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## **Standing Committee on Finance**

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**EVIDENCE**

**Thursday, March 15, 2012**

**Chair**

**Mr. James Rajotte**



## Standing Committee on Finance

Thursday, March 15, 2012

• (1530)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call this meeting to order, the 49th meeting of the Standing Committee on Finance. The orders of the day, pursuant to the order of reference of Tuesday, February 14, 2012, are Bill S-5, An Act to amend the law governing financial institutions and to provide for related and consequential matters.

We're very pleased to have officials here from the Department of Finance. We have Ms. Diane Lafleur. We have Ms. Jane Pearse, Ms. Leah Anderson, Ms. Eleanor Ryan, Mr. Joseph de Pencier, and Mr. Khusro Saedi. Thank you all for being with us. You're here obviously for any questions members may have.

Colleagues, we have nine amendments from the official opposition. The first amendment I have deals with clause 53, so we will go through clause-by-clause consideration, and as you know, pursuant to Standing Order 75.1, consideration of clause 1 is postponed. Therefore, the chair will call clause 2.

Now, I'd like to proceed.... Mr. Julian.

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thank you, Mr. Chair.

Before you actually start the clause by clause, I believe Mr. Mai has a question around approvals, which isn't within any clause in the bill itself. Once you've explored how we go about tackling this in a quick way, we could perhaps—

**The Chair:** Is it a general question on it?

**Mr. Peter Julian:** It will be a general question, but it may take a little bit of time to be answered.

**The Chair:** Okay. Do you want to address that now? Is this a question to the officials?

**Mr. Hoang Mai (Brossard—La Prairie, NDP):** It's a question to the officials. Basically it's about trying to know how to move forward on that issue or just a clarification. So it's something that the officials may—

**The Chair:** And it doesn't relate to a clause in the bill?

**Mr. Hoang Mai:** It doesn't relate to a clause in the bill, but it relates to some of the information that we have regarding the briefing notes from the department.

**The Chair:** Okay. You can do it at the last clause, or you can do it now if you want.

When would you prefer to do it?

**Mr. Hoang Mai:** Can we do it now?

**The Chair:** You want to do it now? Okay.

Just pose your question then.

[Translation]

**Mr. Hoang Mai:** According to the information we received, the minister has 30 days to indicate his intention with respect to the acquisition, and if no decision is made in that time, the acquisition is automatically approved. If I understand that correctly, we are referring here to the Bank Act.

To give you some context, we're talking about acquisitions of foreign entities. So the question is to find out why ministerial approval is established in the case of certain acquisitions of foreign entities. Now, if the minister doesn't respond within 30 days, the acquisition is automatically approved. When Minister Menzies appeared before the committee, he said that an in-depth study on the foreign entities was required and that it was important for the consolidation of Canada's banks.

I would like to know how we could ensure that approval is not automatically given. The minister's authorization should really be required. We don't agree with that, but that's another story.

**Ms. Diane Lafleur (General Director, Financial Sector Policy Branch, Department of Finance):** The general practice is that the superintendent reviews the proposed transaction and sends a recommendation in writing to the minister. We, the department members, attach our recommendation to the superintendent's. Lastly, the minister approves or does not approve the transaction. In practice, approval happens. It's explicit.

**Mr. Hoang Mai:** Could we make sure that it isn't implicit, meaning that the acquisition isn't automatically approved if the minister doesn't respond within 30 days?

• (1535)

**Ms. Diane Lafleur:** In practice, the minister signs the transaction. So he does it explicitly. It's on paper; it's documented.

**Mr. Hoang Mai:** But as I understand it, there is no specific indication that the minister must give his approval in writing.

Is it possible to ask that this be the case, in this bill or otherwise, so that a lack of response from the minister doesn't automatically equal approval?

[English]

**Ms. Jane Pearse (Director, Financial Institutions Division, Department of Finance):** I think part of the reason that the time limit is in the legislation is to provide certainty to the private sector. When they are looking for an approval, they will receive it within a certain time limit. The time limit is really in the legislation to provide certainty. In practice, as Diane was saying, it is always the case that the minister explicitly looks at every approval that comes in, with the recommendation from the superintendent, and makes a decision.

**Mr. Hoang Mai:** My question is more technical in the sense of how we can make sure we have to have an approval from the minister.

[Translation]

**Ms. Diane Lafleur:** Are you asking how we could change the process?

**Mr. Hoang Mai:** Yes.

**Ms. Diane Lafleur:** As my colleague explained, we want to be able to offer some degree of certainty, meaning we want to ensure, one way or another, that the people who proposed the transaction will receive a response within a reasonable period of time.

**Mr. Hoang Mai:** We are saying here that they have 30 days and that an extension is also possible. Since we're talking here about a bill, there's no need to base this on practice. My question is purely technical.

How can we ensure that the minister is required to respond?

**Ms. Diane Lafleur:** What you're asking for is basically a change in the process. Legislative amendments would be needed. It would fundamentally change the process.

**Mr. Hoang Mai:** Couldn't this be done in Bill S-5? Would the Bank Act need to be amended?

**Ms. Diane Lafleur:** It's a standard process that appears in several places in the Bank Act, but also in other legislative documents dealing with financial institutions.

**Mr. Hoang Mai:** Okay.

[English]

**The Chair:** Mr. Julian, my advice here is it would be beyond the scope of this bill that we're studying today.

**Mr. Peter Julian:** Yes.

**The Chair:** It would have to be an amendment to the Bank Act.

**Mr. Peter Julian:** You're absolutely right, Mr. Chair. That being said, the concerns are that Bill S-5 changes that context.

You're absolutely right that within the Bank Act, it would be outside of the scope of this bill to make those changes. The question that Mr. Mai is asking is this. Within the scope of Bill S-5, then, currently the process requires an approval from the Superintendent of Financial Institutions. There is a requirement for approval. With the amendments in Bill S-5, it is changed from a requirement for approval to what is a default approval. If there isn't the response and there isn't an application for an extension—a consideration on the decision—it's default approval.

