; we have to deal with the future witness names that have been submitted.

A list from each party has been submitted to the clerk. They're being consolidated, and the duplicates will be eliminated. We will circulate to the members, in both official languages, the consolidated list of proposals by the committee for consideration during the rest of the time, until the end of the questioning of Mr. Mayrand. Then we will deal with our approach. Once we excuse Mr. Mayrand, I will suggest possible approaches for us to deal with a very, very large list.

I want to also share with the committee a concern that I have. As you know, in many of the meetings we had, particularly those with the Mulroney-Schreiber hearings, I repeated often that we must always treat all our witnesses with dignity and respect. Those are not just words. They're here at our invitation. I am somewhat concerned that allegations or statements have been made about our witness specifically, and about Elections Canada—characterizing them.

I understand there are some feelings about that, but I think it is getting very close to badgering of witnesses when you make allegations about their motivation or their position. As a member of Parliament, as the chair of this committee, as a colleague, I encourage members to please think twice about the issue of dignity and respect for our witnesses. I would really prefer that those kinds

of statements be restricted in this forum and that we deal with the matter before us.

Finally, as I did after yesterday morning, when we started the afternoon session, Mr. Mayrand, I gave you an opportunity to make any statement you felt was necessary to clarify any answers you had given or presentation points you made, or any other information you felt you would like to bring to the attention of the committee. I will give you that opportunity now to address the committee.

[Translation]

**Mr. Marc Mayrand (Chief Electoral Officer, Elections Canada):** Thank you, Mr. Chair. I would like to come back to some aspects of what was discussed yesterday and provide some clarifications. In fact, I would like to cover three aspects this morning, if I may.

The first deals with factors that were discussed at length yesterday, and led to my decision, which has been the subject of several discussions at this committee. It seems there is some confusion about those factors. I would first simply like to point out to the committee members that the word "factor" includes the word "fact". Yesterday there was a lot of talk about some of those factors that are not in the Act. I would simply like to point out that the Act requires that the Chief Electoral Officer certify that reimbursement for an expense may legally be made before that happens.

How does the Chief Electoral Officer determine that an expense is eligible? He does this by applying the definitions in the Act that provide that an election expense must be incurred by candidates at fair market value. In this case, it had to be determined whether the expense was actually incurred and whether it was in fact incurred at the commercial value, as the Act requires. I concluded that the expenses as submitted had not been incurred at their fair market value.

The facts that led to that decision are as I stated yesterday. The first fact was the lack of knowledge on the part of the candidates when they were questioned about the nature of the expense. That fact in itself is not sufficient for reaching a conclusion. However, we asked other questions, given the lack of knowledge about the expense. We asked for documentary evidence, for example the existence of contracts or documents that could have established a contractual arrangement between the campaign and the supplier of the service. Once again, the candidates were unable to provide us with that documentary evidence. The absence of sufficient documentary evidence is the second fact I considered.

The third fact was that the Party had made representations stating that all contractual arrangements had been made by the Party and invoices were sent to the Party.

The fourth fact was that the candidates received invoices from the party rather than from the service supplier, and the fact that the money used to pay the expense submitted to us was under the Party's control at all times. And the last fact was that the allocation of costs for the claims submitted to us did not reflect the fair market value.

These facts led me to conclude that, under the Act, the expense had not been incurred by the candidate and in any event did not represent the commercial value. I simply wanted to make these clarifications, in view of what I saw as being confusion yesterday.

The second aspect I would like to raise with the committee today deals with the nature of the questions I was asked yesterday. I tried, in all good faith, to answer the questions put to me as completely as possible. However, I noticed that some of the questions I was asked yesterday had already been asked in Federal Court during the cross-examination of Elections Canada representatives in the court case.

I simply want to point out that Ms. Vézina's testimony in Federal Court represents the position of Elections Canada in this case, that the affidavit of Elections Canada in the case is in the public domain and is part of the Court's record, that Ms. Vézina was cross-examined for nearly four days, and that the transcript of Ms. Vézina's cross-examination is now in the public domain because it has been placed in the Federal Court record.

•(1015)

Once again, I want to assure the committee of my desire to cooperate as fully as possible in its deliberations. However, in view of the fact that there is a case before the Court, I must refuse to answer questions that are now before the Court, out of respect for the courts. I would also not want anyone to accuse me or accuse Elections Canada of using this forum to improve its position in the courts. I would like the committee's assurance that it understands this.

The third aspect I would like to come back to this morning, further to my testimony yesterday, deals with the allegation of a leak in relation to the search that took place in this case. Although I find it hard to see any connection with the committee's terms of reference and the motion before the committee, I confirmed that the allegation made in the media had disturbed me. I also informed the committee that at the time I had quickly done a brief review of the situation and come to the conclusion that, in my opinion, there were no reasonable grounds to believe that there had been any leak originating with Elections Canada.

I understand that there is a motion before the committee that could request me or direct me—it was not entirely clear from what I heard yesterday—to order an independent investigation. Before committing public funds for such an investigation, I would ask, with all due respect, that the committee, if it considers it appropriate, state the considerations that might prompt it to pass such a motion, specify the allegations regarding the leak, and, if possible, specify the sources of the leak. I would also ask that the committee specify as best it can what the ins and outs of the investigation would be, so that the terms of reference for an independent investigator could

clearly state the committee's expectations and, if the motion were to be passed, the report could meet the committee's expectations.

•(1020)

[English]

**The Chair:** Thank you, Mr. Mayrand.

I think for you and me, in our discussions, it was very clear from the beginning, and I know it was reflected in the view of Elections Canada, in your consultation with your executive board, that matters that may either prejudice or compromise the court proceedings are matters that you should not go to. This is the understanding I had with you. And I fully understand, given that you are now identifying that the questions coming out appear to be questions that were already posed to Elections Canada and its representatives at the proceedings, that to give any other answer would not happen. It's the same answer. And since all those questions and answers are on the official record and are available, and I understand that members have them, to repeat them here probably is not going to be additive to the knowledge of the members for our purposes.

So I accept your assessment of this situation with regard to asking questions already asked in the court. I would ask that you so indicate should a question be posed to you that you believe has been answered in the Federal Court proceedings—the judicial review—and we will move on to another question.

**Mr. Pierre Poilievre (Nepean—Carleton, CPC):** On a point of order, Mr. Chair, there is nothing in the Standing Orders that would forbid a witness from answering a question that might also have been asked in a court. In fact, quite to the contrary, nothing the witness says here can be used in a court proceeding and in no way, then, could be used to interfere with that proceeding.

Finally, it was the decision of this committee, and ruled upon by you, that these hearings could go ahead in spite of the fact that civil proceedings are under way. That decision was made by this committee, despite cautions from Conservative members. Now that the committee has made that decision, we insist, as members of Parliament with privileges that come along with that, that the witness answer our questions and not use the cover of a court proceeding to avoid answering the questions that are posed to him.

**The Chair:** Thank you, Mr. Poilievre. It is debate, but I think it's important to deal with it.

First of all, the committee passed a resolution to deal with this matter and at that meeting authorized the chair to arrange for Elections Canada to appear.

That was on the Thursday. On the Friday when I flew home, the first thing I did was to contact Mr. Mayrand, and we entered into some discussions. It was clear right from the outset that Elections Canada had concerns about appearing, since there were proceedings going on. There were concerns about potentially prejudicing or compromising those civil proceedings. It's clear that it's *sub judice*. It is not mandatory, but it is self-imposed. It is a self-imposed position that Mr. Mayrand has taken. He made those representations to me right at the outset. Under the authorization of the committee, because the committee still wanted to have Mr. Mayrand, I asked him to appear with the understanding that we would not put him in a position in which he might compromise or prejudice other proceedings. That is the deal I made with Mr. Mayrand on behalf of the committee.

Mr. Mayrand has up to this point accommodated us probably beyond where he had imagined we would go. But now he has raised with us—and I guess with me—that this was our understanding. I would also advise the members that I wrote a letter to Mr. Mayrand that outlined this understanding, and it was circulated to all members of Parliament. It dealt with the issue of potential compromise or prejudicial statements with regard to the civil proceedings. So the members were aware of this before these proceedings started.

Notwithstanding, Mr. Poilievre, I made the deal. Mr. Mayrand is imposing upon himself, which is the normal practice, the convention. He has said that he will not be able to answer questions that have already been posed in the federal proceeding and will advise us should those questions be posed again here. If he does so, by imposing that convention, I will accept his declaration, and the question will not need to be answered by him. That is my ruling.

•(1025)

**Mr. David Tilson (Dufferin—Caledon, CPC):** On a point of order, Mr. Chairman, you just made a comment that this is standard practice. I'd like to know what authority says this is standard practice. It is not standard practice. I spent about 45 minutes pointing out to the committee how holding this hearing would prejudice some others. There are three or four different proceedings or investigations going on. Yet the committee insisted that this matter take place. I went through it all. There was a report made by a House of Commons committee a number of years ago on this very point, and yet the committee insisted that we ram this through.

Are you telling us that we're kind of holding a hearing, but then again we're really not? Are you and the witness going to decide which questions are okay and which aren't? That's not the way to hold a hearing in this place. That's not the way we do things. Mr. Poilievre is quite right. The information that he gives in these proceedings cannot be used against him in a court of law.

Quite frankly, everything you're saying about some questions being okay and other questions not being okay is a lot of nonsense. If we're going to continue with this hearing, I say we should be allowed to ask any question we wish. We shouldn't be overruled by you. You shouldn't be telling us that pertinent questions are inappropriate. Sir, if you're going to do your job, do your job.

•(1030)

**The Chair:** Thank you for your input. That's debate; it's not a point of order.

Order, please.

Mr. Goodyear, could I just take a moment?

Before I go to your point of order, Mr. Goodyear, Mr. Tilson has asked about the *sub judice* convention and why I think I have interpreted it as incorrect. This is from Marleau and Montpetit, specifically to do with the *sub judice* convention, and it's page 78 for the members' reference.

It says that it is accepted practice that in the interests of justice and fair play, certain restrictions should be placed on the freedom of MPs to make reference to criminal cases awaiting judicial decisions. The word "convention" is used as no rule exists to prevent Parliament from discussing a matter that is *sub judice*. The acceptance of a restriction is a voluntary restraint—I referred to it as self-imposed; it's voluntary—to protect an accused person or other party to the court action from suffering any prejudicial effect from public discussion of the issue.

Accordingly, with the reference to parliamentary authority, my decision with regard to Mr. Mayrand's claim and the voluntary imposition of the *sub judice* convention is that I accept, and we're going to proceed on that basis.

**Mr. David Tilson:** Well, sir, you have opened up, on my point, the issue of Marleau and Montpetit.

**The Chair:** Order. Order.

**Mr. David Tilson:** You just can't.... Surely you have to hear us on these things. Are you just saying this is the way it is; it doesn't matter what you think or what you say; this is the law? That's absolute nonsense, and I would like to have the opportunity to respond to what you just said. You know, surely in the fairness of parliamentary procedure you should hear all arguments.

And this is a very contentious issue, the issue as to whether witnesses.... I mean, otherwise they could say, "Well, I don't know the answer to this, but I'm not going to answer it because it's before the courts." Well, that isn't the way it works in this place. So Marleau and Montpetit, at page 863, says—

**The Chair:** Order, please, Mr. Tilson.

**Mr. David Tilson:** It's only a few short sentences, sir.

**The Chair:** Order.

**Mr. David Tilson:** There are no specific rules governing the nature of questions which may be put to witnesses appearing before committees, beyond the general requirement of relevance to the issue before the committee....

Particular attention has been paid to the questioning of public servants. The obligation of a witness to answer all questions put by the committee must be balanced against the role that public servants play in providing confidential advice to their ministers.

So I'm saying, sir, that it's fine for you to read that section, but this section makes it quite clear that there are no specific rules governing the nature of questions, as you have suggested.

**The Chair:** Now, just give me a moment, please. We can unravel this.

Mr. Tilson, you rose on a point of order and I gave you an opportunity to go on. And I ruled that it was not a point of order; it was debate. But during your statements to the committee, you suggested that I can't do that because it's not in the rules. I quoted to you from Marleau and Montpetit, which is incorporated by reference into the way we conduct our business, on the specific matter before us, which is the *sub judice* convention. I ruled accordingly. I ruled that that was my decision.

At this point, if the members want to overrule the chair, their only opportunity at this point, now that I have made a ruling and said that's my decision, is to challenge the decision of the chair. Okay?

Now, I have a point of order now from Mr. Goodyear. Mr. Goodyear, please.

• (1035)

**Mr. Gary Goodyear (Cambridge, CPC):** Thank you, Mr. Chair.

Just very quickly, I'm going to ask you a question, but the fact is that on June 19 Mr. Tilson spent 45 minutes, and I spent almost an hour, explaining to the committee that we would not get all the answers because of *sub judice*. And this is exactly what's happened. Despite that, the members opposite chose to spend taxpayers' dollars to have a hearing that can't get the answers.

However, here's my point, Mr. Chair. You did send a letter, on your own accord, telling the witness which questions to answer and which questions not to answer. I have a copy of the letter, and I respect that. Prior to making that comment, Mr. Chair, you stated just a few minutes ago that you contacted committee members to make sure this was the way we would go ahead. Sir, you did not contact me.

I would like a list of the Conservative members you actually contacted. Or was this another unilateral decision made by a chair who has been appointed by the Liberal Party and is in fact a Liberal member?

**The Chair:** Just for my information, you said that I indicated I had contacted members?

**Mr. Gary Goodyear:** Members. You contacted the committee.

**The Chair:** When was that?

**Mr. Gary Goodyear:** Well, we'll have to get the minutes. It was about seven minutes ago when you were making your statement that you contacted committee members and that we would proceed in this fashion. Then after that, you alluded to the letter you sent to Monsieur Mayrand, which in fact does tell him which questions to answer and which not.

**The Chair:** Okay. No, I think you misheard me maybe.

**Mr. Gary Goodyear:** Well, then clarify.

**The Chair:** That was the meeting on the Thursday, when we took the vote on the motion before us today. And on that Thursday, was that July 14?

**Mr. Gary Goodyear:** It was July 19.

**The Chair:** June, sorry, the Thursday. Once we passed it, the committee members authorized the chair to make the necessary arrangements to have Elections Canada appear.

**Mr. Gary Goodyear:** That's true.

**The Chair:** Okay. And that's exactly what I did. And then the meeting was over, and the next thing I did, after contacting Mr. Mayrand, was send the letter to him and circulate it to the committee.

**Mr. Gary Goodyear:** That's not what you said two minutes ago. That's not what you said five minutes ago.

**The Chair:** I'm sorry. Maybe I misspoke, but I don't think any record will show from that Thursday meeting that I undertook to contact all of the members on anything. I was authorized by the committee to do it myself.

**Mr. Gary Goodyear:** By yourself. So you were authorized.

**The Chair:** No, the committee authorized me to make the arrangement.

Now, first—

**Mr. Gary Goodyear:** To make the arrangements for the witness to appear, I totally agree. But as for instructing the witness which questions to ask and which questions not to ask, I don't recall giving you authorization to do that. I don't recall being asked if we could limit the witness questions.

**The Chair:** Order, order.

You're putting words in my mouth, Mr. Goodyear.

• (1040)

**Mr. Gary Goodyear:** I'm absolutely not doing that, sir.

**The Chair:** The fact is that—and I think Mr. Mayrand may back this up—on the contrary, I never discussed with him the questions he could or could not answer. In fact, in the letter I wrote to him I actually said that I wanted to give him all the time he needed to put the information on the table for the benefit of the members. And it's in the letter.

Now, this is somewhat debate. I think the transcript of that Thursday meeting, the last meeting of the committee before the House rose, will show what the committee authorized the chair to do, and that's precisely what I did.

Now, with regard to the *sub judice* issue, I have made a ruling and I want to proceed on that basis. I've made the decision. I believe we should get on with the questions, and I'm sure that Mr. Mayrand will answer as many questions as possible. But if they are simply going to be starting at the beginning and just reading all the questions that were asked in the court and asking him to answer on behalf of Elections Canada again, he probably will invoke the *sub judice* convention.

**Mr. Pierre Poilievre:** I have a point of order, Chair.

**The Chair:** Now, I hope this is a point of order.

Mr. Poilievre.

**Mr. Pierre Poilievre:** Yes, on an entirely separate matter, on page 78 of the same book, *House of Commons Procedure and Practice*, a reference is made to restrictions placed on members of Parliament to make reference in the course of debate to matters awaiting judicial decisions. All the matters that we are discussing in these hearings are awaiting judicial decisions. I'd like to seek your guidance on how we can discuss any of this if we are not allowed to discuss that which awaits a judicial decision.

**The Chair:** Thank you.

That's not a point of order. That's debate.

**Mr. David Tilson:** Sure it is. It's a point of order.

**The Chair:** That is debate, and I have ruled on this matter.

Colleagues, I can tell you that the first and most important matter I dealt with, with Mr. Mayrand, in making the arrangements for Elections Canada to appear before us was to give him my full assurance with regard to matters that may prejudice or compromise any court or judicial proceeding.

Notwithstanding others' opinions and arguments or references, I can suggest to you that my word is good, Mr. Mayrand, and that I made the understanding with Mr. Mayrand on the full authorization of the committee to go and make the arrangements with Elections Canada. If I've overstepped in terms of doing that, the members may want to deal with me personally. This has nothing to do with Mr. Mayrand. That was my word to him, it was confirmed in writing, and it was also laid out by Mr. Mayrand in his opening remarks. That was the purpose of his opening remarks, to remind us that there was this issue of other proceedings.

So I was clear with Mr. Mayrand and he was clear with me. I thought I was clear with the committee. I thought Mr. Mayrand was clear in his opening statement. I've reaffirmed all this and I've made a decision. That's my ruling.

**Mr. Pierre Poilievre:** On a point of order, Chair—

**The Chair:** This matter is now over. That ruling has been made.

**Mr. Pierre Poilievre:** I have a separate point of order.

Given your last ruling—and I'm not going to challenge that ruling at all—that members are not able to repeat questions that have been asked in court proceedings, it is consistently flowing from that ruling that there be another ruling that the Chief Electoral Officer not be permitted, then, to repeat arguments that Elections Canada has made in those same proceedings.

**The Chair:** Okay, Mr. Poilievre. Again, thank you for the debate. That's not a point of order, and I would ask all honourable members to be careful about interrupting the committee on points of order that are in fact simply opportunities to say things before this committee. We shouldn't abuse that privilege that members have.

I want to move on now to—

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** I have another point of order. This is related, but—

**The Chair:** Okay, Mr. Reid.

**Mr. Scott Reid:** Thank you, Mr. Chair.

You've made a ruling. I think your ruling is wrong, but I'm not going to challenge it, because I anticipate that you would be sustained by the other side. They've sustained you in wrong rulings you've made in the past, causing this entire hearing, in fact, to be out of order. I've made that debate in the House of Commons, and you can consult *Hansard* as to what I said.

I predicted this would become a court of star chamber and I urged the Speaker to effectively suspend the committee so that this court of star chamber wouldn't occur. It now appears to be unfolding as I anticipated. I anticipate that he will find the report not receivable on that basis.

I also argued that the very holding of the committee meetings would effectively do the damage that the Liberals and other opposition parties are seeking to do in tarnishing reputation by dealing with matters before a court.

Having made that preamble, Mr. Chairman, I don't doubt that following your ruling it will now be possible for Mr. Mayrand to say effectively, "On the advice of my solicitor, I refuse to answer that question because it deals with a matter that might reduce my capacity to win a case currently before the courts." However, it also seems to me—

**The Chair:** Order, please.

**Mr. Scott Reid:** I'm just about to get to the point.

• (1045)

**The Chair:** Order.

Okay, all of this is debate and opinion. It is not a point of order. I'm going to insist, since there seems to be a pattern here of making speeches, and I want to—

**Mr. Scott Reid:** My point, Mr. Chair, is the following, and I think I should be able to—

**The Chair:** I want to now—

**Mr. Scott Reid:** Mr. Mayrand may make the argument that it wouldn't be appropriate for us to ask what exactly was said in court, because the documents are in front of us, and that's a reasonable—

**The Chair:** Order, colleagues. I think a reasonable request is for order and decorum and respect for the chair.

I've made rulings. I've been clear. I've been patient about what members have asked about points of order. They have not been points of order. So I'm going to ask members, if they take the floor on a point of order, as I have in all the other meetings—I hadn't done it in this one, because I was hoping that members would have understood that it was important that we be careful about using this tool—to first state the nature of the point of order before arguing it.

