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• (1100)

[English]

The Chair (Mr. Ben Carr (Winnipeg South Centre, Lib.)): I call the meeting to order.

Good morning, colleagues. I hope everybody's had a good week thus far.

Welcome to the 134th meeting of the Standing Committee on Procedure and House Affairs.

[Translation]

I want to welcome the witnesses.

[English]

As a friendly reminder to our witnesses, if you are not using your earpieces, place them on the sticker in front of you. Of course, if they are in use, having them on your ear is no problem.

Colleagues, we have two hours to meet this morning.

[Translation]

For the first hour, we're joined by Mr. Perrault and Mr. Sampson.

[English]

In the second round, we'll have a number of other witnesses with us.

With that, colleagues, I am going to turn the floor over to Stéphane Perrault, the Chief Electoral Officer of Canada, and Robert Sampson, the general counsel and senior director of legal services.

Mr. Perrault, you will have up to five minutes for your opening statement, after which we will go to our rounds of questioning. Thank you very much for making yourself available to the committee today on this important piece of legislation, which obviously has a significant impact on the work you do on our behalf and on behalf of all Canadians.

With that, sir, I turn the floor to you.

Mr. Stéphane Perrault (Chief Electoral Officer, Office of the Chief Electoral Officer): Thank you, Mr. Chair.

I may go slightly over five minutes. I'll try to keep it short.

Thanks for the opportunity to speak with the committee today about Bill C-65. I've already had the chance to speak to various members of this committee from all parties about aspects of the

bill, and I'm happy to have the chance to speak more broadly about the bill today with the committee.

From the outset, I want to express my general support for this bill, but I have some concerns and potential improvements for the committee's consideration. I also want to speak to implementation challenges, given the uncertainty of the timing of the election and, of course, of this bill.

Many of the changes proposed in the bill come from or align with recommendations I made to Parliament in 2022. These include changes that are important to protect against foreign interference, such as new rules to restrict foreign funding of third parties and restrictions on the use of non-traceable monetary instruments and cryptocurrencies, as well as measures to remove barriers to certain groups of electors.

The bill would also codify Elections Canada's vote on campus service offering, which has been in place since 2015, with the exception of the pandemic.

As I mentioned, however, I have concerns, especially with the proposed change to move the October 25 fixed election date. The date in the bill would conflict with the territorial election in Nunavut, which presents unique challenges for recruiting election officers and leasing polling locations and could compromise our ability to serve electors in the territory. For this reason, I do not support the change of the election date.

There are other changes in the bill that I believe could be improved. These include, for instance, measures to address disinformation and to protect the privacy of Canadians. Because my time is limited, I have provided a table that includes an indication of my support for, opposition to or concerns regarding substantial changes proposed in the bill, and offers amendments for the committee's consideration during the clause-by-clause review. I'd be happy, of course, to expand on any aspect should members have questions.

The bill represents an opportunity to address emerging issues related to artificial intelligence and deepfakes, as well as ballots with a large number of candidates. Currently, there is very little in the bill to address generative AI, which offers domestic and foreign threat actors new capabilities to undermine the integrity of and public trust in the elections. The current impersonation provision in the act only applies to a person who is falsely representing themselves to be one of the listed individuals, including the CEO, a candidate or a party representative.

The act also prohibits misleading publications that falsely claim to be made by certain key players in the electoral process. Again, these are listed as the CEO, a returning officer, a party candidate or prospective candidate. Neither of these provisions covers a scenario where the voice or image of one of these key players is manipulated to make them appear to say or do things that were never said or done, or to modify the context in which the words or actions took place.

While Bill C-65 proposes changes to clarify that these prohibitions apply regardless of the medium used or the matter or place in which it is made, these adjustments do not address in any way the threat of deepfakes that I have described. To address deepfakes, the act must prohibit misrepresentation of key participants in the electoral process that involves the manipulation of their voice or image without their consent. You'll find in the table I've submitted a proposal to that effect.

[*Translation*]

A second area that I would urge the committee members to consider relates to ballot accessibility.