That is of some concern to us. We do understand it's outside of the scope of Bill S-5 to change the Bank Act. We're not suggesting

changing the Bank Act. What we're asking is this. Within the scope of Bill S-5, how we would then ensure that there is no default approval. I gather what you are telling us is that the decision would have to remain with the Superintendent of Financial Institutions.

**Ms. Diane Lafleur:** I think what may be the concern you are getting at is that the decision point that is now being made by the superintendent wouldn't happen, while it would. The superintendent would still have to make a recommendation, based on her prudential assessment in favour of the transaction. What is now the final decision still has to take place, and then there's the additional...

**Mr. Peter Julian:** That's not our understanding. You can perhaps correct me if we're wrong, but our understanding is that once the 30-day clock begins, if the minister doesn't make a decision and if there is no request for an extension into that decision, it is a default acceptance of the application.

• (1540)

**Ms. Diane Lafleur:** The 30-day clock starts once the superintendent's recommendation has been made.

**Mr. Peter Julian:** Yes, but again, under Bill S-5, if the minister does not make a decision and does not seek an extension, it is a default acceptance. Right?

**Ms. Diane Lafleur:** It's a deemed approval.

**Mr. Peter Julian:** It's deemed approval.

**Ms. Diane Lafleur:** That's consistent with the approvals process elsewhere in the legislation.

**Mr. Peter Julian:** We understand that. The question still remains. If we are concerned about the deemed approval, how, then, since it is outside of the scope to change the Bank Act, do we change Bill S-5 to ensure that it is no longer a situation of deemed approval?

What we can gather from your response is that you're telling us the decision would have to remain with the Superintendent of Financial Institutions.

**Ms. Diane Lafleur:** No, you'd have to amend the legislation to make it an explicit approval.

**Ms. Jane Pearse:** That's a much bigger question. If the question is, should the government reassess whether a 30-day timeline for the minister to make a decision is inappropriate, and should be longer or should be shorter, then there would have to be a bigger assessment done of all the approvals that are referred to in the Bank Act, the Trust and Loan Companies Act, the Insurance Companies Act.

Right now what we're proposing is that we're replacing what is currently a superintendent approval with what used to be, pre-2001, a ministerial approval process. We're not changing the balance between certainty for the private sector in being able to have an appropriate timeline or a reasonable timeline for that decision to be made, and the ability for the government to have a fulsome review process to make sure that approval is appropriate.

In the legislation, when we're moving it to a ministerial approval as well as in a number of other places in the financial sector legislation, we put a time limit on the amount of time that the department and the minister can take to review the superintendent's recommendation that sits on top of the approval for the purposes of giving the final approval to the transaction.

What we have decided in the past is that a 30-day period for the minister to consider that recommendation and transaction is a reasonable length of time for the minister. In effect, it gives the department and the minister the time to review the transaction, review the superintendent's advice and recommendation, and respond to the applicant on whether or not that approval is going to go through.

**The Chair:** I have Mr. Jean on this.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Yes, Mr. Chair. Thank you.

My interest in it is that I don't understand what the disadvantage is for Mr. Julian and the NDP generally, for this line of questioning, because I think it would be to their advantage. It certainly removes the political suppression opportunity for any government. It certainly takes the superintendent's position as an automatic instead of something that has to be deemed. In essence it seems, from most of the legislation I think we've both looked at in other committees, a very normal thing to have an automatic deemed provision for something of this nature, for the superintendent's decision.

Wouldn't this be fairly normal in most pieces of legislation, where something is innocuous.

**Ms. Jane Pearse:** This would actually be the same format that we use for many approvals in the Bank Act, both for very important and serious changes for transactions as well as, as you say, innocuous ones. This is the model that we use in financial institutions legislation, yes.

**Mr. Brian Jean:** Maybe what we need is a minister of approvals.

Is that where you're going, Mr. Julian? You want to be minister of approvals? I just don't understand.

**The Chair:** My advice here is that if we cannot deal with this within the context of this bill. It may be an issue that members wish to raise or introduce in amendments to the Bank Act, but that would have to be done separately. I would like to move forward, if I can.

Mr. Julian, do you want to finish?

**Mr. Peter Julian:** Yes, I understand, Mr. Chairman. We'll make up time later. I commit to that.

I appreciate the answers from the ministry officials. I gather, then, the only way to make the amendment we're concerned about would be at report stage, and it would be to delete the section that changes it from the Superintendent of Financial Institutions to the minister. That is what I gather.

We've been talking a bit at cross-purposes, but from what I gather, it's only at report stage that we can really deal with this effectively within the scope of the bill.

• (1545)

**The Chair:** I don't know if it's fair to ask department officials for procedural advice on legislative matters.

**Mr. Peter Julian:** Fair enough.

**The Chair:** We do have a clerk here if you want to put questions. You could do it here or you could do it after the committee, certainly.

Do you want to speak to the procedural issues?

**Mr. Wayne Cole (Procedural Clerk):** I was only going to say that the scope of the bill doesn't change between its study in committee and its consideration in the House at report stage, so an amendment that can't be made in committee with respect to scope can't be made at report stage either.

**The Chair:** It might be best if we can go through it and you can have some thoughts as to how you want to handle it. As we get to the end of clause by clause, we can revisit the matter if you wish. Is that okay?

**Mr. Peter Julian:** Okay. Thanks, Mr. Chair.

**The Chair:** Thank you.

I'm mindful of not going too quickly for members, but I do not have an amendment until clause 53. I have two amendments for clause 53. Could members indicate to me if they have any questions or comments for the officials on any clause. You can indicate to me and then I'll try to group clauses that members do not have questions and deal with them first.

I'll start with Mr. Giguère.

[Translation]

**Mr. Alain Giguère (Marc-Aurèle-Fortin, NDP):** I would like to know what difference between the English and French versions justifies an amendment to section 2 of the Bank Act.