I'm going to ask members who call on a point of order—any members—to state that it's either relevance, repetition, or procedural. There are very few others you can go to other than that you want to state your opinion, which is debate, and debate is not permitted on a point of order.

I want to leave it at that. I think the members are clear on how we should conduct ourselves.

**Mr. David Tilson:** I have a point of privilege.

**Mr. Gary Goodyear:** Now, that's an easy one to rule on, Paul.

**The Chair:** No, the member has rights, and all members' rights have to be respected. If you disrespect one member's rights, then you disrespect all members' rights.

Mr. Tilson, on a point of privilege.

**Mr. David Tilson:** The point of privilege, Mr. Chairman, is because of your ruling, which says that if questions have been asked in any other proceedings—court proceedings, investigatory proceedings, which is probably not a word, the different proceedings such as civil, criminal, and every other sort of thing—those questions cannot be asked. My point of privilege is that because of that ruling, I don't know what questions—

**The Chair:** Order, please.

**Mr. David Tilson:** Sir, surely to goodness you can listen to my point of privilege.

**The Chair:** Order, please.

**Mr. David Tilson:** So you're not going to listen to my point of privilege. There's another point of privilege. You're not listening to my point of privilege. It's outrageous, your conduct in here, Mr. Chairman.

**The Chair:** When the chair calls order, it's because the chair has determined that he has heard enough and that he understands.

Mr. Tilson, with respect, sir, you are continuing to debate a matter on which I have already ruled and are making conclusions about what can be asked or not asked. This is all—

**Mr. David Tilson:** That's not what I said.

**The Chair:** Excuse me, that's exactly what you said, Mr. Tilson, and Mr. Tilson....

I'm going to suspend.

•(1045) \_\_\_\_\_ (Pause) \_\_\_\_\_

•(1100)

**The Chair:** We're resuming the meeting.

Okay, colleagues—

**Mr. David Tilson:** Mr. Chairman, I want to apologize for my latter comments to you. They're inappropriate and I withdraw them.

**The Chair:** Thank you, Mr. Tilson. I accept your apology graciously and sincerely. I know that we do get into the heat of things, and I appreciate the gesture.

Colleagues, the only way I can simply put this is that I, as chair, am hoping that we will be able to discharge our responsibilities by

completing our questioning of this witness and getting on with the other business that we had said we would deal with before we rise today. It's still my intent.

With regard to the matters we have been discussing for a short while, as simply as I can put it, I made an arrangement and an understanding with Mr. Mayrand for Elections Canada to be here. What was discussed and what has been represented to you is the arrangement that I made with Mr. Mayrand. Those are the terms and conditions under which he agreed to appear. I gave him my word. I notified all appropriate parties of that fact and I'm sticking by my word. I've taken a decision and I want to proceed with the remaining questions for Mr. Mayrand until members have completed them.

If Mr. Mayrand is invoking the *sub judice* convention, I think he will indicate so to us, and we have to accept that, because it's the deal that we made.

So I have no idea how long questioning is going to go on, but the sooner we start the sooner we will complete it.

**Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.):** I have a short point of order.

**The Chair:** For the benefit of those who may not know, I'd like to read a couple of sentences from Marleau and Montpetit, which is one of the compendiums of rules of order and decorum that we follow. It has to do with points of order. It's on page 538, and says:

A point of order is a question raised by a Member who believes that the rules or customary procedures of the House have been incorrectly applied or overlooked during the proceedings. Members may rise on points of order to bring to the attention of the Chair any breach of the relevance or repetition rules, unparliamentary remarks, or a lack of quorum.

Those are the guidelines that I have been following, and I hope members will refresh themselves on the matters that are eligible for points of order.

Madam Jennings, on a point of order.

•(1105)

**Hon. Marlene Jennings:** In which case this is not a point of order, but simply a request.

Monsieur Mayrand made reference to the fact that four days of testimony have been made public, because the transcripts have now been filed with the Federal Court. So I was simply going to request of the clerk, through you, Mr. Chair, that copies of those transcripts in both official languages be made available to all members of the committee.

**The Chair:** Okay, thank you, Madam Jennings.

You're quite right that it is not a point of order, but it is in order for a member to request that where a witness or other party has made reference to a document in the public domain that is not generally circulated to all of the committee members but is relevant to our work, that should be done.

Therefore, I would request, Mr. Mayrand, that you facilitate the committee, if you could, by providing us with a copy of the transcript to which you refer. There are two documents—and of course they should be in both official languages, which I understand they are.

**Mr. Marc Mayrand:** They are not in both official languages.

**The Chair:** They are transcripts, and we will have to translate them. Thank you.

Thank you, Madam Jennings. It's certainly in order for you to make that request.

I want to now move to the questioning of Mr. Mayrand. I believe Mr. Dhaliwal is the lead.

You have five minutes, Mr. Dhaliwal.

**Mr. Sukh Dhaliwal (Newton—North Delta, Lib.):** Thank you, Mr. Chair.

Mr. Mayrand, thank you again for your patience and for yesterday's testimony as well.

Mr. Mayrand, I am just thinking about some of the allegations that touch upon the issue of fraud and forgery. Has Elections Canada received any advice from the RCMP or the Director of Public Prosecutions in reference to those?

**Mr. Marc Mayrand:** Again, the matter of the transactions related to these purchases is currently under investigation by the Commissioner of Canada Elections. I will not comment on the scope or content of that investigation.

**Mr. Sukh Dhaliwal:** How many of these 65 candidates who achieved greater than 10% of the vote received taxpayer rebates prior to Elections Canada realizing the existence of this scheme or scandal, and do you have the total amount that Elections Canada has rebated?

**Mr. Marc Mayrand:** My recollection is that there were 17 candidates reimbursed before the issues came out regarding the various transactions. As to the exact amount that these claims represent for those 17 candidates, I would have to come back to the committee on that figure.

**Mr. Sukh Dhaliwal:** Thank you.

Are any of these sitting MPs? Can you tell us which ones? Are there any public office holders out of those 17?

**Mr. Marc Mayrand:** Again, in my presentation yesterday, I did provide the list of public office holders.

**Mr. Sukh Dhaliwal:** It was the list of those 17?

**Mr. Marc Mayrand:** No, I'm sorry, there were only 10 public office holders. I provided the list that was submitted by the chair indicating when these office holders presented their returns to Elections Canada.

**Mr. Sukh Dhaliwal:** I'm certain you provided that list of those people, but I'm particularly interested in whether they have received those rebates that they should be receiving.

• (1110)

**Mr. Marc Mayrand:** I have some information here. Some of them have received reimbursement. Among the public office

holders, there are some who did receive reimbursement or parts of the same thing.

**Mr. Sukh Dhaliwal:** Do you know offhand which ones those are, or would you like to provide that to us later on?

**Mr. Marc Mayrand:** I can provide it later on. We need to review the information to make sure that it's absolutely accurate.

**Mr. Sukh Dhaliwal:** If we were to head into an election before the judicial review was resolved, is it possible that some of these candidates might campaign again with what might be deemed ill-gotten taxpayers' rebates, or have you sent them any letter to suggest that they should be putting that money aside?

**Mr. Marc Mayrand:** I have not taken any steps to recover the funds at this point in time. That's because of the dispute currently before the Federal Court.

**Mr. Sukh Dhaliwal:** My next question to you is in reference to a letter dated January 15, 2007, from Mr. Andrew Kumpf. You mentioned that Retail Media told Elections Canada that it did not issue invoices to candidates who participated in this scheme. Can you explain, then, why Andrew Kumpf's January 15, 2007, letter to Elections Canada appears to contradict what Retail Media told an investigator from the elections commissioner's office?

In this letter to Elections Canada, Mr. Kumpf states, and I quote, "appropriate invoices reflecting goods and services rendered were separately issued to participating Conservative Candidates and to the registered party...". Has Retail Media explained this discrepancy? What will be the possible charges and penalties existing for someone like Mr. Kumpf, who may have made false statements to Elections Canada in order to help the Conservative Party hide the truth?

**Mr. Marc Mayrand:** This is a matter that is part of the investigation. I can't comment.

**The Chair:** Mr. Hiebert.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Mr. Mayrand, I'm going to continue along the line of questioning that I took yesterday. Considering that you were the one who raised these matters, I trust they're within the realm of questions that you can actually answer.

By way of clarification, you stated that the five factors are really five facts, but they are still a test. What makes this clear to me is that you applied them as a test to the other parties. You stated that all the other major parties had their returns reviewed for the 38th and 39th general elections, and that these five facts were identified.

In your reasoning, you've stated that all five facts are essential, and that only the presence of all five facts can justify the decision that you came to. As a matter of logic, if any one of your five facts is flawed, your conclusion is also flawed. I'd like to review one of your five facts in a bit of detail, to unpack it a little bit, because I think there's a flaw here that completely unravels this house of cards that you've established. But before I get to that, I want to get some administrative questions out of the way.

You said that these five facts were investigated in the other parties in the 38th and 39th general elections. I assume, then, that you have some paperwork that would substantiate the investigation applied to these other parties. Could you provide that documentation to the committee?

**Mr. Marc Mayrand:** Again, this is a matter that's before the court.

**Mr. Russ Hiebert:** Oh, no, no, no, we talked about this yesterday, Mr. Mayrand.

**Mr. Marc Mayrand:** I understand that. Let me finish.

I'm certainly willing to provide the committee with information that we have on this matter.

**Mr. Russ Hiebert:** I look forward to seeing that, because I'd love to see how the other parties stack up on these five facts and to see what level of detail was engaged in to make sure that they did or did not apply.

I also wanted to know who first identified these five factors as being critical. Was this something that you or somebody on your staff made up? Who identified these five factors as being critical?

• (1115)

**Mr. Marc Mayrand:** These facts come out of the analysis of the returns that were filed with Elections Canada. These are the facts that were observed regarding the files.

**Mr. Russ Hiebert:** By whom?

**Mr. Marc Mayrand:** By the auditor and various people in Elections Canada.

**Mr. Russ Hiebert:** So a particular auditor identified these five facts as being critical to the test?

**Mr. Marc Mayrand:** I can't say that it was one auditor. In the process I described yesterday, where matters are raised for an auditor, the auditor brings it to his team leader, who then—

**Mr. Russ Hiebert:** Who made the order to have the other parties' 38th and 39th returns investigated for these five facts?

**Mr. Marc Mayrand:** I requested—

**Mr. Russ Hiebert:** You did.

**Mr. Marc Mayrand:** I requested my staff to conduct an analysis of the information to detect whether there was any indication that similar transactions had occurred for those two elections.

**Mr. Russ Hiebert:** So you identified these five facts, or did somebody give you a document saying you should really look back to the 38th and 39th election returns for these five facts to see if they're also present?

**Mr. Marc Mayrand:** That analysis was conducted well after the matter was put before the court. These factors or facts were already before the court—

**Mr. Russ Hiebert:** But who identified them?

**Mr. Marc Mayrand:** As I indicated earlier, following the process that exists at Elections Canada, questions arose in the review of returns, those questions—

**Mr. Russ Hiebert:** Mr. Mayrand, you're not answering my question, but I'm going to continue because I have a limited amount of time.

Have you ever worked on a campaign as an official agent?

**Mr. Marc Mayrand:** No. If I had, I don't think I would be eligible to be Chief Electoral Officer.

**Mr. Russ Hiebert:** I didn't think so, but I thought I'd investigate that.

I want to remind you that it's volunteers who work on these campaigns. These are unpaid individuals who usually work part-time in the evening. They do it for the love of their country. They're not getting paid. They're not financial experts or accountants generally, but they're there to help.

You've admitted that there's no basis in law, no point in the Elections Act that refers to these five facts, but you've identified them nonetheless. I put it to you, Mr. Mayrand, that they're neither reasonable nor legitimate.

Take the topic of television advertising. Although I'm no expert on the matter, I can only presume that it's a very complicated process involving multiple players, including graphic designers, actors, sound technicians, musicians, and television stations, to name only a few. I think it's absurd to suggest that every candidate who participates in television advertising would have his official agent understand the detailed knowledge that you're expecting about all these aspects. With the possibility of an election being around the corner, presumably you have put some thought into what election campaign advertising Elections Canada will be doing, since you're the person who's ultimately responsible for the budget for Elections Canada.

I was wondering if you could answer some of these detailed knowledge questions. What, for example, is the advertising budget for Elections Canada in the next election?

**Mr. Marc Mayrand:** It's around \$1 million.

**Mr. Russ Hiebert:** Around \$1 million. Do you know how it is divided between radio, print, Internet, and television?

**The Chair:** Mr. Hiebert, I apologize, but we are already at six minutes.

Mr. Mayrand, is there anything you want to say to complete your response there? I'll have to move on.

**Mr. Marc Mayrand:** I would simply say that these points are being made in court currently.

**The Chair:** Thank you, sir.

Madame Lavallée, please.

[Translation]

**Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ):** Thank you, Mr. Chair.

First, Mr. Mayrand, I would like to thank you for the clarifications you provided at the beginning of the meeting, and remind you that on April 29, all parties represented at this table, with the exception of the Conservatives, voted in favour of the Bloc Québécois motion to reaffirm our confidence in Elections Canada and the Chief Electoral Officer. So I wanted to reiterate that expression of confidence.

I would also like to take this opportunity, because we do not often have an opportunity to speak, here, to tell you that the Bloc Québécois will be voting against the Conservatives' motion requesting that you hold a public investigation into the lead that led to television cameras being present at the scene of the search you conducted with the help of the RCMP, because at this point the Conservatives are just feigning indignance.

They are asking you to conduct a public investigation, but they themselves conduct internal investigations. In the Maxime Bernier case, they did a hasty little investigation at Foreign Affairs. On the leak relating to Barack Obama and NAFTA, they did another hasty little internal investigation, and now they are asking you to a public investigation. That makes no sense, and that is why the Bloc Québécois will be voting against the motion.

We know, and we have just seen, that they are doing everything they can to divert attention and stall, as they did for the 10-hour discussion that resulted in you appearing here yesterday and today. They continually stall and raise points of order, each more far-fetched than the one before, to avoid discussing the real issues. Even when they talk about the searches, they change the subject. We get the impression that what shocks them is not the search, it's the fact that it was broadcast on television. In fact, when your position is indefensible, that is the only path to take.

Yesterday, Mr. Mayrand, you told me, me personally, that you did not know whom the advertising expenses should be allocated to. Groups of transactions were formed, and you said that all you knew was that the expenses were not attributable to the candidates. You have just reiterated that the official agents did not know that those expenses had been incurred, that there was no documentation, that the contracts were signed not by the candidates or the official agents but by the Party itself, and that the invoices were produced by the Party. In fact, everything was done under the control of the Party. In addition, the price paid was not the fair value.

Mr. Hiebert just said that the official agents were volunteers, activists. But the official agents, ordinarily, under the Act, and you can confirm this in a moment, it seems to me that they have to sign the documents that makes them accountable for the things they do. This is a very important position in a party. These aren't people checking things off on a list, their job is to be official agents and oversee a party's campaign expenses. That is so important that there are people in my riding who would not want to hold the position because they know that even though it is volunteer work, they are subject to a heavy code of ethics. I would like you to confirm that for me in a moment.

In a nutshell, the expense was not incurred by the candidate, by the official agent. So when we want to know whom to allocate the expense to, we can ask, to put it somewhat simply, who profits from the crime. But we have to ask where the money came from. In your documents, when we look to see who transferred the funds, we see that it was the Conservative fund. So I would like you to talk a bit about where the funds came from, for the official agents to sign cheques to Retail Media with their eyes shut, I suppose.

• (1120)

[English]

**The Chair:** We've already used up four and a half minutes of the five minutes for this slot. I will allow you to respond to the best of your ability to her questions, but then we'll have to move on to the next questioner.

Mr. Mayrand, please.

**Mr. Marc Mayrand:** Thank you, Mr. Chair.

[Translation]

On the question of official agents' qualifications, the Act does not require membership in an association of professional accountants. To my knowledge, it is left up to each campaign to decide who will be recruited to do that job.

On the question of allocating expenses, as I said yesterday, when I made my decision, over a year ago now, I did not know the facts that have now been placed on the court record as a result of the investigations or the proceedings in Federal Court. I therefore could not have considered that information in relation to allocation of the expenses. That decision is yet to be made.

[English]

**The Chair:** Thank you very much.

Go ahead, Mr. Poilievre, please.

**Mr. Pierre Poilievre:** I'll allow Mr. Hiebert to finish off his questioning.

**The Chair:** Go ahead, please, Mr. Hiebert.

**Mr. Russ Hiebert:** Thank you, Mr. Chair.

Just before the last question, Mr. Mayrand, I was asking you some questions about your role as the chief executive officer of your organization, the one who is ultimately responsible for your budget. I'd asked you what your advertising budget is for the coming election. How much did you say it was?

**Mr. Marc Mayrand:** It's a few million dollars for a campaign.

• (1125)

**Mr. Russ Hiebert:** Does "a few million dollars" mean \$5 million, \$20 million?

**Mr. Marc Mayrand:** It's less than \$5 million.

**Mr. Russ Hiebert:** Could it be \$1 million?

**Mr. Marc Mayrand:** It's more than \$1 million. I can come back to the committee with the exact figure.

**Mr. Russ Hiebert:** So you're really not sure; you don't have that kind of level of detailed knowledge about the amount.

I was going to ask you, then, how that budget is divided in terms of dollars between print, radio, Internet, and television.

**Mr. Marc Mayrand:** I will provide the committee, if required, that information.

**Mr. Russ Hiebert:** But you don't have that level of detailed knowledge?

**Mr. Marc Mayrand:** In my mind right now, at this point, no, and I don't want to mislead the committee. However, I would be happy to provide information in that regard.

**Mr. Russ Hiebert:** Realistically, Mr. Mayrand—

**Mr. Marc Mayrand:** That's part of our main estimates.

**Mr. Russ Hiebert:** I appreciate that you can't answer these questions; I really do. I wouldn't have expected you to have the answers to these detailed questions, and neither would I think it reasonable to expect an official agent to have the answers to these detailed levels of questions, considering that these are, again, volunteers who are working part-time to assist the democratic process.

Mr. Mayrand, you've stated that these five facts are essential to your decision. Then you made an opening statement this morning that confused me a little bit, because from your testimony yesterday I got the impression that you were trying draw these five facts or factors from the Elections Act, but then you said this morning that they were simply more like five facts.

Could you clarify it for me? Are any of these five facts identified in the Elections Act?

**Mr. Marc Mayrand:** This is a matter before the Federal Court. It's being argued and disputed before the Federal Court, and I would refer to the proceedings before the Federal Court.

**Mr. Russ Hiebert:** Actually, that's not—

**The Chair:** Go ahead, Mr. Poilievre, on a point of order.

**Mr. Pierre Poilievre:** The witness has indicated to this committee that he can't answer this question. Because he introduced the subject material of the question in his opening presentation and in subsequent declarations, I'd ask that you call upon the witness to answer the question.

**The Chair:** In the outline Mr. Mayrand provided to us, he indicated that he would outline the factors affecting his decision, which he has done, and which he has reaffirmed in a number of questions. It would appear to me that the issue now being addressed to Mr. Mayrand is about the sourcing of those factors and about defending them, as opposed to just identifying them.

Mr. Mayrand has indicated that this is the substance of the court proceeding. The factors he took into account to sustain his decision not to reimburse those expenses are being dealt with in that Federal Court civil proceeding, the judicial review.

I believe Mr. Mayrand is quite correct; this is fundamental to the determination of that judicial body as to whether or not those reimbursements are there, so I will accept Mr. Mayrand's refusal to respond any further on that matter.

Mr. Hiebert, resuming, you have two and a half minutes to go.

**Mr. Russ Hiebert:** Mr. Chair, I can't help but think that this is just a Liberal PR stunt to prevent us from asking legitimate questions before this committee. It's unbelievable. But I will continue.

Mr. Mayrand, I'm looking at the document you submitted to this committee called "The Regional Media Buy Program". It's dated July 2008. Pages seven through nine identify these five factors that you raised before the committee. I'm simply trying to ask a question

that helps us understand the source from which you found these five factors. You're declining to answer the question. I invite you to answer the question again, but if you again decline, I can only assume that the answer is negative, that there is no basis in the Elections Act for any of these five factors, which puts you on very shaky ground.

Mr. Chair, I'm going to move to another related line of questioning.