As you know, a protest movement seeks to significantly increase the number of candidates on ballots. The movement started at the 44th general election and continued in four subsequent by-elections. I brought the ballot from the fall election held in the constituency of LaSalle—Émard—Verdun. The metre-long ballot features 91 names in two columns. Just imagine the difficulties faced by a voter who has any form of disability or literacy barrier or who can't easily handle this type of ballot. Any further increase in the number of candidates will require me to reduce the font size on the ballot, further compounding the task of voters who have literacy barriers or disabilities.

I support the proposal in the bill to reduce the number of signatures required for nominations from 100 to 75. However, the requirement for signatures mustn't be rendered meaningless. In the case of the longest ballot initiative, we saw nomination papers from different candidates featuring largely identical signatures. This indicates that voters who sign the nomination papers aren't supporting the nomination of a particular candidate, but rather the idea of having as many candidates as possible, whomever they may be. These voters are fulfilling the objectives of the longest ballot committee.

I wrote to Minister LeBlanc in September. I asked the government to consider an amendment to the bill, which I included in the table shared with the committee. This amendment would ensure that voters are limited to signing the nomination paper in support of only one candidate. However, the key lies in ensuring that the nomination paper isn't rejected or challenged simply because a voter also signed someone else's paper. The candidate doesn't know what other signatures the voter may have signed. We're talking about a prohibition, not a condition for the validity of the signature.

Finally, it's necessary to consider the implications of fairly significant legislative changes in the late stages of the electoral cycle and in the current context of a minority government. Full implementation of the bill will require updates to documentation, training and numerous information technology systems. These changes must be followed by thorough testing and simulations. There must be adequate time to address any issues before the system can be used in

an election. These steps are critical to maintaining public trust in the electoral process.

If the bill is passed, my goal is to implement the new measures in a timely manner ahead of the October 2025 fixed election date. However, I may not be able to carry out integrated testing of the system changes before June. If problems are uncovered during the integrated tests, my priority will be to ensure that the integrity of the election isn't compromised. Although it seems unlikely—and for the record, I don't think that it's likely—I may need to delay the implementation of some changes for the fall 2025 election should technical concerns arise.

It would be prudent to provide a mechanism in the bill to allow for some flexibility. I made a proposal along these lines in the table that I submitted to you.

● (1105)

Thank you, Mr. Chair.

[*English*]

The Chair: Thank you very much, Monsieur Perrault.

You brought back some nightmares to me by putting that ballot on during my by-election of just over a year ago. At that point, that was the record. Since then, I think we've doubled and tripled that record. I'm certainly interested to hear if there are questions from committee members on that today.

With that, we will transition into our line of questioning.

Mr. Duncan, the floor will be yours for six minutes to start us off.

Mr. Eric Duncan (Stormont—Dundas—South Glengarry, CPC): Thank you, Mr. Chair.

Thank you, gentlemen, for being here this morning.

Recently, the committee received a written response from the Privy Council Office outlining two meetings earlier this year, on January 25 and March 30, at which NDP political party representatives were present to get secret briefings from the Prime Minister's Office and Elections Canada and information to craft this bill.

Mr. Perrault, you attended both of those meetings. As you are aware, this bill is quite controversial, as it was clear that the NDP and Liberals negotiated a deal to move the election date back to protect the pensions of likely-to-be-defeated NDP and Liberal MPs.

We know that you and Elections Canada staff were at these two meetings that were held. Can you confirm to the committee if you or any Elections Canada staff had any other meetings, briefings, calls or exchanges with the NDP present or participating regarding Bill C-65 before it was announced?

Mr. Stéphane Perrault: There are many elements to your question, Mr. Chair.

As is customary before a bill is introduced, at the very last steps in the preparation of a bill, the Privy Council Office typically shares with my office a copy of the bill to make sure that there are no errors or technical issues. This is not a policy discussion.

I have had policy discussions with representatives of all parties both prior to and after the bill was introduced.

• (1110)

Mr. Eric Duncan: I have to clarify that, because when we go through this, there's a difference between having a standard meeting and one on policy information that PROC deals with.