[English]

**The Chair:** Ms. Ryan, do you want to speak to that?

**Ms. Eleanor Ryan (Senior Chief, Financial Sector Policy Branch, Department of Finance):** Yes.

Here are you referring to the definition of "consumer provision" or the proposed subsection 2(2) dealing with «*banque étrangère*»?

*C'est «banque étrangère»?*

[Translation]

**Mr. Alain Giguère:** Yes.

**Ms. Eleanor Ryan:** There's a mistake in the French version. There should be a reference to subsection 378(2).

**Mr. Alain Giguère:** I don't think she understood my question.

[English]

**The Chair:** Does that clarify the issue?

[Translation]

**Mr. Alain Giguère:** There was obviously something wrong between the English and French versions. You made the French and English versions consistent. What difference between the two version justified the amendment?

**Ms. Diane Lafleur:** There was simply an erroneous reference. The number of the provision wasn't correct in the French version.

**Mr. Alain Giguère:** So there was no discrepancy between the English and French versions?

**Ms. Diane Lafleur:** It wasn't the wording that was incorrect; it was simply the reference to the provision in question.

**Mr. Alain Giguère:** Thank you.

[English]

**The Chair:** Are there any clauses before clause 53 that members want to highlight and discuss? Okay, I'm going to group them.

(Clauses 2 to 52 inclusive agreed to on division)

(On clause 53)

**The Chair:** On clause 53, I have amendment NDP-1.

Mr. Julian, I'll ask you to move that, please.

**Mr. Peter Julian:** Thank you, Mr. Chair.

Actually, just to simplify things, I'm sure my Conservative colleagues and Mr. Brison will be happy to learn that I'll only be speaking really once to a series of amendments that are very similar, unless there is a massive reaction from the Conservative and Liberal MPs, who want me to speak more. I certainly could.

In all four cases we're talking about similar amendments. First—

• (1550)

[Translation]

...the Bank Act; second, the Cooperative Credit Associations Act; third, the Insurance Companies Act; and fourth, the Trust and Loan Companies Act.

In every case, the amendments deal with the minister's decision-making process with respect to the acquisition of foreign financial institutions by a Canadian financial institution.

[English]

We have similar amendments in all four sections. What we are attempting to do in all four sections is provide more transparency around the decision and to provide a greater degree of input into the decision itself.

As you can see in clause 53:

the Minister may, in considering whether to grant the approval under paragraph (5)(b.1), take into account all matters that he or she considers relevant in the circumstances, including

Currently it's,

- (a) the stability of the financial system in Canada; and
- (b) the best interests of the financial system in Canada.

We would make it obligatory that “the Minister shall” take into consideration these elements, and we've added the additional elements: “stability of the Canadian economy”, “the best interests of the Canadian economy”, and “any written report of the Superintendent”, so in that way providing a stronger framework for the decision and an obligatory process for the decision that's taken by the minister.

In all four sections we're talking about a similar approach. We would have four different votes, but unless there are questions I think it's pretty clear what we're endeavouring to do here. Whether members agree or disagree is another question. What we're trying to do in these four sections is make the process obligatory, and add additional elements that the minister must take into consideration.

**The Chair:** Okay. Thank you very much, Mr. Julian.

I have Ms. Glover and then Mr. Jean.

**Mrs. Shelly Glover (Saint Boniface, CPC):** Thank you, Mr. Chair.

I thank my colleague across the way for paying close attention to the important bill that we have before us. I have to disagree with my colleague, however.

In essence, this bill allows some flexibility, which is very important, to the minister. To insist on specific criteria and on the “shall” as opposed to the “may” would limit the flexibility of the minister, who right now has the ability to look not only at the criteria set in the bill but at other criteria.

For those reasons, we would be opposed. I hope our colleagues across the way will see how important that flexibility is, because bills, as you know, take a very long time to amend through the parliamentary procedure. Who knows what kinds of things are going to come forward in the next few years that the minister may want to refer to in the future?

So I think flexibility is important, but in line with what the officials said previously today, consistency is also very important. There are a number of financial institutions statutes that are written very much consistently with what we have. This amendment would require going away from the standard, going away from that consistency, and would be detrimental, frankly.

I hope my colleagues will take that into consideration, withdraw their proposed amendment, and simply go with what has been proposed under the bill.

Thank you.

**The Chair:** Thank you, Ms. Glover.

Mr. Jean, please.

**Mr. Brian Jean:** Typically I agree with Ms. Glover, the parliamentary secretary, and again I do this time. It makes total sense.

I don't really understand how this scheme would be accomplished. In one situation, you're suggesting to take away the discretion of the minister—which, of course, is ministerial discretion and the reason that they are ministers—and have all the accompanying requirements. But then you're adding in some other things, such as the stability of the Canadian economy and the best interests....

Somebody has to make a decision on whether it is in “the best interests”. You always have A versus B. You've included “stability of the economy”, for instance. That is a subjective opinion of people based upon a set of data that are by their nature subjective.

So I think this is at cross purposes, but I would disagree with it just because it does not fit in with ministers' discretion and the discretion of the crown generally. It doesn't make sense.

What I think it does point to is that you believe you're never going to be in government and will never be able to be a minister. I'm not trying to cause antagonism here, but certainly if you reached government and became a minister, you'd want to have the discretion to do what exactly is in the best interests of the Canadian economy and base it on the stability of the economy as well.

•(1555)

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

I have Ms. McLeod on the list.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you.

Perhaps our officials could speak to this.

You are very comprehensive in terms of how and why you put certain language forward. If you have any comments on the suggested amendment and why this clause was worded originally as it was....

**The Chair:** Is there someone who'd like to speak to this?

**Ms. Diane Lafleur:** I can take a stab at it.

As Ms. Glover mentioned, the wording of this section is consistent with other parts of the statute, and it draws from various other pieces of legislation, so it offers some consistency.

I would point out, too, that the wording of the legislation is "take into account all matters that he or she considers relevant". This list is not exhaustive, and there is nothing that precludes the minister from taking other matters into consideration, depending on the particulars of the transaction that is before him.