A couple of minutes ago, Mr. Mayrand, you stated—and this is where I need clarification—that "the facts came up after prosecution had already commenced". Did I hear you correctly? Did you say something along those lines?

• (1130)

**Mr. Marc Mayrand:** I have said repeatedly since yesterday that new facts have emerged since my initial decisions were made.

**Mr. Russ Hiebert:** Okay, so you're referring to new facts, not these five factors or facts. Is that correct?

**Mr. Marc Mayrand:** New facts have come up since last year when I made the decision.

**Mr. Russ Hiebert:** Okay, so the five factors were identified before this went to prosecution.

**Mr. Marc Mayrand:** The five facts led to my decision to refuse the claims as submitted.

**Mr. Russ Hiebert:** Okay.

I want to clarify one more thing, and that's my request for documentation. You said you directed your staff to look for these five factors in the 38<sup>th</sup> and 39<sup>th</sup> returns of all major parties. Presumably you have a memo or an e-mail that would indicate this is what you wanted to happen. I'd love to see that e-mail, as well as the order from which this exercise occurred. Could you provide that for us?

**Mr. Marc Mayrand:** I will have to search my records to find out if I provided written instructions with regard to that review or I simply spoke to people. But if there are written instructions, I will certainly provide them.

**Mr. Russ Hiebert:** Thank you very much.

**The Chair:** Okay.

We will move on to Mr. Martin, please.

**Mr. Pat Martin (Winnipeg Centre, NDP):** Thank you, Mr. Chairman.

Mr. Mayrand, as I listen to the questions from my colleagues with the Conservative Party, it strikes me that we're on a dangerous and slippery slope when the Government of Canada, the ruling party, represented by parliamentary secretaries and representatives of the government, express non-confidence in an officer of Parliament and in the Chief Electoral Officer at Elections Canada. They not only express non-confidence, but accuse you of bias, of tipping off the Liberal Party, and also, in one line of questioning, even asking whether you handed over the computers and the Conservative campaign information to the Liberal Party when you seized it during the raid on Conservative Party headquarters.

This really worries me. When I say we're on a slippery slope here, do you feel, as an officer of Parliament, that they've expressed non-confidence in your ability and in your operation through their line of questioning?

**Mr. Marc Mayrand:** I will not comment specifically as to subjective views I may or may not have on these matters. I would simply reiterate to the committee that I'm here to serve Parliament and carry out the functions that have been vested in me as Chief Electoral Officer impartially and fairly for all candidates' parties.

**Mr. Pat Martin:** The last time I heard an officer of Parliament treated so shabbily at a parliamentary committee was when George Radwanski, the former Privacy Commissioner, was hauled before a committee that some of us sat on. That was the last time I heard things get this rude.

I apologize to you, Mr. Mayrand, partly because my party and the people I represent do have confidence in you and your office. We think you're doing a fine job in defending the integrity of our electoral system by aggressively investigating what we believe could be very serious wrongdoing. As I say, given the smokescreen we've seen on this televised committee meeting by the Conservatives, we need to remind Canadian that we're investigating very, very serious allegations of a widespread conspiracy to defraud the Elections Act by overspending the election spending limits.

Is that an accurate statement? Is that the substance of your investigation?

**Mr. Marc Mayrand:** Again, as I said earlier, and yesterday I believe, the purpose of this investigation is to determine whether there have been offences committed under the act with regard to those transactions.

**Mr. Pat Martin:** How much time do I have, Mr. Chair?

• (1135)

**The Chair:** You have two minutes, Mr. Martin.

**Mr. Pat Martin:** In my viewing of it so far—and I guess the courts and your investigation and the commissioner's investigation will bear this out—it seems to me the Conservatives got caught when they got greedy. They might have gotten away with this laundering of money through the riding association if their objective was only to exceed the spending limits. But when they had the gall—and I mean gall—to submit those fake campaign expenses to be reimbursed for a 60% rebate, that's when the alarm went off with one of your auditors. Is it true that the red flag came up over the status of certain campaign expenses that were submitted for rebate or reimbursement, rather than the exceeding of the overall party spending limit?

**Mr. Marc Mayrand:** The red flag, if I can use the expression, came up when candidates failed to explain the nature of the expense. That's where it started.

**Mr. Pat Martin:** So it's the campaign expenses. So it's when they shoved the other hand in the cookie jar that they got caught. Their greed got the better of them, and they couldn't get either hand back out as they were busted.

In my last few seconds, Mr. Chairman, I'd like to move a motion that at the conclusion of this round of questioning, which means after the next Conservative member finishes, we excuse Mr. Mayrand, we thank him for his presentation, and we move on to the selection of

witnesses and other orders of business properly before the committee.

**The Chair:** Thank you. The motion is receivable. It's in order, and it's debatable, of course.

I'd just like to indicate to the members that this would mean that Mrs. Jennings and Mr. Poilievre would be the final two questioners for Mr. Mayrand, at which time our witness would be excused and then we would move to the selection of witnesses.

We have not completed the consolidation of the witness list yet and had it translated fully, but to accommodate this, I suspect that what I might want to do is, if it's adopted, suspend until one o'clock now, so that we could excuse Mr. Mayrand and come back and start with the selection of witnesses. That's just to give an outline of how it might proceed.

But we have this motion before us. There are some members who have indicated that they would like to make a comment on it.

**Mr. Pat Martin:** Mr. Chairman, now that the motion is deemed in order, may I speak to my motion?

**The Chair:** Yes, but—

**Mr. Pat Martin:** As the mover of the motion, do I not speak first?

**The Chair:** Mr. Martin, on the motion you moved, please.

**Mr. Pat Martin:** Just briefly, Mr. Chairman, I don't know if it will generate a great deal of debate, but we've had Mr. Mayrand here for two two-hour sessions yesterday and for one full round today. I think committee members had ample opportunity yesterday to put any points of any real substance that they might have had to Mr. Mayrand. By calling him back here today, they've had an opportunity to get clarification on points they may have wanted to be fleshed out or to give him the opportunity to answer in a more fulsome way issues that were left dangling yesterday, which he did. He used the first few minutes of his presentation to itemize three clear points.

What we don't want to do is to diminish or demean these proceedings by allowing it to become a forum for grandstanding in any way, shape, or form.

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

**Mr. Pat Martin:** I think you will note, Mr. Chairman, that I've used admirable restraint all through this and have allowed the Conservatives ample time to put forward any points they may have. In fact, they've had very few points of substance, but that's just my opinion. They've had the right to use the time as they see fit. But now we're just getting down to smokescreens. We're getting down to things that deviate from the original mandate of this committee.

It was controversial that we began this study at all, as you well know. It was debated at length for days, in fact, whether or not our committee has a mandate to investigate Elections Canada's investigation into the Conservative Party. In fact, the only way we could get permission from the House to undertake this study was by having a very narrow motion, very narrow terms of reference. Let me read it. It simply says:

That the Standing Committee on Access to Information, Privacy and Ethics investigate the actions of the Conservative Party of Canada during the 2006 election, in relation to which Elections Canada has refused to reimburse Conservative candidates for certain election campaign expenses in order to determine if these actions meet the ethical standards expected of public office holders.

To stray from or deviate from that very narrow wording, I think, is out of order and does a disservice to the main content. For us to even delve into the search warrant of the Conservative Party headquarters deviates wildly from the original mandate. To start picking apart whether or not we have confidence in the Chief Electoral Officer deviates from the mandate. We haven't heard enough information about the public office holders, which is the original reason this committee has the mandate to investigate it.

I don't think there is anything to be gained by allowing the Conservatives to further bash and insult an officer of Parliament at this forum. They have their own court battles going and they can make all of those points in other fora. That's not our business; that has nothing to do with the work of this committee. We've heard Mr. Mayrand. We have no further questions for this witness. I hope the other opposition parties feel the same way, that our time would be better spent outlining the rest of our study.

Thank you.

• (1140)

**The Chair:** Mr. Tilson.

**Mr. David Tilson:** Mr. Chairman, I just want to remind members of the committee of the motion that is the reason we're here. The final point in that motion is to determine if the actions of the Conservative Party meet the ethical standards expected of public office holders. It's a very serious motion.

We, on this side, have a number of questions that have remained unanswered. I personally have asked a total of five minutes of questions. I suppose one could say my colleagues have hogged the other time, but I have some questions and I was hoping eventually I would have an opportunity to ask those questions. As some may know, five minutes is not enough time for me personally.

The other issue I raise, and it may not be the intent of Mr. Martin and it may be that I don't understand what he means by "excusing" these witnesses.... I hope he would mean they're excused for this time before us now. But there are a number of witnesses, which we will determine as a committee in due course, and there may be other questions of clarification required of Mr. Mayrand.

I would hope that Mr. Martin is not saying, "Well, that's it, Mr. Mayrand, you're...." It may be that as a result of hearing testimony from other witnesses, we have other questions. I assume that's not his intent, but that the intent of his motion is that Mr. Mayrand would be excused for the time being but should stand by because he could be called again as a result of other testimony or other evidence .

So I'm simply saying to the mover of the motion, Mr. Martin, that we on this side have a number of questions to be asked. I personally have a number of questions to be asked. I have given the courtesy to my colleagues to ask their questions, but I can assure you I require more than five minutes of questions of these witnesses on such an important matter, to determine the standards expected of public office holders. It is a very serious motion, and surely to goodness I'm going to be given more than five minutes to ask questions. And that five minutes includes not just the questions but the answers. I have essentially been shut out if this motion carries, and there are enough votes for the opposition that you can do that. We're here at your pleasure.

Mr. Chairman, I will not be supporting the motion.

• (1145)

**The Chair:** Thank you for your clarity.

Mr. Poilievre, please.

**Mr. Pierre Poilievre:** I find it ironic that the members of the opposition would want to shut down discussion on this subject after months of accusing this party of having done just that. I think I can understand why. The last couple of days have not gone the way the opposition had hoped. The results of the questioning have not borne the fruit that was expected by the opposition. We had numerous revelations that were particularly unflattering to their case.

For one, we have learned that the Chief Electoral Officer was so concerned about the widespread public view that there had been a leak from his organization that he conducted a review. That review was conducted by him and by his senior staff of himself and his senior staff. He presented five factors that he claims led him to his decision. But then he has been unable to point to a single piece of legislative wording to support any of those factors being relevant in determining how expenses are allotted. Questions he has not been able to answer he has claimed are unanswerable because they're before the courts, even though this entire affair is before the courts. And by that logic, we would not be able to discuss any of it here.

The farther this goes, the stronger our case becomes, and that explains why some members of the opposition, at least, wish to shut this down early. But in the spirit of compromise, I would be willing to put forward an amendment that we entertain eight more rounds, Mr. Chair. I therefore amend Mr. Martin's motion to permit eight more rounds of questioning.

Thank you.

**The Chair:** Order, please.

The amendment is in order, and if the amendment is adopted, the motion would say that after eight more rounds of questioning, Mr. Mayrand will be excused.

I think everybody understands, so I won't circulate this.

We're resuming debate. We'll go to Mr. Hubbard.

**Hon. Charles Hubbard (Miramichi, Lib.):** Mr. Chair, I think every member of this committee is aware of the declaration that we, as members of Parliament, sign after the conclusion of an election. There are five main points in that, the fifth one being that no other person or entity has, on behalf of the candidate, made any payment or given promise and so forth. Now, every member of Parliament, including the ones we're looking at in terms of the 67 candidates, in fact, who contested that election and did this contrary to the spirit of the law, certainly made that declaration.

I believe that as an ethics committee, Mr. Chair, we're looking at the ethics of those members. In fact, a number of them are office holders, and one of those office holders—she and her agents—in terms of a deception in reporting her return, signed off approximately \$40,000 that was spent by the Conservative Party in a given province as part of that election campaign. In fact, Mr. Chair—I'll take my time—the total was \$1.3 million.

Now, Mr. Chair—

• (1150)

**The Chair:** Mr. Hubbard, your interventions are certainly relevant with regard to the subject matter the committee is dealing with, but I think I'm hearing now that the members are a little concerned that we really should be addressing this motion now before us.

**Hon. Charles Hubbard:** With that, Mr. Chair, I certainly intend to get to the motion.

In terms of the motion that was made by Mr. Martin and the amendment that was made by Mr. Poilievre, I cannot help but be reminded of those who participate in a number of events. When you play hockey, you follow the referee's rules. When you play baseball, there are umpires who decide the rules of the game. In terms of listening to what the Conservative Party is doing here, we are, in effect, kicking sand in the face of the umpires who umpire our elections.

It's a great underestimation of the value of having a strong Elections Canada that is fair to all Canadians, and especially to us who are candidates in a given election. To criticize them, and to listen to Mr. Hiebert in terms of his five points.... Sometimes it only takes one point to show that somebody is creating a criminal act; it doesn't take five points to convict a criminal. But we are dealing with issues of the party in power, which is trying to undermine the effects and the reality of what Elections Canada has stood for since 1867.

May I conclude in terms of what I see? Mr. Hiebert is much younger than I, but if you look at the history of the United States of America, you'll find that a very minor offence like Watergate caused the downfall of an administration of the United States. I'm not sure if the Conservative Party, in their presentations yesterday and today, are trying to do the same thing through devious acts to continue to perpetuate a devious method of paying for our campaign elections that is contrary to the Elections Act, but I'd like to remind them that because of that break-in at Watergate, President Nixon put his whole career and the administration of the United States on the line.

Are we doing the same thing in terms of the Conservative Party of Canada? Are they putting everything on the line for the sake of a few thousand dollars?

**Mr. Paul Szabo:** Mr. Goodyear, go ahead, please.

**Mr. Gary Goodyear:** Thank you, Mr. Chair.

I'm going to support the subamendment suggesting that we go eight more rounds. Also, I certainly want to contradict some of the comments.

Monsieur Mayrand, in no way am I attempting to kick sand in your face. What I'm attempting to do is to understand the process to date.

I would like to let the committee know, with all due respect to Mr. Martin's original motion, about some of the comments that Mr. Martin made when he presented the motion. He stated that he had put this motion forward and that we've been stalling it. That's absolutely false. Records will show that many times our party tried to expand this. We were completely willing to open our books, and not just for 2006; we offered to open them up for 2004 as well, because we have absolutely nothing to hide. The caveat was that we felt it should be all parties, because parliamentary committees—this was the logic—don't study one party. That's what the courts do. Parliamentary committees study the Elections Act and the advertising expenses of all parties.

So Mr. Martin, quite respectfully, is absolutely incorrect with that smokescreen. We've tried to expand opening our books completely. They have blocked that. In fact, when we suggested that we open this up, the NDP was one of the first ones to say “No, we don't want anyone to look at our books.” And do you know what else happened? The Liberals just about freaked out, especially when we suggested 2004. That's a funny one. And of course the Bloc voted no.

Now, here's my point: This is not a smokescreen; this could be a smoking gun. Right here, I have in front of me a series of e-mails that I absolutely think the committee would want to see, showing how Monsieur Mayrand's five factors have been applied to this case. That is a significant question for me. I want to know if any red flags were raised in this case. Mr. Martin may want to shut this down quickly because he knows this is an NDP case. But I want to find out if and how these factors that we've just heard about in the last two days, which are not in the act, which are not in handbooks, were applied, and if they were applied, on what grounds they were eliminated.

I don't want to go into it now, but my point is that I need time for the questioning. Eight rounds would probably suffice. The official agent says here, “This is not our invoice.” And do you know what it says? “This is really, really bad. Please check, because it's really, really bad for our ceiling.” And the bookkeeper for the NDP says “Shove it through anyway. Put it through anyway.”

Monsieur Mayrand said a number of times that we can transfer funds back and forth. That's not a problem. But you can't transfer expenses.

Well, Pat, here's your own party dictating that exactly.

So all I'm asking for is a round of questions to ask our expert witness how he applied these invented factors that we've all just heard about this week, whether he did in fact apply these factors, or if he didn't, then why not. These are legitimate questions. They're not partisan. They're not attacking the Chief Electoral Officer. We have great respect for Elections Canada.

**An hon. member:** Hear! Hear!

**Mr. Gary Goodyear:** Absolutely. In fact, I remember meeting Monsieur Mayrand a number of times. I have nothing but the greatest respect for this man. But clearly something has gone wrong, and if this is anything besides a Liberal political public stunt, then our members will vote to continue for at least eight more rounds. That is absolutely fair, especially given the parameters of which questions we can ask the witness and which questions the witness can answer or can't answer, all of which was debated at committee.

This is not a surprise to anybody. We said full well...and everybody argued that this should be before the courts, where questions have no restrictions and answers have no restrictions.

● (1155)

Guess what? There's no group of opposition parties who, just by their numbers, can control and dictate the outcome for personal political gain. That would amount to nothing more than political parties using taxpayer dollars, because being here costs a fortune.

And you want to limit debate? You want to cut this down so that we don't meet on Thursday and we don't meet on Friday. The flight for me to come here is the same if I'm here for one day or seven days, but that's not the point. That's not what the opposition is attempting to do. The opposition is clearly doing exactly what they did in the \$40 million ad scam, which is to find a creative way to use taxpayer dollars for their own personal political gain.

So I'm totally supportive of going eight more rounds—not fifteen, which I think might be unreasonable. But having only more round is not reasonable and not democratic. I'm going to support the subamendment to go eight more rounds as a reasonable compromise to look for the truth, if in fact that's what you're looking for.

**The Chair:** Thank you.

Mr. Dhaliwal, please.

**Mr. Sukh Dhaliwal:** Thank you, Mr. Chair.

I also have concerns about the way the Conservative Party members are treating the public officer we have before us. When we look at this, instead of asking questions, they're trying to humiliate him. If there were a reasonable line of questioning, we would support the subamendment. But if we look at Mr. Hiebert, he was asking Mr. Mayrand: give us those numbers, you should have them right in your head, and how can you expect the agents to have that information? But Mr. Hiebert should know that agents of the candidates have all the time to collect all the information, all the receipts and all the context, before the return is finalized and signed. He or she has the time to go through that.

All they're trying to do is to humiliate the Elections Canada chief when comparing him with the official agents.

On the leak issue as well, he has already answered that he has no evidence that Elections Canada, the RCMP, or the public prosecutor leaked this information to the Liberals. It makes sense as well, because if you look at this, the raid at the Conservative Party headquarters started at 7:45 a.m., and it—

● (1200)

**The Chair:** Pardon me, Mr. Dhaliwal, but the matters that you are dealing have been touched on through the various presentations and the questioning of the witness. With due respect, at this time we are debating a motion on whether or not to restrict our questioning of Mr. Mayrand to one or eight rounds, and the reasons we think we should do one or the other, or neither. To discuss the leak and all other aspects of the case is taking more latitude than you should.

I would encourage all members to try to focus their input on the motion before us deciding how much more time we are going to spend. So I would encourage members to be relevant to the motion now being debated.

Please continue, Mr. Dhaliwal.

**Mr. Sukh Dhaliwal:** Thank you, Mr. Chair.

I personally would support Mr. Martin's motion to have only one round and to excuse Mr. Mayrand after that. That's all I would say.

I think we should go to the vote now or call the question.

**The Chair:** Mr. Reid, please.

**Mr. Scott Reid:** Thank you, Mr. Chair.

Just as a starting point, I want to correct a factual error in Mr. Martin's initial presentation of his motion. He said the only way we could get permission from the House of Commons was to adopt a certain wording. Actually, no permission was actively given by the House of Commons. What happens is the Speaker will decide, after the fact, whether or not the committee's report is receivable based on a number of considerations, including whether or not the terms of reference were in or out of order. That's just a matter to correct an error that I'm sure was made unintentionally.

Mr. Martin also said, referring to the New Democrats, that we have no other business before this committee, by which I think he meant that we have no further questions for this witness. And I accept that he has no further questions for the witness because he says so; however, it is not the case that none of us have further questions.

As I understand it, the way the round would conclude—I don't have the list in front of me—there's basically one more question, possibly two, from the Conservative Party before the round concludes, if it's done that way. Neither of those spots, if it's two, are taken up by me, so effectively I would have no opportunity to ask any further questions of Mr. Mayrand. I have a number of things that I think are very germane to the subject matter here and, moreover, that do not constitute questioning that goes into the specifics of the court action that has been undertaken by the official agents for the Conservative Party against Mr. Mayrand and Elections Canada. This was a restriction, Mr. Chair, that you had placed upon us.

I mention this because I am here justifying to members, as they choose how they will vote, why I think we should have eight rounds—I would actually prefer more than eight rounds—remembering that in those eight rounds we have, I think, an average of three questions for the government side in those rounds. There are five government members. I could expect to get a round and perhaps part of another one, so I might get four questions in here.