When it came to crafting Bill C-65, the NDP had special access that other parties were not provided. The NDP was given information specifically on crafting Bill C-65.

Mr. Perrault, my question was whether there were any other meetings besides the ones on January 25 or March 30, when you met with or provided information in any way to anyone from the NDP in advance of the bill's being announced. I'm not talking about meetings on general policy or anything like that, but specifically Bill C-65 and its being crafted.

Mr. Stéphane Perrault: I had several meetings about the supply and confidence agreement, which had elements of the two additional days of voting. I had meetings with Mr. Blaikie then. I had meetings with Ms. Mathyssen, Madame Gaudreau and you after the bill was introduced, and with Mr. Cooper both prior to and after—

Mr. Eric Duncan: Again, you are conflating two different things, Mr. Perrault. There's having meetings—

The Chair: Eric, I'm sorry. Give me just one second.

Colleagues. I understand, but listen. We spent the last meeting losing an hour of witness testimony. I don't want that to happen again.

Mr. Duncan, go ahead.

Mr. Eric Duncan: Mr. Perrault, you are conflating two different things again. If there's information on policy in reports you provided to this committee.... I can tell you, you did not meet with Conservative Party representatives about drafting Bill C-65. This is the thing I asked about specifically, and you've acknowledged now that you met with Mr. Blaikie specifically on crafting Bill C-65.

I'm asking you to table with the committee the dates and the times of, and who from the NDP attended, any briefings and information—not about general policy matters, but specifically on the question of crafting—

The Chair: I'm sorry, Mr. Duncan. I have a point of order I have to attend to.

Mr. Gerretsen.

Mr. Mark Gerretsen (Kingston and the Islands, Lib.): Mr. Chair, Mr. Duncan is misrepresenting what the witness said. It is incumbent upon you, in your position as chair, to ensure that witnesses are treated fairly and that when they say something, they're not immediately subject to members around this table misrepresenting their words in order to immediately use them against the witness.

I would encourage you to ask our colleagues across the way to be more judicious in their approach to witnesses at this committee.

The Chair: I appreciate the encouragement, Mr. Gerretsen. I will let Mr. Duncan finish, and will provide Mr. Perrault the opportunity to defend his view and his statement, should he feel that's necessary, and hopefully that will get us to where we need to be.

Mr. Duncan, you have about two and a half minutes.

Mr. Eric Duncan: Thank you, Mr. Chair.

I'm going to repeat the question I've asked a couple of times.

Can you confirm to the committee and provide in writing whether you or any Elections Canada staff had any other meetings—besides those on January 25 and March 30—briefings, calls or exchanges with the NDP members present regarding the drafting and considerations of Bill C-65 before it was announced?

I'm not talking about general meetings on policy, which are the standard meetings afterward—I've had meetings with you, Mr. Perrault, afterward on different topics—but specifically meetings on Bill C-65 with the NDP before it was announced.

Mr. Stéphane Perrault: Mr. Chair, just to be clear, I did not know what would be in Bill C-65 and I did not participate in meetings regarding the entire bill. I had discussions on elements of the supply and confidence agreement, as well as on the recommendations I made in 2022 to Parliament.

I was very deliberate in making sure that whenever I met with members from one side, I met with members from all other sides to convey the very same message. Any topic I addressed with one side, I addressed with the others, prior to or after....

I'll give you an example. There was one item that was neither in my recommendations nor in the supply and confidence agreement. I asked the government to consider addressing deepfakes. After I made those representations, I spoke to members—

Mr. Eric Duncan: I'm going to ask again for—

The Chair: Mr. Duncan, just let him finish.

Mr. Stéphane Perrault: —of all parties to repeat myself. Every time I met with one side, I conveyed the same messages to all sides.

With respect to the bill, before it was tabled, I did not have a complete view of the bill. I did not participate in the drafting of the bill. I participated in discussions on specific policy areas.