These tend to be very complex deals. They each tend to bring many unique considerations forward. Giving discretion and the ability to consider different things based on the particulars helps serve the public interest better.

I would also note in respect of proposed paragraph 468(5.1)(e), that a "written report of the Superintendent" is, as we discussed earlier, redundant because there would in fact be a written recommendation from the superintendent that would precede such an approval. So it is already built into the approvals framework.

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

Is that all you had, then, Ms. McLeod?

Thank you.

We'll go to Mr. Mai, Mr. Brison, and then Monsieur Giguère.

[*Translation*]

**Mr. Hoang Mai:** I support the recommendation. In response to Mr. Jean's comments, these recommendations are important, and rightly so, because we see how the current ministers are acting. We note that the current government's strong tendency is to centralize everything in the hands of certain ministers who can make decisions. We are seeing just how close certain ministers are to lobbies or groups that have a direct influence on the minister's decision. That's why, in seeing the current ministers, we think that more specific interests need to be added. We are talking about the stability and the best interests of the Canadian economy, but I don't see how we are reducing the decision-making authority of the minister; we are just supporting the ministers backed by the lobbies. Let's keep the language fairly general, in the best interests of Canadians.

[*English*]

**The Chair:** *Merci.*

Mr. Brison, please.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you.

Broadly, the amendments speak to granting of an approval as in "the minister shall"—the replacement of "may" with "shall". I don't necessarily agree with that and will be voting against those amendments. Part of it is that I think ministers need a certain level of ministerial discretion or decision-making, and I'm concerned about politicization of the process in any case.

I support the amendments that propose adding to consideration or the criteria "the stability of the Canadian economy", "the best interests of the Canadian economy", and "any written report of the Superintendent". I think this formula affords the minister greater latitude to consider these decisions, and in fact I would think any minister would or ought to consider those in any case. I don't see why the government would be opposed to enshrining them.

**The Chair:** Thank you.

Monsieur Giguère.

[*Translation*]

**Mr. Alain Giguère:** Of course I will support the amendment. When I reread the wording, I see that it is consistent, even considering what was added. We are using the word "including", which isn't restrictive, with respect to the interpretation of legal rules. So we can even add many more. We are simply indicating that we are defending the financial system, but how can public servants limit themselves to defending just the financial sector?

All we are adding is to protect the best interests of the Canadian economy. This is also consistent with the overall economy of the legal system, with respect to the financial regulations of the Canadian government. What we added is in full and complete compliance with the overall economy with respect to the general drafting of legal texts for financial institutions. You said a little earlier that your text was consistent. I acknowledge that, but our amendment in no way changes that, if I'm not mistaken.

•(1600)

[*English*]

**The Chair:** Did you want to respond to that?

[*Translation*]

**Ms. Diane Lafleur:** The text is consistent with the other parts of the act. Within a financial institutions act, it is reasonable to be limited to the considerations that affect the financial sector and not all the broader considerations. We don't need to list all of them. The Minister of Finance has a lot of responsibilities. If we itemize all the criteria here, there will be no end to it. We explicitly put the criteria that deal with the financial sector, but we clearly established that the minister is not required to limit himself to that. If he wants to consider something else that he feels is relevant, he is entirely free to do so. That's the thinking behind the wording.

**The Chair:** Mr. Giguère, you have the floor.

**Mr. Alain Giguère:** You're talking about legal consistency. Generally, the first element in all Canadian legislation is Canada's best interests. How does writing in a legal document that we need to be concerned about the Canadian economy run counter to the system's overall economy?

**Ms. Diane Lafleur:** The concept you're talking about isn't currently in the Bank Act.

**Mr. Alain Giguère:** No, it isn't in the Bank Act, but it is in plenty of other legal documents dealing with our overall economy. The minister doesn't want it. The information he needs to have is what's listed. We're talking about the financial sector. If something is relevant, relevant to Canada's financial sector, it's good to point to a report from the superintendent of financial institutions. Why can we not write down...

[English]

**The Chair:** The officials are here for clarification and explanation. They can respond to this, but if we want to get into arguments that are more political in nature, I think we should leave them to members of Parliament, unless the officials wish to respond.

We could have a very long debate on this matter. I'm not shutting it down, but my sense is....

On the first one, Mr. Julian has himself on the list to speak next.

Can I go to Mr. Julian and then call the question on this? Or do you have more points that you want to make, Monsieur Giguère?

[Translation]

**Mr. Alain Giguère:** She basically said that this was the rule. It's a public servant who provides the information, and it's important to see whether that person is really giving good information. I am surprised by the legal information provided. I was surprised by the answer because, when it comes to drafting, the overall economy is never to exclude what might be good for Canada. It's even the essential element. She said that we must not include anything involving financial institutions, but the superintendent of financial institutions is a stakeholder of the financial institutions.

**Ms. Diane Lafleur:** He submits a written recommendation to the minister. That is already occurring. That's what I have been trying to explain. The minister already gets the recommendation of the superintendent of financial institutions.

[English]

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

[Translation]

**Mr. Peter Julian:** Mr. Chair, our position is this: How is the minister supposed to take this report into consideration?

Right now, as the bill is drafted, it contains no obligation to that effect. Nor is there any obligation to take the stability of the Canadian economy or the best interests of the Canadian economy into consideration. We are putting in place a structure that is more robust and stronger. That's why we are proposing the amendments.

• (1605)

[English]

I want to respond to Mr. Jean's concerns that we were not looking ahead to the NDP government that will be elected in 2015. I want to make it clear to Mr. Jean that he doesn't need to worry. We are looking at the next revisions of the Bank Act taking place under an NDP administration, and they will be different amendments.

But I don't want to be concerned about that.

**Mrs. Shelly Glover:** Call the question.

**Mr. Peter Julian:** We're very definite. We're counting the days until October 19, 2015. I have a calendar, and we put another cross up every day.

That's why we put forward these amendments.

Mr. Chair, we're in your hands, but I think, to facilitate the voting—these are exactly similar amendments to four different parts of the bill—we could regroup them as one vote, if you like.