Some of the things I would want to go through that I think members would agree are highly relevant include a further discussion of the five factors. The Chief Electoral Officer has stated to us that he requested that his staff look at the other parties and whether the other parties had in any case triggered the five factors. Under questioning from Mr. Hiebert, my colleague, he indicated he couldn't remember whether this was a request made in writing or one that was done simply verbally. My line of questioning was going to determine whether or not this was a serious investigation or whether it was in fact just a cavalier, pro forma thing in order to essentially allow him to say, "Well, we've looked at everybody", or whether there was a serious investigation. I was going to try to draw on that a bit. I think that's a highly relevant consideration.

He also stated, and this is actually a quote I wrote down—he uses the word "facts" now—"the facts came up after prosecution had already commenced". I was going to ask whether he meant that the factors, the five criteria you had to meet, came up after prosecution had already commenced. I'm assuming he's referring, but I have to confirm this with him, to the other parties.

I think you can see the point of this line of questioning. Indeed, if I'm correct in my understanding, it confirms that other parties were subjected to a lesser level of scrutiny than the Conservative Party of Canada in determining whether or not they would get rebates. In fact, there were two standards being applied—I won't suggest by Mr. Mayrand himself—effectively, I'm suggesting, by those who were creating these tests.

I note as well that Mr. Mayrand had made it clear that he did not necessarily come up with these five tests. They were out there. It might have been the investigators. The obvious question is, was it the case that only the investigator looking at or the person coordinating the Conservative Party was applying these standards and that a different, less stringent standard was being applied to other parties? This is another question I would have pursued with the Chief Electoral Officer.

• (1205)

A further question I would pursue, and indeed I will pursue if we agree to have the eight rounds, is that I will bring up the suggestions

I made to Mr. Mayrand, and also to Mr. Corbett, our commissioner for Elections Canada, when they appeared before the procedure and House affairs committee as witnesses, as we were looking at them to ask them questions prior to the House making a decision approving them for office.

At that time, I raised the matter with both Mr. Corbett and Mr. Mayrand that the interpretative bulletin system used by Elections Canada is faulty. I raised the point that other agencies such as the Canada Revenue Agency, when they say they are interpreting the law a certain way, are effectively saying—and in fact they do say it, it's written down—that if you follow in good faith the practices as laid out here, you won't be prosecuted. I was going to raise the fact that I had raised this matter with him and with Mr. Corbett and then after the fact Mr. Mayrand appears to have decided to go back to the very course of action I warned him against. I was going to inquire as to whether I was understanding correctly that he deliberately decided not to follow that course of action I recommended when he appeared before the procedure and House affairs committee of effectively saying he wouldn't retroactively apply different rules or interpretations than those he said would be in place—in all fairness, he wasn't the Chief Electoral Officer in the 2006 election—that his agency had applied at that time. If so, I was going to ask for the rationale for that.

Also, I was going to ask him whether I had misunderstood what was going on. Certainly that is a legitimate line of questioning and one that is only possible if Mr. Mayrand is here to answer additional questions beyond.... As I said, I get no questions if we shut down after one round; therefore, he doesn't have to answer these questions.

I think these are very important. I would urge the members of the other parties to remember that just because the answers Mr. Mayrand is giving aren't fulfilling a narrative that they had imagined would come out in these meetings, wherein the Conservative Party would be guilty of extravagant abuses of the system.... We've heard the term "conspiracy" used. We just heard Mr. Hubbard compare this to the Watergate scandal. I've heard the word "criminal" used a number of times, and all of this. Criminal actions aren't actually in Mr. Mayrand's or Mr. Corbett's jurisdictions. But all these things.... Just because that narrative isn't coming out is no reason to dismiss the witness and try to find other witnesses who will give the appropriate narrative, as opposed to simply stating the facts as they exist.

Mr. Chairman, on that basis, I would urge members to vote in favour of the amendment Mr. Poilievre has proposed to Mr. Martin's motion. Thank you.

• (1210)

**The Chair:** Thank you very much.

We'll now hear from Mr. Poilievre.

**Mr. Pierre Poilievre:** I'd like the committee to be aware of some of the questions that I would like to pose to Mr. Mayrand, with a view to helping members to decide on my amendment.

First, there are these five factors that he says helped him make his decision. He is unable to point to any documentary evidence to show that he applied these five factors when considering the books of the other parties. He says that he might have sent an e-mail, that he might have made a phone call, that he's not quite sure whom he asked. I would like to know how many people conducted this investigation of the other parties. He hasn't answered any of this.

With respect to the first of the five factors that he lists here, he says that the problem he has with the way the Conservative Party conducted itself is that official agents did not seem to have detailed knowledge of the regional media buy expense. But he refused to show anywhere in the law where it's required that the official agents have detailed knowledge of all of the expenses that are incurred on a campaign.

The only thing that the official agent is required to do is the accounting of the campaign. They don't have to memorize all of the contents of the brochures, nor do they have to know all of the contents of an advertisement. In the cases before us with regard to the Conservative Party, we know that the local campaigns signed off on these advertisements. This is the level of detail that the law requires. I'd like to ask questions about that.

He then says that there was no documentary evidence to establish the existence of a contractual agreement by any of the participating candidates with the supplier Retail Media. There doesn't have to be. It is perfectly allowable for a campaign to purchase services directly from a party. A party can buy \$1 million worth of lawn signs and then have local candidates purchase those lawn signs from the party. Those local candidates do not have to have a contractual arrangement with the supplier of those signs; they don't even have to know who that supplier is. All they have to do is make the purchase from the party and then book the expense in their own accounting. That is not only allowed; it is done every day.

Just yesterday, I contacted my campaign manager to find out if that's what we're planning to do. Frankly, I don't even know who we're buying our lawn signs from. It was my plan just to buy them from the central party. That's perfectly normal, perfectly allowable. It happens all the time, and it is expressly legal.

Third, with respect to the representations of the party officials, he says that all arrangements for the purchase were made by the party and the invoices were sent to the party. That's exactly the same as the second point. It is perfectly allowable. This is a question I want to ask him. Is it not perfectly allowable for parties to procure services and then sell those services to their candidates?

**The Chair:** Order. I apologize. A member has called for a point of order.

Mr. Martin.

**Mr. Pat Martin:** I'll state my point of order at the outset.

I would like to apply the same rules as you have been applying to others even in the context of this debate. You may make your arguments about whether we should have one more round or eight more rounds, but you don't argue the merits of the questions that you plan on asking if you get another round. I think the member is getting into the substance of the arguments that he would make if he's given the chance to make them later on. That could take all day.

**The Chair:** Thank you, Mr. Martin. That is debate, not a point of order.

I've encouraged members to make their case with regard to how much more time we should spend with this witness. It is a decision of the committee. It's apparent that some members who have spoken are outlining examples of some of the questions that they would like to ask but may not have a chance to ask should we limit the rounds of questioning.

The members have rights. If I don't defend the members' rights to make their arguments, then I'm not respecting the rights of any member here.

I thank you for your input on the matter, but it is not a point of order, and I'm going to give the floor back to Mr. Poilievre.

• (1215)

**Mr. Pierre Poilievre:** Which brings me to the questions I would like to ask on point number four, in which he indicates the particulars of the arrangements whereby invoices were provided to the candidates by the party rather than by Retail Media, as the supplier, and the fact that moneys were transferred by the Conservative Party, with control of moneys being retained by means of prearranged bank wire transfer instructions. Well, those instructions were all signed off on by the local campaigns; otherwise, they would not have been honoured by the bank. Therefore, it's indicated that the local campaigns were giving their consent to the ads being run and financed locally.

But if that were really the case, then why is he not investigating the Bloc Québécois?

[Translation]

It was the Bloc Québécois that signed contracts with all its candidates in 2000 to force them to give a specific amount to contribute to national, and I quote, "national" ads. The local candidates were forced to contribute a certain amount for the, and I quote, "national" advertising.

So how can it justify applying a group of rules to our party that was not applied to the others?

[English]

I have evidence here in front of me—this is all public evidence—that the Bloc Québécois systematically and openly transferred expenses—not just moneys, but expenses—from the central campaign to the local campaigns.

**Mr. David Tilson:** Shame.

**Mr. Pierre Poilievre:** They did it deliberately and openly because they wanted an enhanced reimbursement, and they admit that. They admitted openly that they took national expenses—in their words they were national expenses—put them on the local books and then got local reimbursements for them.

**The Chair:** Order.

Mr. Poilievre—

**Mr. Pierre Poilievre:** So the question I would like to ask on—

**The Chair:** Excuse me, sir.

Colleagues, this is important. Everyone knows the motion we're dealing with. And it is very much in order for members to give some examples of the kinds of questions and generally why they feel those are important questions. But I think if it comes to a point where they in fact start to get into the argument of that in its full context, that's going beyond the motion. So I accept that examples are fine, but to start doing debate on each of those, as if they had been put and you're presenting the case, I think, is beyond the scope of the motion before us.

So I would ask members if they want to suggest some examples of questions, it's fine to identify them and to indicate the nature of the relevance, but not to argue them, please. Okay? Is that acceptable?

Mr. Poilievre, please continue.

[Translation]

**Mr. Pierre Poilievre:** Thank you, Mr. Chair. The reason why I am listing a number of examples is that I did not have an opportunity to do it during the discussions. I planned to mention all these examples, I planned to do it this afternoon, but now the opposition would like to interrupt this discussion so that the public will not know the information I have to present.

I am going to quote Michel Guimond, who said, and I quote, [TRANSLATION] "When there is an election campaign, the national expenses are borne by the candidates collectively." That is taken from an article in *Le Soleil*, published on December 22, 2001. What he is saying is that the Bloc Québécois admitted transferring expenses to local candidates to inflate the refund and avoid the national limit on their campaign. I have the documents to prove it.

This is not even a discussion that concerns us; we are not denying transferring expenses to local candidates. That is what we are accused of, but when it comes to the Bloc, it is admitted. The Bloc admits doing it.

• (1220)

[English]

**Hon. Marlene Jennings:** On a point of order, Chair, when you recalled to us the pertinent sections of Marleau and Montpetit on the issue of a point of order, there were three points: relevance, repetition, and procedural. My point of order goes to the issue of relevance.

Mr. Poilievre is making statements about electoral expense returns from the 2000 election and imputing the fact that there were court decisions that ruled the agreement between the Bloc and their candidates to be legal to be relevant to the issue at hand. However, the electoral financing act considerably amended the Canada Elections Act, and therefore, the sections that were ruled by the courts and deemed that the agreement between the Bloc Québécois and their candidates in 2000 was in fact legal and did not violate the Canada Elections Act and election financing are no longer pertinent because of the legislative amendments that have been brought to the entire regime.

**The Chair:** The point of order is not a matter of relevance, and it is a question that has already been posed to me concerning the motions that were submitted to the committee by Mr. Tilson. These are what Mr. Poilievre has been discussing.

There is an issue with regard to whether or not matters that have to do with the 1997 and 2000 elections, as well as dealing with individuals who are associated with a political party, and none of those individuals being public office holders, would still be worked into being relevant to the matter before us. It would appear that the elections rules have changed over the last 10 years. Members probably are not familiar and would not be in a position to deal with that here without having a chance to go away and educate themselves or inform themselves on what the rules were during each of those elections.

It is, in my view, clearly beyond the scope of the matters before us, and I'm going to have some difficulty accepting that those are matters that should be discussed here.

So with regard to that issue, I have a problem dealing with that in terms of relevance with regard to the main motion before the committee. But secondarily, as I had asked members to consider, and Mr. Poilievre, as I had indicated to you, to mention an example and briefly highlight the relevance is okay, but again, sir, with respect, I think you have really got into a full argument of a particular point.

So I'm going to return the floor to you. If you want to give your examples, that's fine, but there comes a point at which several examples may be enough to make your point.

**Mr. Pierre Poilievre:** All right. The overall point I'm making here, the thesis I am driving at, is that when the possibility of discussing the issue of electoral financing first came before this committee, the first thing the opposition tried to do was prevent their own books from being discussed. "We don't want any discussion of our own activities, because we don't want any of that to be brought into public light. We don't want to show that we did exactly the same thing we are accusing the government of."

Then, Mr. Chair, we said, okay, we would move ahead with these discussions and we'd have the Chief Electoral Officer here. As soon as we started to ask him questions that demonstrated fatal weaknesses in his legal argument, they said, oh no, we can't have any more questions about that because that's before the courts. We can't have any discussion of the weakness of his case, because that will appear before the courts. So we won't allow that either.

Then I mentioned the example of the Bloc Québécois deliberately transferring expenses to its local campaigns. And now you're saying, no, that can't be discussed, because it was in the year 2000, and everything that happens in a leap year is not allowed to be discussed before the committee.

Now that we're driving home a lot of these weaknesses, more weaknesses, with the questioning of the witness, they say, no, we can't have any more questions, because it's almost noon, and no questions are allowed after noon. There's a rule, an ancient parliamentary tradition, that questions aren't allowed after noon.

So as soon as the opposition starts to find itself in a danger zone, they invent a new rule about why questions about them or Elections Canada cannot be asked.

Mr. Chair, this very motion that Mr. Martin has put forward is proof itself of the very weakness of the opposition's and Elections Canada's position here.

•(1225)

**Hon. Marlene Jennings:** He lives in another twilight zone.

**Mr. Pierre Poilievre:** Finally, the last method they use, when some other member has the floor and is making points they find very difficult to contend with, is to try to speak over that member.

So they have a whole assortment of strategies to silence effective criticism of their case to try to avoid any public discussion of its essential weakness. Mr. Chair, that is exactly why I have put forward a compromise motion to allow eight more rounds. It probably should have been more than eight rounds, because there is a lot more to discuss. There are a lot more weaknesses in Elections Canada's case that could be exploited through questioning. But I thought eight would show mercy, and in the spirit of compromise, that's why we chose that number.

Mr. Chair, with that, I will turn over the floor to the next speaker on the list.

Thank you.

**The Chair:** Thank you.

*Madame Lavallée, s'il vous plaît.*

[Translation]

**Mrs. Carole Lavallée:** Thank you, Mr. Chair.

I would like to thank Mr. Mayrand for being here. He has said enough to make us want to hear more witnesses. He has given us a top-notch explanation of the Canada Elections Act. It was very clear. His entire presentation was extremely clear, but each of us still had a few grey areas. We have asked questions and requested clarification in good faith. Nonetheless, his entire presentation was simply top notch.

The five criteria, contrary to what was said by Mr. Goodyear, who has just learned there are five criteria, were explained to us at the beginning of the presentation, even before we asked questions. Mr. Goodyear, I refer you to the documents containing the presentation that we received. The five criteria are set out there. It is clear for anyone who wants to understand. Those five criteria are based on the Act, that is, that expenses have to be incurred by the official agent. They have to be authorized and paid by the official agent. That is clear. In any event, I understood that when an official agent does not know about an expense, that means that he or she certainly did not authorize it. When there are no documents to prove it, when there is no contract, when there is no invoice from the supplier, and when fair market value was not paid, clearly that does not comply with the Act.

We are talking about paying fair market value, so I would like to remind you that Josée Verner, the minister, paid only \$9,300 for an ad she appeared in, while her colleague in the next riding, Sylvie Boucher, who was never seen in the ad, paid \$39,000. Clearly there is a difference between what was paid and what it was worth. If I were to pay \$39,000 for an ad I did not appear in, I would not be very happy. I am not certain that I would agree to it. I would change official agents.

That being said, the five criteria were explained to us for six hours, maybe one more, and it was very clear. We will see Mr. Mayrand again if necessary.

I would like to make a brief aside regarding Mr. Poilievre's allegations about the differences with the Bloc Québécois. I have explained this several times, but Mr. Poilievre plainly does not understand what he does not wish to understand. First, in 2000, it was legal. The Act has changed since then. Second, in subsequent elections, did our candidates and official agents know about the expenses? Yes, they knew about them. It was decided at the general council, completely democratically. All the candidates and all the official agents knew about the expenses. Were there documents? I refer you to the minutes and transcripts of the general council meetings. Were contracts signed? Yes, they were signed. Did they receive an invoice from the supplier? Yes, they did. Did they pay fair market value? Yes. Everyone paid an equitable share. There's the difference with the Bloc Québécois. In any event, two CEOs have said that we acted properly, because we requested an interpretation from the CEO. A superior court has said we were right, and there have been no searches of our party's offices.

That being said, it would be very nice to see Mr. Mayrand again, if necessary, but we do not want to limit the debate. We do not want to put a stop to the debate; on the contrary, we want to see it continue, progress and expand. We do not want to derail it as the Conservative Party is doing. And that is exactly what you are doing. You are, if I may use the expression, spinning the debate because you don't like what you're hearing. Given that you have already voted against having confidence in the CEO, we can only think that the sole purpose of all of your questions is to derail the debate. There is nothing else we can think. You yourselves, every one of you, rose in the House to vote against having confidence in the CEO. You yourselves said that you had no confidence in the Chief Electoral Officer, who is sitting here. How can we think, in good faith, that you are asking him questions in order to advance the debate and help us understand the situation better? If we keep him any longer, I think this is going to look like an interrogation, for the purpose of torturing him. I would say, in jest, that we are not in Guantanamo.

For all these reasons, I think that one last round will be enough, Mr. Chair.

•(1230)

[English]

**The Chair:** *Merci, madame.*

Mr. Hiebert, you're up right now.

**Mr. Russ Hiebert:** Thank you, Mr. Chair.

Based on what Ms. Lavallée has just said, I can only assume that she's going to support our motion to continue this debate.

I just want to clarify something. I think all members need to know that I have the deepest respect for Mr. Mayrand and the institution he represents, and I would defend that institution to the utmost, because I think it's critical to the success of democracy. I was simply asking questions that sought to clarify the decision-making process by which he came to his conclusions. I think we're all here to seek the truth, and the only conclusion I can draw from the opposition's motion to draw this debate to a close is that this political PR stunt that they've organized is not working out as well as they'd hoped and now they want to shut it down before they're further embarrassed.

So I support the additional rounds of questions so that we can complete our inquiry.

**The Chair:** Mr. Goodyear.

**Mr. Gary Goodyear:** Thank you, Mr. Chair.

Again, contrary to what Madam Lavallée has said, I actually like what I'm hearing here at this thing, but let's just move off that. I think in fact we're starting to break through some of the facades in trying to understand further how these decisions have come to pass. But as for the issue of having more rounds, I'm going to just stay off that.

The issue, Mr. Chair, is this. We have been handed out a number of documents by the clerks, and I have a document here that we haven't even touched on. It's extremely well researched by the Library of Parliament—*Bibliothèque du Parlement*—and these folks in the Library of Parliament, I think all members will agree, are outstanding individuals who are experts in researching and getting to the ground of exactly what's before us.

Now, there's a number of things the Library of Parliament has discovered, and I'm not going to go into the questions out of respect for getting to the vote on this amendment. But the Library of Parliament is suggesting here that Elections Canada maintains that the advertising for which reimbursement was sought was not incurred by the local candidate but by the party, because—this is what the research says—the ads promoted the party and its policies and not the candidates or their policies. But you see, yesterday Monsieur Mayrand indicated that, or we at least discovered that, I could buy advertising to promote the party. I like my leader. And it gets me votes, because at the bottom of the day the party gets no votes. It actually comes down to me.

And the promotion of a tag line Elections Canada deemed not to be enough. However, the Elections Act says it's totally enough. So I want to understand this better.

Then of course the Library of Parliament gives its own opinion of this thing. Here's what it says: "The Canada Elections Act permits the largely unfettered transfer of funds, goods, and services." So we've already established all this.

I understand. I'm not getting to the point here. I'm going to try to get to the point.

I guess the point at the bottom line is this. I'm not going to read all of this again out of respect for time, but I'm just suggesting that I have more questions that were based on information that's been provided by the committee itself. We haven't even been able to get to the documentation we asked for, all members asked for, through the clerks and through the researchers at the parliamentary library.

Now, I'm concerned that members opposite have read this and have already decided how damaging this document is going to be, and they're trying to shut it down. And I just don't think that's what we should be doing here.