Mr. Eric Duncan: In the drafting of the bill, before Bill C-65 was announced, the NDP was present at the announcement with Minister LeBlanc. Its members had access to information and briefings, including ones you were at, when it came to this. The Privy Council Office gave the two dates of January 25 and March 30.

Would you provide the names of all NDP MPs you met with, specifically during those two meetings and any others, particularly whenever we have the word “NDP political party representatives”. Would you provide the names of those individuals?

• (1115)

Mr. Stéphane Perrault: I will certainly do that to the best of my ability, and I will also include all meetings that I had with all members of this committee on the same topic.

The Chair: Okay, thank you very much, Mr. Duncan.

Mr. Turnbull.

Mr. Ryan Turnbull (Whitby, Lib.): I'm going to let Mr. Gerretsen start off with a minute of my time.

The Chair: Okay, there are six minutes for that.

Mr. Mark Gerretsen: Thank you.

Thank you to our witnesses for coming forward.

Unfortunately, you're being subjected to an ongoing line of conspiracy theories by Mr. Duncan.

My only question for you would be—and you kind of prefaced it by saying that you would provide the names of all members of this committee.... Mr. Duncan has asked you to provide the names of NDP members specifically. I would ask that you provide the names of all members whom you've met with, even outside of this committee.

Mr. Stéphane Perrault: I will do that.

Mr. Mark Gerretsen: I'll turn it to Mr. Turnbull.

The Chair: Okay, Mr. Turnbull.

Mr. Ryan Turnbull: Thanks, Chair.

Mr. Perrault, welcome back. It's great to have you.

I want to hone in on one of your recommendations about prohibiting misrepresentation. I know that's already come up quite a few times here, with the Conservatives having already tried to misrepresent your testimony here today, but we want to talk about deepfakes and the use of AI. I think you've called this technology a shock to the system, a "shock" to our electoral system in Canada. I think it's right to think about it as being of great concern. It's certainly something that concerns me.

I've been fortunate enough to be on the industry committee and working on a piece of legislation, a portion of which deals with... The proposed act is called AIDA. It's the AI legislation that our government put forward. Unfortunately, it has been blocked for quite some time by opposition parties. Nonetheless, this is an opportunity to talk about how this relates to Bill C-65.

You've made some specific recommendations. Can you give us some more detail on how important this is because of how disruptive the disinformation may be to our democracy in the upcoming

election, whenever that is? Please also hone in on your specific recommendations.

Mr. Stéphane Perrault: Mr. Chair, we have seen instances in Europe in the past year in elections where party leaders were a subject of deepfakes. We've seen that also in the United States. I'm not aware of situations where that has happened yet in Canada, but it is something that is concerning.

In my recent report regarding threats to the electoral process, I've made a number of recommendations to deal with that, including certain prohibitions on misrepresentation of the voice or image by any means, and also some transparency rules around the use of AI in electoral communications.

Now, in the context of this bill—and I'm not an expert in procedure—I believe that there is no window of opportunity to deal with the transparency requirements. Certainly, there are provisions that are open that deal with impersonation right now that could be amended to include misrepresentation of key actors through the manipulation of their voice or image. I am happy to provide suggestions in that regard. I think that would be an important improvement to the bill.

Mr. Ryan Turnbull: Okay.

Does this cover beyond just the election period itself or the writ period? Would this cover disinformation that's AI generated or misrepresentations of people's image or voice outside of election periods as well?

Mr. Stéphane Perrault: It should. Because of the way the provision exists right now, it covers a list of individuals. It's not anybody. Of course, the committee may want to look at the sufficiency of that list, but I do not believe it is limited to the election period.

Mr. Ryan Turnbull: Regarding the suggestions that you've made, I would love to receive more specific information on your proposed changes to Bill C-65 that could address this, if we haven't received them already. If I'm unaware, I apologize.

I guess what I wanted to understand was how AI-generated misrepresentations could really impact public trust in the upcoming election from your view. I think there's a real risk here. I've spoken with some of our world-leading experts in AI, who have said that it's almost an Oppenheimer moment, where you have the new technologies that have been developed, these large language models, etc. The risk is so much higher than it has been in the past with other technologies that they're now focused on how we can put the beast back in the box kind-of-thing because AI presents such a big risk to humanity on multiple levels. One of them is disinformation in electoral systems. That's what Yoshua Bengio said to me in a meeting.