**The Chair:** I still prefer to do them one at a time.

**Mr. Peter Julian:** I leave that to you. I won't be making a fulsome intervention in the other cases.

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

We will therefore deal with NDP-1.

Do you want to have a recorded vote Mr. Julian, or a show of hands?

(Amendment negated)

**The Chair:** We will now move to amendment NDP-2.

(Amendment negated)

(Clause 53 agreed to on division)

(Clauses 54 to 117 inclusive agreed to on division)

(On clause 118)

**The Chair:** We will now go to clause 118.

We have amendment NDP-3. Mr. Julian has indicated that he has made the arguments with respect to this issue; therefore we'll move to a vote.

(Amendment negated)

**The Chair:** We will move to amendment NDP-4 on clause 118.

(Amendment negated)

(Clause 118 agreed to on division)

**The Chair:** I do not have another amendment until clause 140. Can I group clauses 119 to 139?

(Clauses 119 to 139 inclusive agreed to on division)

(On clause 140)

**The Chair:** On clause 140, we'll move to amendment NDP-5.

The same argument applies to this amendment as well, does it, Mr. Julian?

**Mr. Peter Julian:** Yes.

(Amendment negated)

**The Chair:** We are on amendment NDP-6, which is also on clause 140.

(Amendment negated)

(Clause 140 agreed to on division)

**The Chair:** We do not have another amendment until NDP-7 at clause 179. Can I group clauses 141 to 178 together?

(Clauses 141 to 178 inclusive agreed to on division)

(On clause 179)

**The Chair:** We will now go to clause 179 and amendment NDP-7.

(Amendment negated)

**The Chair:** Again on clause 179 we have amendment NDP-8.

(Amendment negated)

(Clause 179 agreed to on division)

**The Chair:** The last amendment I have is on clause 203. Can I group clauses 180 to 202?

(Clauses 180 to 202 inclusive agreed to on division)

(On clause 203)

**The Chair:** We shall move to clause 203.

I think this is a separate issue.

Mr. Julian, would you like to move your amendment on clause 203, NDP-9?

•(1610)

[*Translation*]

**Mr. Peter Julian:** Yes, Mr. Chair. Clause 203 currently contains the following words: "...after consultation with the superintendent...". We propose replacing those words with the following: "...by the recipient and with the approval of the...".

So I propose that Bill S-5, clause 203, be amended by replacing line 26 on page 87 with the following:

by the recipient and with the approval of the

Since we're talking about confidential information, we find that the word "consultation" isn't specific enough. We would like a more transparent and formal process that also creates a collection of records to protect that confidential information. That's why, instead of a consultation process, which is not the same process and doesn't necessarily create a collection of records, we are proposing a process of approval by the superintendent.

Mr. Chair, we have seen today that there should also be an amendment of clause 223 on page 101, line 11, because in the proposed subsection 45.2(2), the expression "consultation with the Superintendent" should be replaced with "with the approval of the Superintendent". Unfortunately, we missed this in the drafting stage. You should know that, if this amendment is passed, another amendment will follow.

[*English*]

**The Chair:** Thank you.

Is there further discussion?

Ms. Glover.

[*Translation*]

**Mrs. Shelly Glover:** Thank you once again, Mr. Julian.

I understand your intention to improve the process very well. However, you are forgetting one issue in particular; it's the council in place that has to make these decisions, and the superintendent's approval hinders the council's ability to do its job.

For that reason, which I think is a very good one, we are not going to support your amendment. I'm sorry.

**The Chair:** Thank you, Mrs. Glover.

Are there any other comments?

[*English*]

Okay. We shall move to...

Did you want a recorded vote?

**Mr. Brian Jean:** Yes.

**The Chair:** Okay, on amendment NDP-9 we will have a recorded vote.

**Mr. Brian Jean:** Actually, Mr. Chair, I wasn't looking for it on amendment NDP-9. I was looking for it on the main motion. I'll let this vote go ahead.

I apologize for that. I'm more interested in the clause, not the NDP amendment.

(Amendment negated)

**The Chair:** Shall clause 203 carry?

**Mr. Brian Jean:** That's the one I was looking for a recorded vote on.

**The Chair:** We'll have a recorded vote on clause 203.

(Clause 203 agreed to: yeas 7; nays 4)

**The Chair:** Now, Mr. Julian, you indicated that you had an amendment for clause 223.

Is it consequential?

•(1615)

**Mr. Peter Julian:** Well, it was only consequential if the first amendment had been adopted, Mr. Chair, so you can ignore what I said.

**The Chair:** I never ignore what you say, Mr. Julian. I pay very close attention to you.

Can I deal with clauses 204 to 225, then?

(Clauses 204 to 225 inclusive agreed to on division)

**The Chair:** Shall the short title carry?

Mr. Julian.

[*Translation*]

**Mr. Peter Julian:** I don't have all the documents today, but there is clause 212 on page 93. It's the last amendment that we proposed.

[*English*]

**The Chair:** Did you say clause 212?

**Mr. Peter Julian:** Yes.

**The Chair:** I didn't have an amendment for clause 212.

**Hon. Scott Brison:** Mr. Chair, are we talking about the title now?

**The Chair:** We dealt with the clauses to clause 225, and Mr. Julian was under the impression.... In fairness, we did deal with those clauses.

We dealt with clauses up to 225, so we're on the short title now.

**Mr. Peter Julian:** Yes. Mr. Chair—

**The Chair:** Is this on the short title?

**Mr. Peter Julian:** No. I apologize.

We're dealing with an issue at report stage, so I will simply put that aside.

**The Chair:** Okay.

Shall the short title carry?

(Clause 1 agreed to on division)

**The Chair:** Shall the title carry?

**Some hon. members:** Agreed.

**An hon. member:** On division.

**The Chair:** The title carries on division.

Shall the bill carry?

**Mrs. Shelly Glover:** Can we record this vote?

(Bill S-5 agreed to: yeas 11; nays 0)

**The Chair:** It's unanimous.

Shall the chair report the bill to the House?