It wasn't us, Mr. Chair, who called this meeting. My suspicion is that this was called by the opposition. So now we're here. Taxpayers have already paid for me to be here. They've paid, Mr. Chair, for you to be here. They've paid for all this in two official languages. Why on earth would we want to run through this thing in one, two, three, or four hours? That's ridiculous. Perhaps we shouldn't even have started this but allowed it to be up to the courts. But now that we're down this road, we have to complete the job. Why are you cutting and running when we're almost halfway there? There's only one reason: they know full well that if we continue our line of questioning they're going to be shown for the political partisan opportunists they are. And it will again show taxpayers that this party has not changed, that this party is so creative in finding ways to use taxpayers' dollars to get votes. That's what's going to end up being shown here.

I'm not intending to show that. That's not my intention. I think it's going to be obvious to Canadians that the Liberals, for example, have done the same thing for years, right from the ad scam in Quebec when they stole taxpayers' dollars to win Quebec. And now here we are with another creative way to use taxpayers' dollars.

Pat, I wouldn't talk too loudly, because the example I got is your party. Smoking gun, buddy.

So my thinking is the absolute least thing we can do...

Marlene, you know this to be true. One round of questions is not going to do this. Eight rounds? I don't think even eight rounds is going to do it.

But I'm trying to be a compromising individual here. Let's go for eight rounds, and perhaps the committee could agree that if other issues come up Mr. Mayrand can be recalled as a witness. Either way, the focus is to get to the truth, not the half-truth.

● (1235)

I know you're used to the half-truth, Mr. Dhaliwal; I know you are, but calm down. We're here to get to the full truth. It's a new thing.

I'll end on that note. Thank you, Mr. Chair, but I appeal to the committee to vote in favour of the amendment.

**The Chair:** Colleagues, we've now heard from every member of the committee who's asked to be heard without restriction on their time. I therefore rule that we now proceed to take the votes on all matters necessary to dispose of the amendment and the motion.

Shall we have a recorded vote? Okay.

The motion put by Mr. Martin was that at the conclusion of this round of questioning—

**Hon. Marlene Jennings:** I have a point of order—

**The Chair:**—that is, after the next Conservative member speaks, so there'll be two more people—the committee excuse Mr. Mayrand, thank him for his presence, and move on to the selection of witnesses and other orders of business properly before the committee.

Mr. Poilievre has an amendment. Instead of just completing the current round with just two more speakers—those being Madam Jennings and Mr. Poilievre, who would be the final one—Mr. Poilievre has proposed an amendment to the effect that there be eight more rounds. We would complete the first one and eight more, but it would effectively be eight more rounds.

Do the members understand what the amendment proposes? It's eight more rounds. I'm going to put the question....

Is that a request for clarification? Okay. Go ahead, Mr. Hubbard.

• (1240)

**Hon. Charles Hubbard:** Before we vote on this, does it mean eight more rounds today or eight more rounds at future meetings?

**The Chair:** We have a meeting going on right now. We haven't even discussed future meeting dates. No, we will have eight rounds today.

On the amendment by Mr. Poilievre....

I'm sorry, was there a further question?

**Hon. Marlene Jennings:** You've just made a ruling that you've heard enough and you're calling the question—

**The Chair:** Yes. I'm putting the question.

**Hon. Marlene Jennings:** I challenge your ruling.

**Mr. Gary Goodyear:** There's nobody else on that list.

**The Chair:** No, no. That's okay. We're putting the question.

**Hon. Marlene Jennings:** My name is on the list.

**Mr. Gary Goodyear:** The chairman just said there were no more speakers on the list. She should pay attention.

Pay attention, Marlene.

**The Chair:** I've already read the motion and the amendment and I'm at the point of calling the vote on the amendment. I just wanted to be sure the members knew.

(Amendment negated: nays 6; yeas 5)

**The Chair:** I will now move—

**An hon. member:** No, Chair.

**The Chair:** We're in the middle of voting.

**An hon. member:** No, we're not.

**The Chair:** We're in the middle of voting. The chair ruled that all questions necessary to dispose of the amendment and the motion be put now. We've just had the motion on the amendment. That was defeated, and now I'm going to call the question on the motion of Mr. Martin without amendment.

So I would ask—

**Mr. David Tilson:** Debate was on the amendment.

**An hon. member:** We never had any debate. We didn't have any debate.

**The Chair:** Excuse me. Let me repeat what the chair ruled and made the decision on.

Since all the members have had an opportunity to speak on the amendment or the motion, the chair ruled that we now will put all the questions necessary to dispose of the amendment and the motion.

**Mr. Scott Reid:** I have an amendment. I have an amendment.

**The Chair:** There was no disagreement of the committee so the chair's decision stands. I'm now going to put the question on the motion of Mr. Martin.

**Mr. Scott Reid:** But Mr. Chairman, I had a different amendment—

**The Chair:** All those who support Mr. Martin's motion will say yea; all those opposed will say nay.

Would you please call the roll, Madam Clerk.

**An hon. member:** I have a point of order.

**An hon. member:** I have an amendment to make on this motion, Mr. Chair.

**An hon. member:** My colleague has an amendment that he'd like to make.

**An hon. member:** My amendment, please.

**An hon. member:** I haven't even had a chance to cast my vote, for goodness' sake.

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

**The Chair:** We will complete this round—

**An hon. member:** Mr. Chairman, I have a motion.

**The Chair:** It includes the final two, who are Madam Jennings and Mr. Poilievre.

**An hon. member:** Mr. Chair, I have a motion.

**The Chair:** I'm sorry, but the floor is based on Mr. Martin's motion. We complete the current round and then we—

**Mr. Gary Goodyear:** I have a point of order.

**The Chair:** Mr. Goodyear is calling a point of order. Okay, I will recognize Mr. Goodyear on a point of order.

**Mr. Gary Goodyear:** The point of order is just to change the scheduling here. I would request a 15-minute break in the work so that members here can discuss, since we've been denied the right to ask appropriate questions. I think it would be fair to give us an opportunity to decide which are the most important questions of the thousands that we have. I think that now that we've been limited to five minutes in this so-called courtroom, it's fair that we have a 15-minute suspension so we can discuss how we deal with this.

This is new to me, being undemocratic. It's new to me. I need some time to think about it.

•(1245)

**The Chair:** It is not a point of order. Yes, it's a request, but it is not a point of order. I just want to be sure that everybody understands that. Okay?

The committee has taken a decision with regard to completing the current round and excusing Mr. Mayrand and Mr. Bernier following the last two speakers. The committee has taken that decision and we have to deal with that. I do understand that the members would like to consider other matters as a consequence, but we will, in 10 minutes, be suspending for our lunch break, so I think the members will have ample opportunity.

So I understand the request, but that was the committee's decision, sir.

**Mr. Gary Goodyear:** All I want is 15 minutes to discuss with my colleague, who is the only one you're allowing more time to ask questions, if he might consider that the important documentation that I have is more important than what he has, because we only have five minutes left. It's the least you can do. For crying out loud, the least you can do is give us an opportunity to formulate the best questions to get the best answers. It's 15 minutes.

**The Chair:** I think you have that opportunity, but the committee has given instruction.

The next order of business for me is that the—

**Mr. Gary Goodyear:** I'll move a motion—

**The Chair:** No, I'm sorry, you don't have the floor. It was a point of order. I ruled that it was not a point of order.

**Mr. Gary Goodyear:** I'd like to move a motion now.

**The Chair:** No, I haven't recognized you. I must recognize Mrs. Jennings.

**Mr. Gary Goodyear:** A point of order, please. A point of order, Mr. Chair.

**The Chair:** No, I can't.

Order, order.

I had ruled Mr. Goodyear's point of order as not a point of order; it was a request. But he did not get the floor because it was his turn to be recognized; he got the floor for a point of order. Since it's not a point of order, his request cannot be considered.

The committee has taken a decision, and the decision is that we complete the round and excuse the witnesses.

**An hon. member:** No, that's not the motion.

**The Chair:** Mrs. Jennings and Mr. Poilievre are the last two speakers who were on the list for the current round, so they would be entertained for the last five minutes each, at which time—

**An hon. member:** I have a point of order.

**The Chair:** Just a moment, please. I just want to make sure that everybody knows where we are.

I would then offer it to Mr. Mayrand, if he had any closing remarks or comments, after which time Mr. Bernier and Mr. Mayrand would be excused. It would be my intent then to suspend

for a break and reconvene—I haven't quite decided when—probably at two o'clock, at which time we would move forward with our other scheduled business, which is to deal with the future witnesses and future meeting dates.

**Mr. Gary Goodyear:** I have a point of order.

**The Chair:** Now, having said that, Mr. Goodyear, I believe, has again indicated that he has a point of order.

**Mr. Gary Goodyear:** I actually have two. I'll allow you, Mr. Chair, to tell me whether I can do both at the same time.

One, I'd like the motion that we just adopted read back to me and highlighted where it actually says in the motion that these last two rounds have to immediately follow the vote. I don't think that was the motion. It was that there were only two more questioners. It did not say anything about immediately following the vote.

I have a second point of order.

**The Chair:** Thank you.

That item is a matter of debate. The chair has already outlined what would happen.

•(1250)

**Mr. Gary Goodyear:** I'm sorry, Mr. Chair, with all due respect—

**The Chair:** I'm sorry, with due respect, the member has just heard about an hour of debate on the motion made by Mr. Martin for the completion of the current round. That was two more people, and there was a proposed amendment to make it eight. That's what we just spent an hour debating. Now you're saying you want it read back because you don't understand what we decided. I'm sorry, that's debate.

You had another point of order.

**Mr. Gary Goodyear:** I object to your misleading the public on what I said. I'm not interested in re-debating the motion; I'm just exposing your inaccuracies about what the motion said.

My second point is that I'd like to ask the clerk if it's customary behaviour for a chairman to arbitrarily rule this way.

**The Chair:** The clerk is not authorized. The clerk can advise the chair.

Order, please.

Members, respectfully, were given an opportunity to consider the motion of Mr. Martin and the amendment of Mr. Poilievre. The chair made a ruling, we called the votes, and the committee has decided. As it was passed, we decided to complete the round we are in. The last speaker was Mr. Martin. He is the one who made the motion that we complete the current round and then excuse Mr. Mayrand. That is what we debated for the last hour.

We've disposed of that motion. The committee has taken a vote, and that's the way we're going to proceed. The chair has to respect the decision of the committee to complete the current round, which is five minutes for Ms. Jennings and five minutes for Mr. Poilievre, and then to excuse the witness with the customary offer for him to say any final words before he is excused. Those are our rules. The committee has decided, and I have to proceed on that basis.

I'm now going to give the floor to Madam Jennings.

**Hon. Marlene Jennings:** Thank you.

[Translation]

Thank you for being here, Mr. Mayrand. I think I can quite confidently speak for my caucus and my party in expressing our appreciation for the quality of the work and the impartiality and objectivity of Elections Canada and the Chief Electoral Officer of Canada both here in Canada, in our federal general elections, and abroad and elsewhere in other countries.

Conservative MPs have insinuated that when you refused to answer certain questions put to you at these meetings that necessarily meant that you were afraid of undermining the case that is currently before the court, in the application brought against Elections Canada by the Conservative Party. In my opinion, and the opinion of anyone with in iota of comprehension of the law, that is simply ridiculous.

Other standing committees of the House have heard witnesses on other subjects and where there were proceedings underway in a criminal or civil court, those witnesses have refused to answer certain questions.

[English]

I think it is reprehensible on the part of Conservative members of Parliament to insinuate that because the Chief Electoral Officer is refusing to answer certain questions that are *sub judice* before the Federal Court, he is somehow doing so because he is afraid of weakening his case before the Federal Court. We have had cases where witnesses before other standing committees on the LRT, the light rail transit project.... The Conservatives might remember that, as the environment minister, Mr. Baird, cancelled the whole program. Well, there were witnesses on both sides of that civil litigation who refused to answer questions before the standing committee.

My sense, in trying to be an objective person, is that the Chief Electoral Officer may not want to answer certain questions that the Conservative members of Parliament are asking because he doesn't want to harm the party even further than it has been harmed with its electoral fraud and financing scheme.

I have a question. There was a Conservative candidate in Cardigan, P.E.I., who spent over 90% of his campaign expenses on advertising, according to his campaign election returns. Well, that same riding, Cardigan, is one of the ridings that appeared in the tag line of a TV ad, along with other Conservative candidates. But it's not a riding that Elections Canada has identified as having participated in this scheme which it has found to be in violation of the law, one, and which it is refusing to provide rebates for. And secondly, when the returns were filed, the official agent of the Conservative Party candidate in Cardigan, P.E.I., did not report that ad as an electoral expense, and the national party returns didn't report

it as an expense for that particular election campaign by the Conservative candidate in Cardigan.

Is there any way you can explain that? You may not have the information now. If you don't have the information, would you provide it in writing to members of this committee, through the clerk and the chair, as to why no expense was assigned by that campaign for that ad, which it and the Conservative Party media publicly attributed to that riding through a tag line for the official agent of the Conservative Party candidate in Cardigan, P.E.I.? In electoral financing, is it possible for an ad, whether print or electronic, to be attributed to a particular candidate, but that candidate does not have to report its value to Elections Canada? Is that a possibility?

I've gone over my time.

• (1255)

**The Chair:** Yes, you did. Thank you.

Mr. Mayrand, is there anything on which you would care to comment briefly?

**Mr. Marc Mayrand:** Again, it is a specific case, Mr. Chair. I indicated in my opening statement that I was not in a position to discuss specific cases.

**The Chair:** Okay, thank you.

Mr. Poilievre, please, for five minutes.

[Translation]

**Mr. Pierre Poilievre:** You said that it was legal to transfer expenses from the federal to the local level. Is that correct?

**Mr. Marc Mayrand:** No.

**Mr. Pierre Poilievre:** Money can be transferred, but not expenses.

**Mr. Marc Mayrand:** That's correct.

**Mr. Pierre Poilievre:** Right. But is it legal if the candidates decide they want to sign and share in the federal expenses and record them as local expenses? Is that permitted?

**Mr. Marc Mayrand:** I don't understand the question.

[English]

**Mr. Pierre Poilievre:** If local campaigns decide that they want to absorb some of the costs of the national campaign and declare them as local expenses in order to receive an enhanced reimbursement and to lower the national spending beneath the limit, is that allowed?

**Mr. Marc Mayrand:** Again, as I mentioned earlier, transfers of expenses are not allowed either way.

[Translation]

**Mr. Pierre Poilievre:** So, why have you not looked into the case of the Bloc Québécois, as Elections Canada is doing now, when it systematically transferred expenses for national advertising, in its own words, to local candidates? Why did you not look into that? All of the facts relating to that case are public. Why not look into that case?

[English]

**The Chair:** Order.

All right, just a moment. We've been here a long time for this morning session. It's already one o'clock.

Excuse me. Mr. Poilievre, you have posed a question and I'm going to ask Mr. Mayrand to respond.

But, Madame Lavallée, you did say the words "point of order", and I'm going to ask you nicely if you can assure me that this is in fact a real point of order.

• (1300)

[*Translation*]

**Mrs. Carole Lavallée:** Do the points of order refer to relevance?

**An hon. member:** Yes.

**Mrs. Carole Lavallée:** So the subject is not relevant because the motion we have passed and what we are currently looking into concern the ethics of public office holders in the Conservative Party and not in the Bloc Québécois.

[*English*]

**The Chair:** Yes, we have already had a brief discussion of this and the relevance of it. The relevance question is a valid point of order, and thank you. I think the colleagues understand that there is this concern about dealing with periods outside of the current motion—elections back to 1997 or the year 2000, with regard to other persons and other rules as they existed at that time. There would have to be a very significant amount of work done just to understand the context in which we would consider some of those questions.

Having said that, we can debate this for a little while longer, but the question has been posed. Mr. Poilievre still has three and a half minutes.

Mr. Mayrand, is there anything you wish to respond to in Mr. Poilievre's first question? No?

**Mr. Marc Mayrand:** I'm not privy to the information that Mr. Poilievre referred to, and I do not comment on this.

**The Chair:** Could you start the clock again, then?

Mr. Poilievre, do you want to continue?

**Mr. Pierre Poilievre:** Yes.

In a case where there is a systematic program to transfer \$12,000 per riding from the national campaign to the local campaigns for expenses that are explicitly and admittedly national, then you have an example where expenses have been transferred and that transfer has been permitted. I'm curious as to why Elections Canada has not looked into the case of the Bloc Québécois transfer of expenses from its national campaign to its local campaigns. Can you elaborate at all?

**Mr. Marc Mayrand:** I don't have comments on specific cases. I would have to look into it.

**Mr. Pierre Poilievre:** Can you pledge to get back to us on why Elections Canada has not looked into this case, then?

**Mr. Marc Mayrand:** In due course.

**Mr. Pierre Poilievre:** In due course. You have made that commitment. That's a yes?

**Mr. Marc Mayrand:** Yes.

**Mr. Pierre Poilievre:** All right, because here we have an example where roughly \$800,000 in television advertising of a national character was expensed locally for the explicit purpose of increasing the reimbursements to which candidates were permitted. That is precisely the crime of which the opposition is accusing the Conservative Party, and I don't see any action whatsoever from Elections Canada.

[*Translation*]

And that is why Gilles Duceppe is well known as the Father of In and Out, Mr. Chair. And we have here the five factors that you say are very important.

[*English*]

Can you tell us where it says in the law that an official agent must have detailed knowledge of the media advertising that his campaign purchases? Is that in the law anywhere?

**Mr. Marc Mayrand:** Again, as I indicated this morning, I'm tasked under the legislation to verify the claims that are submitted for public funds reimbursement. In order to do so, I need to determine whether the claims, as submitted, are for electoral expenses—

**Mr. Pierre Poilievre:** Sir, we don't have a lot of time.

**Mr. Marc Mayrand:** The electoral expenses have to be incurred by the candidate.

**The Chair:** Please, Mr. Poilievre, would you allow Mr. Mayrand to complete his answer? It's difficult for the translators when both people are talking at the same time.

**Mr. Pierre Poilievre:** I have a point of order, then.

You have imposed severe restrictions on time here. I just ask that we go right to the answer. The question was whether or not there is anything in the law that suggests, as Mr. Mayrand has stated, that the candidate or official agent must have detailed knowledge of advertising that is expensed to his campaign. I'm just asking him, is it in the law, and if so, where?

• (1305)

**The Chair:** Order.

First of all, since I stopped the clock, you have one minute left. You've called a point of order. It wasn't a point of order; it was debate. Members should know the ruling on that.

Prior to your saying that you had a point of order, Mr. Mayrand was in the middle of responding to your question, and you started to interrupt him. I noticed that the translators couldn't follow who was saying what. I simply ask that you allow Mr. Mayrand to complete his answer before you get on to your reaction or further questions.

So we'll start the clock again. Mr. Mayrand, do you have anything further to say with regard to the question Mr. Poilievre posed to you?

**Mr. Marc Mayrand:** I will simply refer to previous statements I've made over the last two days with regard to similar questions and point out, again, that the matter is before the Federal Court and will be argued in due course.

**The Chair:** I think you have time for one more question, Mr. Poilievre. It's less than a minute.

**Mr. Pierre Poilievre:** These are all matters Mr. Mayrand himself has raised before this committee. After having raised them, he now says it is impossible for him to support his arguments, arguments that he introduced here and thought were appropriate to bring to this place, because he says they are before the court. In fact, these arguments themselves are before the court. So if that was the reason to exclude them from your testimony here, you wouldn't have mentioned them at all.

Mr. Chair, I'd like to take the rest of my time to officially move the motion I submitted yesterday. It was acceptable for us to move on that motion yesterday, but out of a spirit of generosity, I agreed to give other members a day to consider it. It is a motion that was submitted by Mr. Reid, and I will move it right now. It calls for the....

I have the floor, so I can move a motion.

**The Chair:** Order, please.

Thank you, your five minutes are up.

The matter you refer to was already moved by Mr. Reid.

**Mr. Pierre Poilievre:** It has not been moved yet. It's been tabled but not moved.

**The Chair:** Yes, but it is Mr. Reid's submission, and he would have to do that. But he doesn't have the floor.

We can deal with this. Order, order!

I'm sorry, but the chair has the document from the clerks who keep track of this, and it's the motion from Mr. Reid that deals with the independent investigation of the leak. That's the one we're talking about. That's before us. It is debatable, as you know. I think I understood that you wanted to just move to the vote on that right away. That was your suggestion.

**Mr. Pierre Poilievre:** No, just to clarify, I have a superseding motion to move to the motion before you, which is my right under the Standing Orders.

**The Chair:** I'm sorry, but you don't have the floor to do that right now.

•(1310)

**Mr. Pierre Poilievre:** Well, I did. I already did. I had the floor. I've already moved it. I don't have to move it now; I already did.

**The Chair:** No, sorry. I have to follow the rules and—

**Mr. Pierre Poilievre:** You just don't—

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

**Mr. Pierre Poilievre:** You don't like the motion, so you don't want to record it.

**The Chair:** No, no.

**Mr. Pierre Poilievre:** That's the point: you just don't like the motion.

**The Chair:** Okay, order.

**An hon. member:** You guys don't like the rules.

**An hon. member:** You can't get used to the rules.

**An hon. member:** Could I have the floor?

**The Chair:** No. No, we're in the middle of something right now.

**An hon. member:** The witness.

**The Chair:** Order, order.

**An hon. member:** Bring in the witnesses.

**The Chair:** Okay. I'll get there.

I don't think it's humorous to laugh at the orders.

We did pass a resolution that we would hear from the last two speakers in that round and Mr. Poilievre. After Mr. Poilievre had completed his remarks, and then we were ready to excuse Mr. Mayrand, he, as I heard—

**An hon. member:** It's not true.

**The Chair:** I didn't say what I heard yet, so how do you know it's not true?

**An hon. member:** You use that all the time.

**The Chair:** I have heard about moving the motion by Mr.—

**Mr. Gary Goodyear:** That was when we still had the floor, though.

**The Chair:** No. Well, okay, moving the motion that Mr. Reid had brought up.

**Mr. Gary Goodyear:** It's still on the record.

**The Chair:** I have checked with the clerks, and the record of our meeting will show that this motion has been moved by Mr. Reid, okay? The document I have here says "Motion from Scott Reid", so our records show and the transcript will show that it was moved by Mr. Reid.

At that point, we already have a motion—we know it's debatable and it's votable, etc.—but we have to complete what the committee had decided on, and that was we've finished—

**Mr. Pierre Poilievre:** I have a point of order, Chair.

**The Chair:** Just a moment, I'm still trying to explain what happened here.

We finished with the two remaining speakers, and then I had indicated we would give Mr. Mayrand an opportunity to say any final comments before he was excused, so I would like to do that as soon as possible.

Mr. Poilievre, did you call on a point of order, sir?

**Mr. Pierre Poilievre:** Yes.

**The Chair:** You have that right. What is your point of order?

**Mr. Pierre Poilievre:** Under chapter 12, "The Process of Debate", page 469, under "NO NOTICE", under "motions to proceed to another order of business", my motion is a superseding motion and it can move the committee towards a motion that has already been introduced and has been given proper and appropriate notice.

I've now put this motion forward. It's a motion to proceed to another order of business. If you want to reference the rule, it's on page 469. And I did say that entirely while I had the floor, so if we can proceed to the consideration of my motion, that would be entirely in order.

**The Chair:** I don't have the transcript, but I remember hearing the word "superseded" after "I want to move the motion". I think the record will show that.

The member is quite right. There is a procedure in which you can make a motion to move to another order of business. It is not debatable, and the vote should be taken right away.

Here is what I understand the effect would be. I want members to understand this before we have the vote. We will put the question that we go to Mr. Reid's motion now. It is debatable, so we could have lots of debate. After that debate collapses, we would have a vote on that motion.

Just as we did with the previous issue of Mr. Martin's motion, there would be this debate. Then once we finished that, if for instance the members voted not to adopt the motion just made by Mr. Poilievre, then we would be able to excuse Mr. Mayrand. We would not be able to excuse the witness on the basis that we're going to do some other business before we can do this last two-second thing.

As long as the members understand, there is no debate on this. There's debate on Mr. Reid's motion, but not on the motion to move to another order of business. It's not debatable, and I must put the vote now.

Now that I've explained to members the consequences of voting one way or another—and I hope members will think very carefully about how they vote here—I'm going to call the question on Mr. Poilievre's motion that we move to another order of business, being the motion by Mr. Reid.

● (1315)

**Mr. Pierre Poilievre:** Recorded vote.

**The Chair:** I will ask the clerk to please call the roll.

(Motion negatived: nays 6; yeas 5)

**The Chair:** Mr. Mayrand, do you have any final remarks for this perfectly functional committee?

**An hon. member:** They don't want to hear them.

**Mr. Marc Mayrand:** I simply wish to thank the members of the committee—

**The Chair:** Before you do, Mr. Mayrand, there is something I want to share with you and anybody else who might be interested.

I was hoping it wouldn't happen, but there seemed to be a substantial preoccupation with the credibility and integrity of you—

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

**The Chair:** —and Elections Canada, particularly as it related—

**Mr. Gary Goodyear:** On a point of order, if you're going to be credible, then be polite. No one is asking for your opinion at this point about what you think happened in this committee.

**The Chair:** I understand.

**Mr. Gary Goodyear:** You're appointed by the Liberal Party, and you're a Liberal. I think that's way over the custom of impartiality.

**The Chair:** Thank you, Mr. Goodyear. I understand you, sir. I understand. I simply wanted to indicate that I apologize if we did go

to areas that I expressed some concern about at the beginning of the meeting, about what the rules refer to as badgering the witnesses. I believe you understand how this occurred.

I will now entertain any final comment you may have to the committee before I excuse you.

**Mr. Marc Mayrand:** I simply wish to thank you, Mr. Chair, and members of the committee. Thank you.

**The Chair:** Thank you, Mr. Mayrand. You are excused.

All right. I am going to suspend until two o'clock.

● (1315)

\_\_\_\_\_ (Pause) \_\_\_\_\_

● (1410)

**The Chair:** Okay, colleagues, we're now resuming our business.

We have finished with our witnesses. We're now at the second item on our notice of motion. We have completed with Mr. Mayrand and Mr. Bernier. We have a couple of matters of business that we had indicated and that I'd like to proceed with. I'd like to lay out how we will do this.

I put committee business on the notice of meeting, and as we discussed very briefly yesterday, the principal reason is to address future witnesses. We had adopted a process whereby the members from each of the parties would prepare and submit to the clerk their proposed witnesses by the beginning of today's meeting, at 10 a.m. That was done. All the duplicates have been consolidated except two. I noted two, actually, that are still duplicated there, but I'll point them out to you. So we want to deal with that witness list.

We also want to deal with the meeting dates. I have heard some interventions. There is a strong argument from a couple of members, with regard to Quebec, that the last week of July and the first week of August are basically no-go zones. This is a very significant period of time—vacation time and other activity time—for Quebec, and as a consequence, I'm going to suggest....

Also, Mr. Goodyear and a couple of others have mentioned on a couple of occasions that coming for two days, going back home, and then coming back for another two days, the cost of that to fly.... What I'm going to suggest—and you may want to check your calendars now—is that once we deal with our witness list, the committee would next meet on August 11, 12, 13, and maybe 14. It is about a month from now. That will give the committee and the clerks and so on enough time. We have to do a fair bit of work to establish clarification of the relevance of some of these witnesses, to group them, and to find availability and so on. It will take some time. We can't do that before the last week of July. Therefore, the next opportunity really is the week I'm proposing. So depending on the number of witnesses we can actually get, it will be two, three, or four days, but it will be all in that week. That is what I'm proposing to members.

Now, finally, we have one additional item of committee business, and that is the motion of Mr. Reid, which was properly presented to the committee and has been moved. It's debatable. The members are aware of that, and we should discharge that. That will also be dealt with as the last item of business I'm aware of. That's just to give members an idea of where we're going.

We had a very substantial list of proposed witnesses from members. I want to indicate to you that if you all have your copy of this, on the second page.... Do you have a copy of this?

• (1415)

[Translation]

**Mrs. Carole Lavallée:** Excuse me, I want to come back to the other subject you talked about. You said August 11, 12, 13, 14 and 15, in Ottawa?

[English]

**The Chair:** No, no. I said Monday, Tuesday, Wednesday, and Thursday. That would be the 11th, 12th, 13th, and 14th.

[Translation]

**Mrs. Carole Lavallée:** And that's in Ottawa?

**The Chair:** Yes.

**Mrs. Carole Lavallée:** Fine, thank you.

[English]

**The Chair:** On page 2, Mr. Pierre Coulombe, chief organizer for the Conservative Party of Canada, is listed on line 4, and again about two-thirds of the way down the page. Just drop the last mention, as housekeeping.

As well, the other duplicate is Touché Marketing, which appears near the bottom of the last page and also at the top of page 2. I think we should delete one of these. It's the same matter, the same item, the same sponsor.

Now, there are many ways to approach this, and I think the chair is going to have to show a little bit of leadership on this. I have taken the opportunity to review all of the submissions and, again, our motion of business. I want to read it into the record again, just to refresh members' minds:

That the Standing Committee on Access to Information, Privacy and Ethics investigate the actions of the Conservative Party of Canada during the 2006 election, in relation to which Elections Canada has refused to reimburse

Conservative candidates for certain election campaign expenses in order to determine if these actions meet the ethical standards expected of public office holders.

The references to 2006 and to the Conservative Party are significant and meaningful in this, in terms of establishing relevance. Accordingly, I am going to rule—

**Mr. David Tilson:** I don't support what you're doing, Mr. Chair. You have no right to just come in here and say this is what's going to be the case. Surely to goodness members of this committee have a say as to who the witnesses are going to be. You just can't jump in here and say this is it and you're going to rule. It's most improper.

**The Chair:** Thank you, Mr. Tilson.

The relevance is the issue, and the chair is going to have to point out to members that there are persons on this list who have been proposed but do not meet the relevance test for the matter before the committee.

The chair is making a decision. So I want to list for the members

**Mr. Gary Goodyear:** On a point of order, please, Mr. Chair, I wonder if I could possibly offer to the chair a document that you could read. I could read it out for you. It's dated June 19. It is from a committee meeting that you presided over and where you confirmed very astutely, to me, that the chair would not be involved in the selection process of witnesses.

I'd be happy to give this to you, Mr. Chair.

**The Chair:** Sure. Thank you.

**Mr. Gary Goodyear:** May I submit this to you, Chair?

• (1420)

**The Chair:** Thank you.

I'm not selecting witnesses, but I am making a determination of their relevance. I'm going to suggest to committee members that I've reviewed this and that at the top of page two there is Touché Marketing, which because of its relation to prior elections with regard to Bloc Québécois candidates, and not Conservative candidates, that....

On the bottom of page 4, there is Lucy Ladouceur, the NDP bookkeeper. Again, it's in regard to NDP candidates. There is Libby Davies, an NDP candidate. Again, this does not involve the media buy, which is the issue. And there is Mr. Christopherson.

**Mr. Pierre Poilievre:** I have a point of order.

**The Chair:** And there are also Mr. Limoges and Mr. Jean-Paul Marchand—

**Mr. Pierre Poilievre:** I have a point of order, Chair.

**The Chair:** I will deal with you in a second; I'm in the middle of something. Thank you.

I say this because they have to do with the 2000 election. There is also Ms. Lorraine Godin, former official agent for the Bloc Québécois back in the 2000 election; and Mrs. Janine Boileau, official agent for the Bloc Québécois. Again, I mention them because of their party and the date. And there is Mr. Marc Lemay, the 2004 candidate for Abitibi—Témiscamingue. Again, he is outside of the scope of the work of the committee.

It is my decision that these proposed witnesses are beyond our scope and are not admissible for our witness list.

**Hon. Marlene Jennings:** I challenge your ruling.

**The Chair:** You challenge the chair?

**Hon. Marlene Jennings:** Yes.

**The Chair:** Okay. It's not debatable, and the question must now be put.

Shall the decision of the chair be sustained? Would you please call the roll?

(Ruling of the chair sustained: yeas 6; nays 2)

**The Chair:** The decision of the chair has been sustained.

Mr. Martin, you had—

**Mr. Pierre Poilievre:** I had a point of order that you had promised you would return to immediately after you were done listing—

**Mr. Pat Martin:** Mr. Chairman, I'm asking for the floor and to be recognized. It's not a point of order. I'm asking to be recognized in dealing with the witness list.

**The Chair:** Hold it. No, Mr. Poilievre is correct. He had called on a point of order, and I'm going to recognize him on his point of order.

**Mr. Pierre Poilievre:** Chair, at this point you've not had a chance to rule on the subject of the three witnesses at the top—John Courtney, Andrew Heard, and Heather MacIvor.

I know with near certainty that none of them have been investigated for election spending, yet they are being invited to testify as witnesses. I suppose that means they are being invited to testify about the Conservative electoral financing practices. The individuals you have taken off the list are also being called to testify about Conservative electoral practices, so they would fall within the motion, and so I would ask that they simply be put back on, given that they are going to be asked to testify about the contents contained within the motion. They are not being asked to testify about prior elections, but on the content within the motion.

In that new light—

•(1425)

**The Chair:** Just for clarification, I understand you're talking about the first three people on the list. I did not delete them. They are on the list.

**Mr. Pierre Poilievre:** Okay. My point, though, is that they are still on the list, even though they are not under investigation and are not party to any investigation. They are testifying about the discussion of the Conservative financing.

What I was going to tell you is that we were hoping Jean-Paul Marchand and the group of others you have removed would also testify about the same thing, even though they are not party to it. In

that new light, it would be great if you could just go ahead and put them back on the list.

**The Chair:** Thank you. It's not a point of order; that's debate. The committee has already taken the decision on amending the list. We now have an amended list. I believe the next item is to address the amended list.

Mr. Martin, you were recognized.

**Mr. Pat Martin:** Mr. Chairman, I would like to move a motion that we adopt the witness list as just amended by the chair, with the inclusion of one more detail, which is to withdraw the name of Robin Sears, and also to give direction to the chair and the clerk to begin to assemble a logical order of witnesses for appearance when we reconvene this committee in the month of August.

**The Chair:** Okay, maybe you could write out the elements there. Or did the clerks get that?

We need to have the motion. You don't have that written down. The clerks have said that the motion is to the effect—and you may want to confirm this—that Robin Sears be removed from the list, and that the proposed witness list as amended be agreed to, and that the chair be authorized to proceed with the arrangement for witnesses to appear at our hearings to be held in the week of August 11. Is that about right?

**Mr. Pat Martin:** Yes, that accurately summarizes what my motion was.

**The Chair:** Okay.

Madame Jennings.

**Hon. Marlene Jennings:** I just want to question Mr. Martin.

**The Chair:** I'm sorry, I have a point of order called.

Mr. Goodyear, on a point of order.

**Mr. Gary Goodyear:** Thank you very much, Mr. Chair.

I'm calling attention on a point of order here. Marleau and Montpetit, I believe on page 857, states:

A point of order calling attention to a departure from the Standing Orders or from the customary manner in which a committee has conducted its proceedings may be raised at any time, by any member of the committee. In doubtful or unprovided cases, the Chair may reserve his or her decision.

Mr. Chair, do you seriously believe that it is customary to openly play favourites? Now, I know you're a Liberal and I know that you have been appointed by the Liberal Party, but I am asking why you would deviate from Standing Orders and persist in destroying the credibility of a parliamentary committee. You stated before, Mr. Chair, that you would not involve yourself in the selection of witnesses and you have flip-flopped on that decision, and I am calling a point of order on this whole matter.

**The Chair:** Mr. Goodyear, your point emphasizing the customary practice, etc., in fact this—

•(1430)

**Mr. Gary Goodyear:** I didn't mean customary for you, Paul; I meant customary for chairs who do things properly.

**The Chair:** Well, we have the decision of the committee on the motion that we adopted to look into the in and out scheme, which was in fact handled the same way. We had an earlier approach today that was on the last item we dealt with before we broke, which was the motion about the eight. The chair—

**Mr. Gary Goodyear:** Mr. Chair, you've misunderstood my point. If I may—

**The Chair:** Well, I'm responding to it. I just have two examples in which the committee has followed this approach to respect the right of a committee to make a decision as well as to respect the rights of members to speak.

**Mr. Gary Goodyear:** Mr. Chair, I'm fully aware of that, but clearly you've misunderstood what I mean. I'm not talking about your customary behaviour on this committee.

**The Chair:** I'm sorry, could you repeat that? I was—

**Mr. Gary Goodyear:** My apologies for not stopping while you were debating with the clerk.

I am not suggesting that I said “customary procedures of your actions on this committee”. I am talking about the customary manner within which all committees on Parliament Hill have acted over generations, according to Marleau and Montpetit. Clearly, clearly, you are displaying a bias to the selection of witnesses. You have displayed the ability to control what questions can be asked and what answers can be given, and now you're telling us what witnesses we can see.

Why don't you, Mr. Chair, just tell us the outcome? Why don't you just tell us the outcome and save us a lot of money?

**The Chair:** The last part there is not any part of a point of order. It's a matter of opinion; that's debate. I respect your right to have that opinion, but I have no response to it, sir.

Madame Jennings had asked to be recognized.

**Hon. Marlene Jennings:** First, may I speak to the issue of this point of order?

**The Chair:** There was no point of order.

**Hon. Marlene Jennings:** Fine.

**The Chair:** But you're not—

**Hon. Marlene Jennings:** I'd like to call the question. And I just want to ask a question of...

I'm sorry, Mr. Tilson, but I had not finished. My original reason for having my hand up, before Mr. Goodyear made his point of order, which turned out not to be a point of order, was to ask a question of Mr. Martin concerning his motion. Mr. Martin, in his motion, refers to “the list as...amended by the decision of the chair”. I want to ask this. Did he also mean to say “and upheld by the committee”?

**Mr. Pat Martin:** If I may, Mr. Chair, through you, for the record, that is what I intended. I think in the words I used it was implicit that the ruling of the chair had been upheld by the committee.

**The Chair:** Okay. The transcript of the meeting will in fact reflect what actually was said. I think we're in good order, but thank you for that observation.

Mr. Tilson asked for the floor.

**Mr. David Tilson:** Before we start the debate, I just want to be clear as to what the motion is doing. The resolution essentially confirms what the chair has done, with the exception of deleting Mr. Sears' name.

In other words—just so I'm clear—the list stands with the exception of all the names submitted by the Conservative Party of Canada. So all the names of the Conservative Party of Canada have been deleted.

I want to be clear on the motion before we start debate, just so I know. I don't see any names submitted by the Conservative Party of Canada left on the list. Are there some left? Maybe the odd one?

**The Chair:** Order, please.

Ms. Jennings, please come to order.

Mr. Tilson, you had the floor and you made an observation. I've checked the list and you are correct.

This is not a debate, though. We have to debate the motion.

• (1435)

**Mr. David Tilson:** As I understand the resolution, all the names submitted by the Conservative Party have been taken off, and no other names have been taken off. Is that correct?

I just want to make sure I understand the motion.

**The Chair:** I answered you correctly the first time.

**Mr. David Tilson:** Okay. Thank you.

**The Chair:** We have the motion before us. Is the committee ready?

The motion that Robin Sears be removed from the proposed witness list, that the list as amended be agreed to, and that the chair be authorized to begin inviting and scheduling the witnesses to appear during the week of August 11, 2008, is the motion before us, moved by Mr. Martin.

Mr. Martin, do you wish to speak to your motion?

**Mr. Pat Martin:** Yes, if I could just briefly, Mr. Chairman. I just wanted to wait and see if in fact you deemed it to be in order, and I am glad you have.

I would simply say that it isn't a coincidence that virtually every name put forward by the Conservative Party has been struck from the list. It's simply because none of them are in order. None of them had anything to do with the 2006 federal election or the fundraising scheme by the Tories.

I would also say that voting for this motion does not preclude adding witnesses at a later time to our study. It isn't unusual for a committee, at the early stages of a study, to agree upon a witness list that gets us started and sets the first few days of hearing witnesses, and as we reach the end of that witness list, we may want to recall the same witness back for clarification or we may want to call a brand new witness. In other words, the Conservative Party would be perfectly free, and I would think it would be in order at a later time, to put forward other names that they might like to hear as witnesses, as long as it's relevant and within the mandate of the motion that established this particular study of this committee.

That said, those who are voting for this motion should do so with the knowledge that it does not preclude any of the parties from putting forward further names after our meetings in August are wrapped up and if we want to book further dates to hear further witnesses.

Thank you.

**The Chair:** I now have Mr. Poilievre.

**Mr. Pierre Poilievre:** At the top of the witness list I have Mr. John Courtney, Mr. Andrew Heard, and Ms. Heather MacIvor. I note that none of them were involved in the 2006 election; they are being allowed to stay on the list. Why? Because they are prepared—or are at least going to be invited—to offer commentary about that election and the electoral financing of one party during that election even if they weren't part of that election. Logically, if they are being permitted to stay on the list, then so should a whole group of other individuals who might also offer testimony about the 2006 electoral financing practices of the Conservative Party.