**Some hon. members:** Agreed.

**The Chair:** Is that unanimous as well?

Okay. Thank you all.

I want to thank our officials for being with us here again and for answering our questions, and for their professionalism.

Colleagues, we will suspend for just a minute, and then we'll deal with committee business. We'll start with Mr. Julian's motion.

•(1615) \_\_\_\_\_ (Pause) \_\_\_\_\_

•(1620)

**The Chair:** I call this meeting back to order.

Colleagues, we have some committee business. We'll deal with the motion first. We are in public, still, and for the other items on the agenda that the subcommittee discussed, we'll discuss them in camera, as some of the decisions still have to be made there.

I'll ask you, Mr. Julian, to move your motion.

**Mr. Peter Julian:** Thanks, Mr. Chair.

I don't think there will be any difficulty at all with this. It's pretty straightforward.

Under the Standing Orders, order in council appointments are one of our responsibilities. As the finance committee, we have a whole number of order in council appointments that have been referred to us—nine in all, I believe.

We're simply moving what is normal practice and what is usual practice within committee: that, as a committee, we'll look at those order in council appointments and report back to the House. I don't sense that there would be any strong opposition to us simply doing our job with due diligence as the finance committee.

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

We'll go to Ms. Glover, please.

**Mrs. Shelly Glover:** Thank you, Chair. I would like to ask Mr. Julian a question, through you, if you don't mind.

I'm just curious to know what the NDP suggests we do as far as due diligence goes. Is the NDP suggesting that we have nine witnesses appear and nine hours of testimony given? Because if Mr. Julian has checked standard procedure, it is that most committees in fact do some homework behind the scenes, and if there's a problem, then they bring it forward.

As it stands, we have a very charged agenda, so I would ask Mr. Julian, through you, Chair, to explain what it is he's looking for, because I certainly don't see us finding nine hours. Again, the standard procedure is not as Mr. Julian has described. We do have a mandate to look at these, but again, what is Mr. Julian looking for in his submission to look at these?

**The Chair:** Mr. Julian, would you like to address that?

**Mr. Peter Julian:** Thank you, Mr. Chairman.

That's something the subcommittee could certainly look at in terms of the format. No, we're not looking at nine hours of hearings. I'd like to allay the parliamentary secretary's concerns about that. But we do look at due diligence, and we should be, as a normal practice. Since I started here eight years ago, order in council appointments have been part of the daily due diligence that committees do, in every committee I've been in.

Whenever order in council appointments take place, the committee has that ability to vet, to look, and to examine. Normally that's done through the subcommittee. Our representative, of course, is Mr. Mai. I think the subcommittee could be looking at how to structure that, of course, but there's no doubt that we have a responsibility to do this, and if the committee provides that direction to the subcommittee, the subcommittee can then get to work about how that's done.

**The Chair:** Can I ask a question first? As the chair, I did ask the clerk to pass out a copy—I think everybody has one—of the *House of Commons Procedure and Practice*, Second Edition, regarding appointments.

Just for my own edification, my understanding from the clerk is that the last day to call these appointees, these particular ones, would be Friday, March 30. So are these meetings that we would have? Or is it that the subcommittee would have a discussion about the appointments and if there were an issue the full committee would hear from these appointments...?

I'm a little unsure as to exactly.... If it's that the committee do due diligence and the subcommittee have a discussion about the appointments, review them, and review their biographies, I suspect there may be agreement, but if it's in terms of adding meetings, especially during that week, I'm suspecting that's where the opposition may come from.

So just for my own clarification, if this motion passes, would we be adding meetings during the week of March 26?

• (1625)

**Mr. Peter Julian:** It does not speak specifically to meetings, Mr. Chair. It does speak to the committee examining “the following Order in Council appointments”.

Just to clarify, I'm saying that this is something the subcommittee should be looking at. If this motion passes, the subcommittee would be undertaking that examination, and we would be looking.... If the subcommittee feels there should be additional meetings, then we could certainly accommodate that.

We don't mind sitting into the evening, but we would be at this point looking to have the subcommittee do that examination and the report back to the full committee.

**The Chair:** Examination of the appointments...?

**Mr. Peter Julian:** Yes.

**The Chair:** Like on paper, or an examination of the people in person?

**Mr. Peter Julian:** Again, we're leaving that—

**The Chair:** Or either way...?

**Mr. Peter Julian:** —to the subcommittee.

**The Chair:** All right. Thank you.

Ms. McLeod, and then Mr. Jean.

**Mrs. Cathy McLeod:** I'll pass for one minute, please.

**The Chair:** Mr. Jean.

**Mr. Brian Jean:** I think the purpose of the vote depends on whether he wants viva voce evidence, whether he wants to cross-examine the witnesses, or whether he wants three people to sit down and look at resumé for an hour.

I would like clarification from Mr. Julian as to which way he'd like to approach this. If he's looking to leave it to the subcommittee to cross-examine witnesses, versus a resumé-checking exercise for an hour among three colleagues, then I think it changes the entire scope of what he's asking for.

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

I don't have anything further....

Mr. Julian.

**Mr. Peter Julian:** Well, I think I've now answered this twice, but I'll answer it a third time, Mr. Chair.

We're referring it to the subcommittee. The subcommittee would be examining the resumé. The subcommittee may choose to hear witnesses, but we, as a committee, would be undertaking to do that examination of the order in council appointments, and from there, of

course, the subcommittee would be reporting back to this committee. So that's what it says.

**Mr. Brian Jean:** So just to confirm—

**The Chair:** Order, please.

I have Ms. Glover. Then I'll go to you, Mr. Jean.

Ms. Glover.

**Mrs. Shelly Glover:** Unfortunately, Mr. Julian was asked on three occasions to clarify, and to be specific about the time that would be required, and failing to do so really is detrimental to this committee in particular, because we do have such a charged agenda. I'm not sure why Mr. Julian continues to evade the question and circumvent.