So even the pretext, which by itself is unjustifiable, for excluding all of the Conservative-called witnesses—even if it was true—has not been evenly applied, because we are allowing people to stay on the list who had nothing to do with the 2000 election and nothing to do with the Conservative Party practices during that election.

I find it interesting that Mr. Martin wants to have Robin Sears removed. Robin Sears is not being called to comment on past electoral practices. He was being called to comment on the practices of the Conservative Party from the last election on which he has been a commentator. The only reason that Mr. Martin and the opposition want him removed is that he might say something they don't agree with. That is basically the only criterion that is being applied to the admissibility of witnesses here. If the opposition disagrees with the sentiments of or is afraid of the information that a perspective witness might divulge, then that witness is precluded from attending the committee. That is the extent of what we've heard so far.

I can't possibly imagine how that is justifiable.

Let's assume that the opposition was correct, that none of the other parties engaged in the electoral practices in the last election that they accuse us of. If that's the case, then why don't they just let these witnesses appear and prove it? They can come before us; it will only take a few minutes. We'll ask our questions, they'll give their answers, and if the in and out transfers of which we are accused are not applicable to any other party in any other election, then that would become very apparent very, very quickly. Of course, we know at the heart of this that every party has done exactly the same thing as

the Conservative Party stands accused of by the opposition. If we are given a fair chance to hear about the practices of the other parties, it'll become patently obvious to all of us that is the case.

Mr. Chair, you have taken your instructions from the Leader of the Opposition's office to banish anyone from the list that they believe would be damaging to the Liberal case. The other parties, in an effort to cover up their own activities and their own electoral hypocrisy, have given you an additional list of people to banish. And interestingly, if you want to look for something consistent in how you have determined the witness list, the only thing consistent here is that every person you have denied the right to testify or removed from the list of testimony is a Conservative submission—every single one of them. Every one that you allowed was an opposition submission. That is the only thing consistent about your ruling. There is no other justification that would apply evenly throughout the list. As such, I will be opposing this list.

In addition, members of Parliament and cabinet ministers are under no obligation to come before this committee, and I doubt very much that they will be participating in your kangaroo court. So you can take that prediction for what it's worth.

Thank you very much.

• (1440)

**The Chair:** Thank you.

Ms. Jennings, please.

**Hon. Marlene Jennings:** Chair, the committee confirmed your ruling on the basis that the suggested witnesses that you ruled out of order were out of order. Your ruling was confirmed because there was no credible reason to believe that these witnesses would have any knowledge of the activities of the Conservative Party of Canada, in relation to certain election campaign expenses and the ethical standards of public office holders, during the 2006 election campaign.

One of my colleagues on the other side, Mr. Poilievre, raises the issue of the list of experts on election laws, who were ruled in order and relevant. This committee sustained your ruling on them.

I would simply like to make one point. Mr. John Courtney is a political scientist at the University of Saskatchewan, Diefenbaker Canada Centre, and an expert on Canada's electoral system. Why? Because he actually does scientific research on it.

Mr. Andrew Heard is an associate professor of political science at Simon Fraser University who also does scientific research on Canada's electoral system.

Heather MacIvor teaches political science at the University of Windsor. She is another political scientist and academic researcher who does scientific research on Canada's electoral system.

Mr. Martin made a motion to amend the list, on which you made a ruling that the committee sustained, in order to remove the name of Mr. Robin Sears. Mr. Robin Sears, to my knowledge, is not an academic and has not made a living doing scientific research on Canada's electoral system. My understanding is that he's a communications adviser to the Right Honourable Brian Mulroney. If he is not in this position now, he was in the past. He is clearly not a non-partisan potential witness, as the academics are. That's the first thing.

Mr. Chair, I would also propose an amendment to Mr. Martin's motion. My amendment would delete the name of Jean Landry and Lise Vallières. We find them on page four, in the middle. The line begins, "Richmond—Arthabaska: Jean Landry (candidat) et Lise Vallières (agent officiel)", submitted by the Liberal Party and the Bloc Québécois. I would suggest that we remove them. I think this would probably make the Conservative Party MPs who are members of this committee happy.

**An hon. member:** Very happy.

**Ms. Marlene Jennings:** Mr. Landry was actually a Conservative candidate in the 2006 election. I'm proposing, through my amendment, that we remove his name.

I would say that there are plenty of Conservative potential witnesses on this list, so I have a difficult time understanding why Mr. Poilievre, Mr. Tilson, Mr. Reid, and Mr. Goodyear are so upset that a number of their proposed witnesses have been deleted. There are plenty of Conservative members who were candidates in the 2006 election and who remain on the list. There are plenty of examples: Ann Julie Fortier, Liberato Martelli, David Marler, Gary Caldwell, Joe Goudie, Cynthia Downey, Sam Goldstein, Elizabeth Pagtakhan, Louise O'Sullivan, and Steve Halicki.

Mr. Chairman, let me read a couple of others who are on the list and are actual office holders. Where are they? Allow me to name a few: Maxime Bernier, of Beauce; his official agent, Aline Drouin; Madame Josée Verner...

• (1445)

[Translation]

Josée Verner is a public office holder. Her name is still on the list. The Conservatives should be happy. If we look at the witness list, we can see the following names: Christian Paradis, who was just promoted in Mr. Harper's last cabinet shuffle, and his official agent, Manon Blanchette; Stockwell Day, the Minister of Public Safety, and his official agent, Neil Jamieson; Lawrence Cannon, Minister of Transport, Infrastructure and Communities and Political Lieutenant for Quebec, and Marc Lafrenière, his official agent; and Jay Hill, the government whip, and his official agent, Cecil C. Cranston.

As I said, and I have not named all of them, there are a lot of Conservative members. There are even public office holders who are Conservatives or official agents of Conservatives who are still on the list. I am wondering what the four Conservatives sitting in front of me are crying about.

The purpose of my motion is to remove the name of Jean Landry and his official agent, Lise Vallières.

[English]

So I amend it to remove the names of Jean Landry and Lise Vallières from the list of witnesses, and to add to the motion that the chair have the power to issue subpoenas for these witnesses who remain on the list, if necessary.

• (1450)

**The Chair:** Madame Jennings has proposed an amendment. The effect of the amendment is to delete two additional names, Jean Landry and Lise Vallières, and to authorize the chair to issue summonses to any witness who may be summonsed—because as we know, MPs cannot be, without a House order—and that the chair be authorized, at his discretion, to summons any witness who may be a witness but who refuses the committee's invitation to appear.

This is an amendment to the motion. It would read formally that the motion be amended by adding, after the words "Robin Sears", the names Jean Landry and Lise Vallières; and that the chair be authorized, at his discretion, to summons any witness who may be summonsed but who refuses the committee's invitation to appear.

That is the amendment to the motion that is already on the floor. We are resuming debate on the amendment.

Mr. Tilson.

**Mr. David Tilson:** Mr. Chairman, I have a question on the amendment.

Can the committee do a subpoena without some sort of support from the House?

**The Chair:** The committee, under Standing Order 108, has the right to call for persons, papers, or records. It's a subdelegation. In fact, the amendment that we're dealing with, with regard to the chair's authorization, is the precise motion we passed at the Mulroney-Schreiber hearings because the committee was concerned that, as the clerk and the chair tried to find witnesses, the only way it could issue a summons would be to come before the committee to get the approval of a motion to summons a witness, which meant we'd have to bring everybody to Ottawa to have a meeting just to get authorization for a summons. The solution to that was simply to authorize the chair.

• (1455)

**Mr. David Tilson:** So you don't need to go to the House as we did with the other hearing?

**The Chair:** No, not to call for persons, papers, or records.

We cannot summons members of Parliament. The only way a member of Parliament could be brought before a committee is if there were a House order.

**Mr. David Tilson:** Okay. I hope you're right.

I know you're right about the members, but my question is with respect to individuals. If they choose not to appear, I think you need something from the House.

**The Chair:** It's a delegated authority. Certainly Mr.—

**Mr. David Tilson:** You must have delegation to do that, but the House has to do that first, before you can do it.

**The Chair:** We did not go to the House with regard to the Schreiber issue on the one that we were dealing with, which was François Martin, because he ultimately agreed to come. But we never did have to go to the House. The chair, at his discretion....

At page 861 of Marleau and Montpetit, it says, “When a witness has declined an invitation to appear, a committee may issue a summons to that witness by adopting a motion to that effect.” However, you have raised the question, and certainly, Mr. Tilson, the delegation of this responsibility to the chair is only operative to the extent that it is in accordance with the rules of the Standing Orders of the House of Commons, no question.

Resuming debate, we have a list of speakers. I apologize.

Mr. Reid, you were next on the list, and then Mr. Goodyear, Mr. Poilievre, Madame Lavallée, Mr. Dhaliwal, and then Mr. Reid again.

**Mr. Scott Reid:** No, I was on the list for the main motion.

**The Chair:** I'm just carrying on with the same list. I think it's a little easier that way.

You're up, sir.

**Mr. Scott Reid:** Okay.

Actually, that allows me to raise an important point at the start, which is that I have some comments with regard to the main motion. I have some comments with regard to the subamendment as well, but the point I want to ask you first is whether it is your intention to allow us to return to debate on the main motion after this one has been either passed or defeated. You didn't allow that the last time. It will cause me to structure my remarks differently if you intend to simply call the votes on both questions at the same time.

**The Chair:** May I interrupt, please?

The committee actually adopted a motion of the chair that all motions necessary to dispose of the amendment and the motion be put now. That means there is no more debate on either part, so you may want to check the transcript.

**Mr. Scott Reid:** I'm not challenging that. That raises the question, then, that it could happen again here, couldn't it?

**The Chair:** If the committee so decides, yes, it could.

**Mr. Scott Reid:** In that case, I'm going to take the opportunity to address both. I think you would have to find me in order in doing so, because in the history of this committee the practice has been to shut off debate by that particular tactic, and that seems likely to occur again. Certainly it is possible to begin again.

I'll start by noting the obvious thing. The Bloc Québécois submitted 45 proposed witness names, the Liberal Party submitted 43 proposed witness names, the New Democrats proposed 17 witnesses, and the Conservative Party proposed 11 witnesses. Every single witness proposed by the Conservative Party has been disallowed.

We haven't had the opportunity to hear a rationale for the basis on which members of the committee supported the chair. We did hear the chair's rationale. The obvious concern I had with that—this is relevant to the discussion under way as we look at other witnesses—is that these were people whose names were submitted with some information when they were given.

By way of example, there was Libby Davies, MP for Vancouver East; Phyllis Loke was the official agent for Ms. Davies in the 2006 election. These, of course, are not all the attributes these individuals have. They are individuals with many facets to their personalities, their professions, their opinions, and so on, some of which could have been relevant to the matter under way, particularly in a comparison between their practices, which in many cases, and even the cases listed here, were identical to those Elections Canada disallowed in the case of the Conservative candidates. That's the relevance.

At any rate, members might have tried to question them about matters outside the subject matter of the debate. That could have been ruled out of order. Their commentary on the similarities between their practices—or dissimilarities, as the case may be—would have shed some light on the disallowance by Elections Canada of the election expenses of various Conservative candidates. That would have made them very germane indeed.

I notice that you didn't disallow Mr. Sears, who was the only one submitted without some description beside his name. Mr. Martin has done so, I assume because one of the features of Mr. Sears—who, like all the other people on the list, is a person with many aspects to his personality, his professional life, his interests, and so on—is that he has gone on record as regarding these proceedings as being inappropriate. This fits in with a certain pattern of behaviour of the members on the opposite side of this committee, which is to disallow any testimony that is not in favour of the position they want. Mr. Mayrand, for example, was dismissed when he was saying things that were not in accordance with their narrative.

Mr. Sears, I can guarantee, would not have been in accordance with their narrative, and I suspect that Libby Davies or Rick Limoges or Jean-Paul Marchand, a Bloc Québécois candidate in the 2000 general election, also would not have given testimony that fits in with their narrative, but it would have as long as you as chair were able to steer them in the appropriate direction—that is, only focusing on responding to questions that deal with the consistency of the application of the law to their party and their campaigns and the Conservative Party and various Conservative candidates in the 2006 election. It would have been entirely germane. These are pretty significant points.

• (1500)

Three experts on election laws were proposed by the Liberal Party, and Madam Jennings defended their presence. It's not for me to say whether they have germane comments to make. One assumes they probably would. I'm at pains to figure out why they are any more qualified or any less qualified than Mr. Sears, who Mr. Martin's motion would propose removing from the list. All of them are people who deal with the process. There's no distinction that I can determine, other than when I made a comment about Mr. Sears' personality, Mr. Martin said he has a terrible personality. Well, Mr. Martin's personal dislike for Mr. Sears does not constitute a reason not to have him here.

**An hon. member:** He was Bob Rae's chief of staff.

**Mr. Scott Reid:** Heaven only knows, if committee membership were based on personality, a number of us might not qualify. I don't think that should be a basis for making that decision. Mr. Sears does have relevant things to say, and he has said them publicly. Bringing those things before the committee would be relevant. I think that's a consideration we should take into account.

Let me talk for a moment about Mr. Jean Landry. I can't comment about Lise Vallières, but she was his official agent in the 2006 campaign. My understanding is that Mr. Landry, who was the candidate for the Conservative Party in the 2006 election, has since left the Conservative Party. He is now either seeking or has won a Liberal nomination; I'm not sure which of the two is correct. At any rate, one assumes his presence would make obvious the conflict—which is not the right term—he is in as someone seeking election as a Liberal candidate and who needs to do what he can to discredit the Conservative Party to assist in winning his campaign. That certainly makes the motivation behind removing him from the list apparent.

But he's the only person of the 105 proposals by the other parties who is being challenged at this point, whereas every single one of the Conservative proposals—every single one—has been dismissed, just as every single one of the questions I would have asked Mr. Mayrand had his testimony continued on for the length of time he was invited was also disallowed. This just speaks to the court of star chamber or kangaroo court nature of these hearings.

There's a further problem, Mr. Chair. I'm now changing directions slightly and speaking to some of the other witnesses that neither Mr. Martin nor Madame Jennings has chosen to exclude from the list. This morning a new rule was adopted: selective interpretation of the *sub judice* convention. Until now we've had only contempt from the Liberals and the New Democrats for the *sub judice* convention. I know this because as long ago as last August I was raising questions about the legitimacy of having the procedure and House affairs committee look at this question on the basis that it was before the courts.

Up to this morning, the assumption was, who cares? We have to get on with this, and we're not going to worry about what the *sub judice* convention actually says. We don't care that it's before the courts; we must carry on with these proceedings—unless, of course, that involves looking at the other parties.

There's basically been a year of opposition from the other parties to dealing with anything that would involve looking at any of their practices, lest one noticed that they and we were doing the very same thing. Indeed, let it be noted that we're doing the very same thing, which the courts have upheld as being legal in dealing with the Bloc Québécois when it undertook this particular action and enforced upon its candidates the requirement to transfer funds to the national campaign. In their case it was done to goose up their rebate from Elections Canada; *sub judice* convention simply didn't matter.

It didn't even matter yesterday, when before the committee Mr. Mayrand was able to answer us on questions relating to matters that were before the court in relation to the case in which Conservative official agents are challenging the non-rebate of our money. Now it's suddenly sacred, and Mr. Mayrand was unable to answer questions that he himself had raised with us—for example, his five criteria for allowing or disallowing rebates.

● (1505)

The committee having adopted this rule, I cannot help but notice the large number of potential witnesses not challenged by either Mr. Martin or Madam Jennings and who are apparently acceptable to the other side and yet are implicated in this particular court action. Indeed, every single official agent who's on this list—that's not everybody on the list, but every single one who is an official agent—would be implicated. By way of example, in the riding of Beauce, Aline Drouin; in the riding of Louis-Saint-Laurent, André Laurin; and in the riding of Mégantic—L'Érable, Manon Blanchette, etc., are involved in this court action.

Indeed, anything they would have to say...because these are not people who are academic experts, or people who are seasoned partisans, like Mr. Sears, or people who have tenure at Simon Fraser University or the University of Windsor, as Professor Heard and Professor MacIvor, respectively, do. These are people who would have nothing to offer this committee other than commentary and testimony pertaining to the court action that we have decided—or more correctly, you have decided this morning, Mr. Chair—is outside the bounds of allowable testimony. Therefore, effectively what we're doing is disallowing people who could provide testimony without violating the *sub judice* convention, such as Lucy Ladouceur, who engaged in actions as the NDP bookkeeper in the 2006 election that were parallel to those undertaken by the Conservative Party, but who is not party to the court action. She actually could provide commentary and testimony that would not violate the *sub judice* convention. But she is excluded.

Also excluded is Libby Davies and Phyllis Loke, the official agent to Ms. Davies. They were both involved in a transfer of funds that exactly paralleled the practice the Conservative Party engaged in for advertising purposes, and they could provide commentary on what we are contesting is the inconsistent application of the law by Elections Canada. They would be in order; they would not be violating the *sub judice* convention.

Indeed, almost with the exception of the academic experts—though I should be a little bit cautious here, as there may be the odd person here who also is not directly involved in the relevant court action—and the people who've been excluded, there is no one on this list who won't essentially, in the majority of their testimony, find themselves in the position of violating the *sub judice* convention if they come before us and answer questions.

Some of them are sophisticated individuals, I grant you that. I think Janice Vézina, the associate deputy chief electoral officer at Elections Canada, is a sophisticated person who would understand and be able to say, look, at this point you're asking me a question that relates to the matter that we're dealing with in the legal proceeding between ourselves and the official agents. But the official agents who are involved have no role in dealing with policy, in dealing with the application of elections law, except in the capacity they were in when they were official agents in an election, the proceedings of which are now the subject of this court action.

In short, the entire list is a violation of the *sub judice* convention, except those persons who are being slated for deletion. Because you missed a few when you listed them off, Mr. Martin has helpfully suggested another person who could provide useful testimony and removed them.

Now, I grant that Marlene Jennings, in her proposal, actually dealt with somebody who shouldn't be here, because both Mr. Landry and Lise Vallières would presumably also, in their testimony, essentially be dealing only with matters that relate to a dispute between Elections Canada and the official agents, which is before the courts. So that one deletion makes sense—although I think not for the reason.... I don't know her motivation, because she hasn't spoken to it.

• (1510)

I think she's worried that it will be an embarrassment for the Liberal Party. But, my goodness, you can't get on this list unless the *sub judice* convention is going to be violated, so I must say this is really an extraordinary document to be presented with, and an extraordinary series of proposed amendments to it.

I guess I'm really asking that the members take a step back, think very carefully about the disrepute in which the course of action they are setting us upon will put this committee, and of course the parliamentary process of which it's a part. It's unwise. I would encourage them to withdraw their motions and submotions. Failing that, I would encourage all members to vote against both Madame Jennings' subamendment and Mr. Martin's original motion.

Thank you.

**The Chair:** Thank you, Mr. Reid.

We now have Mr. Goodyear, please.

**Mr. Gary Goodyear:** Thank you, Mr. Chair.

I want to speak to the defeat of this subamendment, as well as the motion itself, on the grounds that Madame Jennings has attempted to pull the wool over the committee's eyes, and the eyes of the Canadians who are watching her, by offering a bone and removing a couple of members that she claims we should be happy about, when Madame Jennings knows full well that her motives are ulterior. Some of these people she wants removed are probably going to run in the next Liberal campaign. So that doesn't fool anybody except probably Madame Jennings.

We cut down the questioning today. We shortened the rounds when we had a legitimate witness before us. Mr. Reid, my colleague, is absolutely correct. The witness was quite forthright yesterday, and then he was not as forthright today when we wanted to, I suppose, ask more questions. Indeed, I had a number of questions to ask, some that would have proven quite thoroughly—if in fact, as I said many times, we were after the truth—that Libby Davis, for example, was under the orders of the federal NDP to contribute to a campaign with money going in and money coming out.

We're not saying there's anything wrong with that. We're saying that's exactly okay. It's just that here we are, and perhaps I can explain.... I know committee members here...or maybe they don't, but certainly the public watching doesn't understand that there are four members on the Conservative side, and although the majority is

a great thing for Canadian democracy, here in the committee the majority happens to be the Liberals, the Bloc, and the NDP. That can't possibly be impartial.