But what I will tell Mr. Julian is that we have some very important pieces of legislation. I've no problem reviewing people's biographies on my own time, and if I have a problem, I would bring it to subcommittee, and that would be my recommendation.

I will be voting against this motion as a result of Mr. Julian's evasion of the three questions put to him. I will be voting against it also because I do not believe that we have the time at this point to be taking a subcommittee and allowing them to ask for witnesses and to ask for in-depth study. We have some other things that are pressing.

I do want to also cite that within the rules there is nothing to compel committees to review order in council appointments. This was a ruling by Speaker Fraser, if you want to refer to *Debates* of December 11, 1986, at page 1998.

I too take a huge interest in the people who are appointed through order in council, and I do my homework. If I have a concern, I will bring it to the subcommittee. That's what I'm going to suggest the rest of the committee consider doing, but I'll vote against this motion.

• (1630)

**The Chair:** Thank you.

We'll go to Mr. Jean, please.

**Mr. Brian Jean:** Thank you, Mr. Chair.

If I understand the makeup of the subcommittee, it's one member from the Liberal Party, one member from the NDP, and two members from the Conservative Party. So it would be two Conservatives and two opposition members: is that correct?

**The Chair:** That's correct—

**Mr. Brian Jean:** I understand—

**The Chair:** —plus your chair.

**Mr. Brian Jean:** Of course.

I understand why—

**Mr. Peter Julian:** That's three to two.

**Mr. Brian Jean:** —Mr. Julian wants to send the decision-making process to the subcommittee.

I have no further questions.

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

I have Mr. Julian and then Mr. Brison.

Mr. Julian.

**Mr. Peter Julian:** Thank you, Mr. Chair.

I answered each time I was asked by my Conservative colleagues. I was asked a very specific question and I answered very specifically.

I'm surprised that Conservative members of the committee don't want to do their due diligence, and that I think is the basic response. We've been as flexible as we could possibly be. We're trying to make the process work. We said we'd put it in the hands of the subcommittee, where there are three Conservatives and two members of the opposition, and we're hearing back from the Conservatives that no, they don't want to support—

**Mrs. Shelly Glover:** That's not true—

**The Chair:** Order.

**Mr. Peter Julian:** —what is the due diligence of this committee, and that most committees are supposed to do.

So I'm surprised and disappointed. I'll have to say that, Mr. Chair. I'm disappointed that as a committee we're not doing the due diligence, the things that, as members of this committee, we're called upon by the public of Canada to do as the normal course of events.

**The Chair:** Thank you.

Mr. Brison, and then Ms. McLeod.

**Hon. Scott Brison:** I want to propose.... I know the Manning Centre had a meeting this weekend, and I can—

**Mr. Mark Adler (York Centre, CPC):** Were you there?

**Voices:** Oh, oh!

**Hon. Scott Brison:** No, no, but I was actually there in the House when Preston Manning and the Reform Party members were there and talking about greater parliamentary scrutiny over appointments and the rest of it. It was as a Progressive Conservative Party that no longer exists.

Nonetheless, may I make a proposal that would be entirely consistent with the hereditary roots of the Conservative Party of Canada and Mr. Manning's philosophy? That would be that we would ask the full committee, not the subcommittee, in the interest of transparency....

I am certain that the government is very proud of these proposed appointments. I am certain that the government is enthusiastic about these nominees, and their backgrounds and resumé's, and is eager to showcase them to Canadians.

I would propose—and this would address Mr. Jean's concern that it be left simply with the subcommittee—that the full committee undertake this study and give the government an opportunity to showcase these fine Canadians.

**The Chair:** Thank you.

We'll go to Ms. McLeod, and then again to Mr. Julian.

**Mrs. Cathy McLeod:** Thank you, Mr. Chair.

Certainly I have not been a member of Parliament for so many years, but I have had at least a couple on other committees. The

committee experience I had was that when there was something that was of particular interest, those appointments were actually flagged, and of course we had some process around them, but certainly it was not common practice that....

You know, most of the members did their due diligence and read the bios or explored the background, but it was not a committee process for all the appointments. I think if you look at how much time would be spent in committees across this House, if we were looking at all these government in council appointments....

I do have to say, in spite of Mr. Julian's comments that he responded, that what we are actually voting on is a motion, and the motion does not say "subcommittee". It says "examine the following". The motion really doesn't help frame what we're going to do and where we're going to go with this particular issue.

**The Chair:** Thank you, Ms. McLeod.

Mr. Julian, please.

**Mr. Peter Julian:** Thank you, Mr. Chair.

We offered an olive branch, and the Conservatives don't seem to want to have the subcommittee look into this.

I would certainly agree to Mr. Brison's suggestion that the full committee examine. If there is resistance to having the subcommittee look into this, even though there are three Conservatives and two members of the opposition, then the full committee should look into the order in council appointments.

It is a question of transparency. It's a question also of due diligence. It's certainly something that the original founders of the Conservative Party spoke to quite often.

As I say, we're surprised and disappointed that what should be a routine part of our due diligence, that we brought forward in the spirit of transparency and doing the full due diligence on these kinds of appointments, has been rejected by our Conservative colleagues.

I think it is right and proper that we have some committee meetings around this, because I'm sure that Conservatives are very proud of the appointments they've made. It seems doubtful, though, because there just seems to be a real resistance for that due diligence on the other side of the committee.

•(1635)

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

Ms. Glover.

**Mrs. Shelly Glover:** Thank you, Mr. Chair.

I'm really shocked—like, sincerely shocked—at the misleading statements made by Mr. Julian again. This is becoming a partisan issue, which I'm going to try to completely ignore, because frankly it's not fair to these people who've been appointed.

Just to correct Mr. Brison, these are not nominees; these are people who have in fact been appointed. As I suggested, due diligence can be achieved by reviewing, on our own, the resumés of each of these individuals. If there is a concern, that ought to be brought to committee, which was suggested, for whatever reason... and I don't understand why Mr. Julian chooses to twist that into us not wanting to look at them. I in fact have looked at them, and I'm very proud of some of the measures that have been taken to look at their qualifications, etc.