Then we have a chair who's been appointed by the Liberals, and is a Liberal himself, and has made a substantial amount of what I would argue are partisan decisions, but—

**Hon. Charles Hubbard:** [*Inaudible—Editor*]

**Mr. Gary Goodyear:** I didn't interrupt you, Mr. Hubbard.

• (1515)

**The Chair:** Order, please. The member is on a point of privilege. He has that right, and it even takes precedence over a point of order.

Mr. Hubbard.

**Hon. Charles Hubbard:** Mr. Chair, it's the second time today that this member indicated publicly that the chair of this committee was appointed by the Liberal Party. The chair, in fact, was appointed by this committee.

**Mr. Gary Goodyear:** That's another argument, Mr. Chair. That's debate.

**Hon. Charles Hubbard:** It's my opinion. Actually, it's not even my opinion—

**The Chair:** Thank you, Mr. Hubbard. I appreciate the effort, but it is not a matter of privilege.

**Hon. Charles Hubbard:** Canadians are watching it, and it's their opinion too.

**The Chair:** I want to return the floor to Mr. Goodyear.

**Mr. Gary Goodyear:** The issue that I want to raise and appeal to committee members is that we're now at, again, a crossroads in this committee. I'm not even sure it's worth mentioning, but we obviously have a majority on the opposite side, and they have come up with a new trick which we saw displayed today. We saw it displayed at the June meeting when you yourself, Mr. Chair, arbitrarily—and in my opinion quite illegally—cut the debate to a close.

**The Chair:** Order, order.

**Mr. Gary Goodyear:** I said “my opinion”.

**The Chair:** Order.

No, Mr. Goodyear, that's not a fair reflection of what happened. The decisions that were taken were decisions of the committee, and illegality and such suggestions are improper, sir. It is improper.

**Mr. Gary Goodyear:** I sure as heck wouldn't want to insult you, Mr. Chair, outstanding individual that you are. What I would suggest, however, is that at that committee there were names on the list....

Perhaps I could finish, Pat. I remember you talked for some 51 days one time. I don't intend to do that. I'll follow the rules here.

What I'm suggesting, Mr. Chair, is at that June 19 meeting there were members who wished to be heard. I'm challenging anybody to prove me wrong, including you, Mr. Chair. You shut the debate down.

Here's the trick that happened there. It was Monsieur Proulx who immediately challenged your ruling. For folks who are watching, that is a procedural trick. The minute a chair is challenged, debate stops, and it has to go immediately to a vote. Guess what? The majority is in the opposition.

Now, today, guess what? We have the same Liberal trickery when Madame Jennings challenges your decision on this witness list.

Let me summarize what's happening here.

● (1520)

**The Chair:** Mr. Goodyear, I'm going to give the floor back to you, but this suggestion that somehow there's some trickery and your representation that if someone challenges the chair it ceases debate.... Quite frankly, sir, the reality is that when the chair makes a ruling, takes a decision that—and I did, at those meetings—all questions necessary to dispose of the matter before the committee be put now, that is a decision of the chair. That itself stops debate, sir. It's not the challenge of the chair. You are incorrect, and it's misleading. The challenge of the chair is available to members if they disagree or if they're not sure they understood what it meant, and it buys some time. It's not trickery.

Ultimately, if there is no challenge to the chair, the chair's decision simply stands and you move forward with taking the vote. If there's a challenge to the chair, the first thing that happens—to explain the procedure—is that it's not debatable; you have a vote on whether the chair's decision is going to be sustained, and if not, then you carry on with debate. If it is sustained, you move to the vote.

In fact, it's quite the reverse. Challenging the chair and not sustaining the chair continues the debate.

Now we understand how the procedure works. It's not trickery; it actually is part of the authorized procedures of the Standing Orders and the House.

I'll give the floor back to you, Mr. Goodyear.

**Mr. Gary Goodyear:** Thank you very much, Mr. Chair, because you just proved my point. It's a creative interpretation. The fact remains that if you look at the minutes of that meeting, the second the chair was challenged, a vote was taken. The majority rules. It was over. Then you moved on the vote for the motion. That's true.

That's the same thing as happened today, as soon as we challenged on the witness list. This is just a game that's being played. The bottom line here is that there's no reason why these witnesses shouldn't come before this committee, no justifiable reason, Mr. Chair. If you're in charge and a witness is asked a question that you deem to be out of order, or if a witness goes off in a direction you don't like, isn't going toward whatever mandate you've agreed to follow, then you can shut them down.

At this point in time when you shut down our witness list at this point, I'm just wondering. Do you not see the message that's sending to Canadians, by limiting debate, by consulting with witnesses about which questions can be answered and which questions can't be asked, and then to simply come forward and eliminate not just any witness but every single witness the Conservative Party put forward?

Then of course Madame Jennings tried to soften the potential newspaper print tomorrow by saying, well, let's remove these other folks. Canadians know full well that those folks are being removed for a good reason—Libby Davies—as I've already said.

I don't know whether my argument is going to hold any water whatsoever, because I was very convinced back in April, May, and June that members had clearly made up their minds that there's potentially an election coming in the fall and this is a partisan political photo op, if you want to call it that.

I'm just encouraging members, if there's any possible way we can go back to simply allowing the 11 witnesses that the Conservative Party put forward, and Mr. Martin even suggested, which was quite nice—again trying to soften what's actually happening here—we could add witnesses later. Well, all of us know that's not going to happen. All of us know that whatever motion we put forward will be debated out and then voted down. That's a true story. Again, that's why this should be before the courts. In a courtroom there's a judge who actually knows what he's doing who decides which questions are out of order, and then there are witnesses who can be compelled to respond, and there's some laterality that's allowed.

Anyway, having said that, I don't see the reason these witnesses can't be allowed to testify before this committee with you, Mr. Chair, controlling some of the debate. I think they should be allowed to be here. We don't know what they're going to say; we don't know what they can contribute. I think we should move forward and hear these witnesses. If they decide to go somewhere you don't want them to go, Mr. Chair, shut them down then.

**The Chair:** Mr. Poilievre, you're next on the list, sir.

**Mr. Pierre Poilievre:** Thank you, Chair. I'll go whenever you're ready.

I'm sorry, I thought you were asking me to wait until you resolved a procedural problem.

● (1525)

**The Chair:** I can hear you. Please carry on.

**Mr. Pierre Poilievre:** Thank you very much, Mr. Chair.

When committee members first brought this discussion to this committee, the chairman said at the very outset that the discussion would be limited to the conduct of public office holders only; as such, we would only allow discussion of individuals who held the title of public office holder.

Then he was presented with a motion that referred to an investigation of the Conservative Party. He allowed that motion to be in order, even though the Conservative Party is not a public office holder. What he meant was that the discussion would be permitted for public office holders and for one political party.

Obviously we assumed that he meant that former public office holders would be allowed, as has been the case in the past at the ethics committee. But he indicated, no, that this committee only investigates the conduct of current or present-day public office holders—and they have to be in the Conservative Party. That seemed to make little sense, given that Brian Mulroney had been invited to this committee, and he hasn't been a public office holder in about a decade and a half. Clearly a ruling was concocted and designed to draw jagged borders between what was permitted and what was not.

We came here today prepared to undergo the study regardless, and we began questioning the witness. Quickly we found that the questions that the witness found difficult to answer would not be permitted, because the matter was before the courts. Of course, the entire matter is before the courts, but the chair has allowed discussion on it regardless.

Before we move forward, let's examine for a moment the borders that the chairman has drawn. One, you may only ask questions about one political party. Two, for the first time in the history of the committee, you may only ask questions about the conduct of present-day public office holders. Three, if you cannot find problems with the conduct of those public office holders, you are permitted to ask about the conduct of non-public office holders, as long as they are members of the Conservative Party.

So we continued our questioning of the witness, and we found that not only was the content restricted to questions the witness found easy to answer, but also that when things got difficult for the opposition and Elections Canada, the debate was cut short by two hours.

Then we commenced the discussion of the witness list, and we found that every single witness suggested by the Conservative delegates to this committee was disallowed. It is still unclear why they've been disallowed. All we've been told is that their testimony is irrelevant. It's interesting that the chair is able to determine the relevance of testimony that he has not yet heard. He doesn't know if these witnesses, given their prior political experience, might have something to say about the Canada Elections Act. They might have something to say about how it has been applied in the past. And even if they don't talk about the past, perhaps they have something interesting to say about the future.

One thing is for sure: the witness list is not restricted to members of the Conservative Party, nor is it restricted to those who were involved in the electoral campaign of the Conservative Party in 2006, because there are outsiders, regardless of their qualifications, who have been invited here to offer their opinions. I'm sure their opinions will be very interesting. I think all of them should be allowed to testify. We were hoping that others who also have opinions might be permitted to offer testimony, but because they've been part of other political parties and the chair fears they might shed light on the electoral practices of the other political parties, they have been excluded from any inquiry whatsoever.

• (1530)

One gentleman, who according to Mr. Martin is no longer even part of the New Democratic Party but is now a Conservative, was disallowed—that is Mr. Robin Sears—because this gentleman might offer an opinion disagreeable to members of the opposition.

So the sole criterion we now have in place to determine who will be allowed to participate in this discussion is that it should be anyone who would make a good target, who is part of the Conservative Party, and anyone the opposition finds politically advantageous to hear from. Anyone, however, who would shed light on the practices of opposition parties is excluded, and anyone who might express a credible opinion that differs from the opposition's thesis on this dispute is also excluded from any of the discussions.

It really makes one wonder what the opposition has to hide, what the Liberal Party has to hide, or why it is that the Liberal Party felt it so important to twist the chairman's arm and force him to make the statement that he did to exclude so many people from the discussion. If the opposition and the Liberal chair have nothing to hide and are confident in the case that they would make before this committee, then why not just allow all the witnesses to come? And if their testimony is impertinent or irrelevant, then that would quickly become evident to the viewer.

However, they know what we know, which is that these witnesses would show that the Bloc Québécois engaged in the most broad and sweeping in and out program in Canadian history.

[*Translation*]

That's why everyone calls the leader of the Bloc the Father of In and Out.

[*English*]

They know what we know, which is that the Liberal Party would not want its electoral practices to come under any more scrutiny. They know what we know, which is that even though the biggest electoral fraud in Canadian political history occurred within the last decade and a half—that of course being the Liberal sponsorship scandal—Elections Canada never thought it worthwhile to investigate where all of those millions of dollars were spent and whether or not they might have influenced the outcome of the election or caused overspending to occur.

Imagine, Mr. Chair, if you were at Elections Canada, tasked with ensuring that political candidates make all their filings accurate, that they don't spend more than the limit, and you learned from a commission of public inquiry that one political party funnelled at least \$40 million through its campaigns, and that much of that money was in the form of cold, hard, untraceable cash. Can you imagine if you were in that position with Elections Canada and you looked at that and said, "There's nothing here for us to investigate whatsoever; there's no chance that any of that \$40 million might have been used as cash election expenses, which may have pushed the party over its spending limit in numerous ridings, which may have evaded reporting requirements"?

All of that stuff was made public, all of it was known, and yet Elections Canada thought nothing of it and chose not to investigate any of it. All that is very interesting and raises a lot of questions about why the agency is conducting itself the way it is right now.

Chair, without further ado, I will be opposing this motion, and I will reiterate my prediction that Conservative MPs and ministers will decide on a very principled basis not to participate in this kangaroo court. Thank you.

• (1535)

**The Chair:** We'll move on to our next speaker, who is Madame Lavallée.

[*Translation*]

**Mrs. Carole Lavallée:** Thank you, Mr. Chair.

First, I support Mr. Martin's motion. I also agree with Ms. Jennings' amendment. I have no objection to removing the two or three names she suggested. I think that we have at last a balanced list, one that contains all of the categories of people we want to meet with, and this will mean we can do something intellectually rigorous, systematic and intelligent, we can continue and advance the discussion, understand what really happened and learn things, in particular what led to the search at the Conservative Party offices.

As stated in the motion, that will allow us to examine the ethics of the conduct of public office holders. That is our objective. In all sincerity, that is what has to be done.

I completely agree with Ms. Jennings' subamendment dealing with the subpoena. That is in fact an excellent idea. We know that the House does not have to be consulted for issuing subpoenas. This was not a subpoena duces tecum, it was a subpoena that people are ordinarily required to answer to with enthusiasm.

Our Conservative friends complain that none of the names they suggested have been accepted. They are laughing at us. This makes no sense. What kind of names did they suggest? We are examining the ethics of the conduct of public office holders. Why would Lawrence Cannon's name not be on their list? Lawrence Cannon holds public office and was the top campaign organizer in Quebec. If they had been acting scrupulously and in good faith, Lawrence Cannon would have been one of the first names they suggested.

We are talking about examining the ethics of the conduct of public office holders. How could they not have suggested Josée Verner's name? She is a minister, and so a public office holder, who paid \$9,000 for an advertisement, while her colleague in the next riding, Sylvie Boucher, who was not even in her advertisement, paid \$37,000.

We know now that there are senior officials in the Conservative Party who tried to cheat the system. We can see this from all the documents. I think that a Conservative MP has been cheated by her colleague Josée Verner. The fact is that when we want to examine the ethics of the conduct of public office holders, we have to invite these people. Why is it that you did not put them on the list? Why is it that you did not include people from Elections Canada on your list? Why is it that you did not put Retail Media's partners on your list? Why is it that you did not put your public office holders, your Conservative

MPs, your defeated candidates and some experts on the Elections Act on your list? Do you really want to do something intelligent and worthwhile, and examine what really happened? That is the question we have to ask. No, you came here with names that were completely unrelated. None of the people you suggested is directly involved or has any expertise in the subject.

You have only yourselves to blame. You are talking about traps because someone calls for a vote or challenges the decisions of the Chair. Those are not traps. The real trap you have been laying for us for hours is obstructing the debate, using stalling tactics. That is the trap that the Conservatives the Conservatives constantly lay, and everyone can see it. You are talking about the search being leaked, and we are talking about public office holders. Those are the real traps.

I don't know how to do it, because I am not an expert in procedural traps like the Conservatives. But I would simply like us to vote. Would it be possible to ask for that, Mr. Chair, that we do it before 4:00? They are obstructing the process.

• (1540)

[*English*]

**The Chair:** Thank you, madame. It's a good way to complete your remarks.

We have other speakers. Mr. Tilson, you're next on the list.

**Mr. David Tilson:** Mr. Chair, I'll briefly speak to both the motion and the amendment. I gather that's your decision.

The history of the motion is that we would hear the guests that we've had for the last day and a half, and then there were some motions, some of which were mine, that were referred to throughout, and we were supposed to deal with those today. Then yesterday it was suggested that we concentrate on the witnesses. If the motions had been made—there were three separate ones—the motions would have been debated and voted on. Maybe they would have failed, but we would have had an opportunity to debate each one of those motions properly.

Then it was pointed out that each party would submit a list. It would be consolidated by the clerk, and then the list would be provided to members. That was done. Then we arrive, and you say that before we start you're striking out some names. Every last one of them was a Conservative. This is especially true of the ones on the motions that I made, which I would ordinarily have had an opportunity to debate. You denied me the right to debate why those names should or should not be on.

I understand. You have more votes than we do, and you can do whatever you like, which is what you've done. That's political life—that's okay.

It's a question of fairness. In all fairness, I withdrew my motions. On your representations, Mr. Chairman, I withdrew them. And then, in all fairness, I assumed that by putting the names on the list we would have an opportunity to look at all the names.

The whole thing has been a charade. The whole thing has been a farce.

Then Mr. Martin comes on and says, "Oh, by the way, there's one more name I'd like take off, and that's Bob Rae's former chief of staff." I find that incredible. I find this whole process incredible.

So I'm opposing the motion of Mr. Martin. I understand he wants to get on with it. We've been fooling around a lot today, I understand that. But on the issue of fairness, it just isn't here. It's all one-sided. From cutting off the questions we had for the witnesses this morning to this whole process today, it's not fair. And anyone who sees this will realize it's not fair. Yes, the opposition is having its way with the government members, and that's life. It's incredible. But there is no fairness.

With respect to Ms. Jennings' amendment, on the deleting of some of the names, her comment that the Conservatives should be happy with this I found a tad condescending. You say this is all done to develop cooperation. No, it was condescending. So I'm not too pleased about that.

I am going to return to one of the points she made with respect to the chair's having the right to submit a subpoena—or perhaps it was a summons—to everyone. This is rather high-handed for a committee. Even courts, really, are nervous about doing this.

● (1545)

A committee may order a witness when the witness doesn't want to appear or doesn't want to comply. You've challenged me on this, but I would like to go through what I believe is the process. This is another reason I'm not opposing the amendment. I think it's rather high-handed. Only the House can force a witness to comply, provided that it agrees with the committee, and the House may not agree with the committee. This committee cannot assume that the House would agree.

The committee normally and usually invites witnesses to appear. That's normally the process: we invite them. We don't subpoena or summons them; we invite them to appear. Most of the time, that follows through. In the last major hearing we had, we asked some people to appear, and they didn't appear. Well, we went on our way.

When a witness refuses to appear, Mr. Chairman, or when the committee is of the opinion that the witness is stonewalling, it would adopt a motion at the committee ordering the witness to appear. Refusal by the witness at this point is grounds for contempt. That's what I understand the process to be.

A member of the committee would then need to raise the matter at committee. If the chairman is of the opinion that the matter touches on contempt, then he or she would enter debate on a motion to report the matter to the House. The report would then describe the facts and the situation, summarize the events, name the individual involved, indicate that contempt may have occurred, and request that the House of Commons take some action.

The House may or may not take action. There would be a debate and there would be a vote. Once the report is tabled in the House, a member could raise the matter as a question of privilege. The Speaker would then consider the question, and if he finds that a prima facie question of privilege exists, he would invite the member to propose a motion asking the House to take some action.

It's at that point that the action takes place. It's up to you to determine whether the amendment is out of order or not, but I submit that the amendment on that particular point is rather high-handed and is not the way we do things around here.

**The Chair:** Thank you, Mr. Tilson. I think it's a very good summary and I'm very familiar....

And I want to reaffirm to you that in my opinion and from my knowledge and consultations, the amendment before us indeed is in order. As you know, even if the chair were to issue a summons, the person for whom that summons was issued could still not appear, at their choice, and that matter then goes to the House. So there is that second step.

But as far as authority to issue a summons is concerned, the committee has that full authority under Standing Order 108. I'm very sure of that, I want to assure you.

Between the two of us, maybe we'll spend a little time together, at some appropriate time, just to review. Maybe there is a suggestion or two we want to make with regard to changes to the Standing Orders.

Now, colleagues, there are no more speakers, and therefore I am going to put all the questions necessary to dispose of the motion now before us. Madame Jennings has moved that the motion be amended by adding, after the words "Robin Sears", the names Jean Landry and Lise Vallières; and by adding after the words "August 11, 2008", the following: "and that the chair be authorized, at his discretion, to summons any witness who may be summonsed who refuses the committee's invitation to appear".

The first vote is on the amendment, which would delete two more names from the list and authorize the chair, at his discretion, to summons if necessary—if necessary, not all. So I want to put the question on the amendment deleting those two names and giving the authorization to summons at the discretion of the chair.

(Amendment agreed to: yeas 6 ; nays 4 )

● (1550)

**The Chair:** We now move to the main motion as amended. I believe the members are familiar with it: the deletion of three names, the authorization of the chair, at his discretion, to summons witnesses, and authorization of the chair to begin inviting and scheduling witnesses to appear during the week of August 11, 2008. That is the motion now before us. I'm going to put the question, and I would ask the clerk to please call the vote on the motion as amended.

(Motion as amended agreed to: yeas 6; nays 4)

**The Chair:** That vote being carried, the chair will, as instructed, determine what can be done quickly, and then I will come back to the committee at our next meeting, which I believe will be August 11, with a budget for approval of the committee once we determine how many witnesses we actually could get. I couldn't give you a number today simply because I don't know yet, but at the next available opportunity....

Madame Jennings.

**Hon. Marlene Jennings:** I move to adjourn.

**The Chair:** You've moved adjournment. The motion to adjourn is not debatable and must be voted on immediately.

**An hon. member:** I have a point of order, Mr. Chair.

**The Chair:** I gave the floor to Madame Jennings, and she moved adjournment. I must put the question on that.

The members are aware that there is one other item of committee business, which is Mr. Reid's motion. But the motion is to adjourn, and it is the decision of the committee.

**An hon. member:** Unbelievable. I cannot believe this. You should be ashamed of yourselves. Hang your heads in shame.

(Motion agreed to)

• (1555)

**The Chair:** The meeting is adjourned.

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