I would ask Mr. Julian to specifically name the people who have been appointed that he wants to look at. If he could specifically name them, I then would have a follow-up from there, because I'm interested, very much, in highlighting some of the very qualified appointees we have.

So if he would do that, I'd like to have another chance afterwards to have a follow-up.

**The Chair:** With respect to that, my understanding is the order in council appointments referred to in the motion refer to nine individuals.

Mr. Julian, do you want to respond to the first?

**Mr. Peter Julian:** No, you're absolutely right, Mr. Chair. That's exactly what we reference in the motion.

**The Chair:** Nine appointments are referenced in the motion.

**Mrs. Shelly Glover:** They're not referenced by name. I want him to name the ones he wants to look at.

**The Chair:** The numbers in here refer to nine individuals.

**Mrs. Shelly Glover:** Yes, but I'd like him to name them. I've done my homework. I certainly know a little bit about each of these people.

**The Chair:** Well, let's—

**Mrs. Shelly Glover:** Here's why, Mr. Chair. The follow-up question would be, why on earth would Mr. Julian want to call into question the choice of the NDP government of Manitoba in Mr. Raymond Desrochers? It was their choice. It was a provincial nomination, not a federal nomination. It's an NDP government that nominated him. He's been serving since 2004. Why on earth would Mr. Julian question our NDP government in Manitoba on its choice for this member on CRA?

Obviously Mr. Julian is eager to answer that question. I'm anxious to hear the answer.

**The Chair:** Okay.

Mr. Julian.

**Mr. Peter Julian:** Well, I'm kind of surprised, Mr. Chair. We brought forward normal committee practice, and the Conservatives seem to want to make this a very partisan battle. It's quite stunning.

There are nine appointments. They're all covered in the motion. It's part of our due diligence as members of the finance committee to do this work.

I find it surprising that the Conservatives seem to see due diligence as something that is partisan, as something you do when

it's a partisan appointment as opposed to something that is a normal practice of the committee. To do this is normal practice.

I believe that the Conservative government should be proud of the appointments they've made. As Mr. Brison said so eloquently, they should be proud to bring forward those recommendations and have them examined, as we are supposed to do under Standing Orders 110 and 111. I'm surprised by the reaction, as though there's supposed to be some kind of partisan battle over appointments.

It is just simply due diligence, transparency. It's part of our job, Mr. Chair. It's why we get paid. We're suggesting humbly that we do our job, that we do our work. I just can't understand the Conservative resistance to that.

• (1640)

**The Chair:** Thank you.

Ms. Glover and then Mr. Brison.

**Mrs. Shelly Glover:** I don't wish to embarrass the member any further. It's obvious the member cannot name a single one of these appointments or talk about their backgrounds. We on this side have done due diligence.

We are proud of a process that is in place, that has worked very well. We leave it open so that if there is a concern about any specific one, the NDP or the Liberals can certainly come forward and make a motion to actually look at a specific one, but we will not support looking at nine individuals over what the NDP said are "some committee meetings". That is what Mr. Julian said. We do not have the time to look at "some committee meetings" on this issue. We are willing to do the work on our own time. I'm surprised the opposition is not. If we have a concern, certainly we'll bring it to committee.

We've already done our homework. We don't have a concern. If the NDP or the Liberals have a concern, we're open to their bringing it forward with some specifics and not having it take too much time out of the committee.

**The Chair:** Thank you.

Mr. Brison, then Mr. Jean, and then Monsieur Mai.

**Hon. Scott Brison:** This is not to question the suitability of these appointments. It's simply in the interests of transparency and of giving the governing party, the Conservatives, an opportunity to showcase these appointments, as well as giving opposition members an opportunity to evaluate. I think that is something that has been consistent with the Reform Party policy for a long time.

I know, for instance, that some initial evaluation has been done. For instance, all of this group of appointees to the board of the Canadian Mint have met at least one criterion—they've all contributed money to the Conservative Party of Canada. Perhaps they've contributed to other parties as well, and we'd perhaps take a look at that, although we wouldn't consider that pertinent to their qualification as candidates. I think contributions to the governing party ought not be the only criterion considered when we're making these kinds of appointments.

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

We'll go to Mr. Jean, please.

**Mr. Brian Jean:** I'll be very quick, Mr. Chair.

What I don't understand is that during a minority government, at least six of these people were appointed. In fact, six of them are reappointments. If they're so concerned about them now, why weren't they concerned about them last time? That's what I don't understand. Certainly it questions their political motive.

We are very proud of these appointments. The court of public opinion will decide on whether or not they are fit and suitable for office, but more than 50% of them have held the office for some period of time. These are simply reappointments, and reaffirm the position of what a great job they've done for the people of Canada. The Canada Revenue Agency appointment and I think three of the Canadian Mint appointments are all reappointments, so....

**The Chair:** Thank you.

Monsieur Mai.

[*Translation*]

**Mr. Hoang Mai:** The motion we proposed is non-partisan. It deals with the work that the Standing Committee on Finance needs to do. According to the regulations, the committee must study these appointments, as my colleague Mr. Julian mentioned; we must fulfill our duty. Still, we are talking about administrators of the Canada Revenue Agency's board of management and of the Royal Canadian Mint's board of directors.

As well, Mr. Jean spoke about people who were there before. I wasn't here at that time. So I think it's important to see who these people in high-ranking positions are. It's not a matter of partisanship and, as Mr. Brison said, the important thing here is to be able to do our work, study these appointments in-depth and let Canadians know who these people are.

It isn't necessarily a personal attack, unlike my colleagues opposite are led to believe. We simply want to carry out the duty of the Standing Committee on Finance and see who these people are.

● (1645)

[*English*]

**The Chair:** Thank you.

I'd like to move to a vote on this motion.

All those in favour of the motion?

(Motion negatived)

**The Chair:** With five in favour and six opposed, the motion is defeated.

As I mentioned before, we will suspend and then we'll go in camera to do future committee business.

[*Proceedings continue in camera*]

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