Can you speak to the risk of eroding public trust?

• (1120)

Mr. Stéphane Perrault: Sure. There are a number of risks. As you noted, misrepresentation is not new, but the technology now is such that it's very difficult even for experts to differentiate between AI-modified images or created images and actual images. There's a real risk that the technology could be used to have certain important people in the electoral process, like party leaders or the Chief Electoral Officer, be made to say things that they have not said.

There's also the concern, and I speak to that in my report, that people use chatbots to query and to obtain information about all kinds of subjects, including the electoral process. In some cases, that information is incorrect. There are some chatbots, like I believe Microsoft does, that refer electors instead to the proper authority rather than trying to allow their system to create an answer that could be based on incorrect information. In my more recent report, I have made recommendations that platforms who put out AI chatbots refer electors or refer people who have queries to the appropriate authority.

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

[Translation]

Ms. Gaudreau, you now have the floor for six minutes.

Ms. Marie-Hélène Gaudreau (Laurentides—Labelle, BQ): Thank you, Mr. Chair.

Thank you for being here, Mr. Perrault.

In your opening remarks, you said that you were against changing the election date. It seems strange that the government is trying to tell you what to do and getting involved with your activities despite your independence. Section 56.2 of the Canada Elections Act gives the Chief Electoral Officer the flexibility to change the date if necessary. However, the bill tells the Chief Electoral Officer what to do.

Isn't the government seemingly trying to serve the interests of many of its members by postponing the specific date to ensure that they receive a pension? Even if we set this interest aside, isn't this a sign or an indication that the government lacks confidence in the Chief Electoral Officer to make an informed, neutral and independent decision to change this type of date?

Mr. Stéphane Perrault: Mr. Chair, I want to thank the member for her question.

I won't speculate on intentions. The legislation has a process for recommending alternate dates. Bill C-65 changes that process to provide a bit more predictability over time.

By the way, I held consultations. A public report on our website shows just how difficult it is to find a good date in the fall. It's a difficult process because no perfect date exists. There are always conflicts that—

Ms. Marie-Hélène Gaudreau: Mr. Perrault, I was just saying that it seems strange that the bill disregards your neutrality. I would like to hear your thoughts on this.

Mr. Stéphane Perrault: I'll say it again. I encourage parliamentarians not to change the date and to leave the regime as it stands.

The Chief Electoral Officer can currently make recommendations when a date isn't appropriate.

Ms. Marie-Hélène Gaudreau: I'll continue along the same lines.

It's strange that the government-imposed date conflicts with the dates of a number of elections. You talked about Nunavut, but there are also municipal elections in Quebec.

Moreover, advance voting would take place the weekend before, on October 27. This poses a real challenge in terms of workforce management, human resources and material resources. Let's face it. The government is putting you in an extremely difficult situation.

Of course, most Liberals live in urban areas. However, back home, in Mont-Saint-Michel or Lantier, two elections will be held in the same room. Each small municipality has only one room.

I would like to hear your comments on this topic.

Mr. Stéphane Perrault: It is indeed a challenge. At the federal level, we're bound to come into conflict with many elections in different territories, municipalities and provinces.

As I said, no date is perfect. The current date conflicts with the municipal elections in Alberta. We can't ignore that. If I had a perfect date, I would be the first to recommend it to the Governor in Council. However, according to the current legislative regime, no perfect date exists.

My point is that the current date of October 20 certainly isn't the worst. If we set the date for October 27, it poses specific challenges for Nunavut. In Nunavut, recruitment is a major challenge. The communities are small and often few facilities are available. I think that it would be extremely difficult to hold the election at the same time as the Nunavut election.

However, we mustn't think that there won't be any conflict on October 20 and that a date, for example in the fall, will be conflict-free. There are always conflicts.

• (1125)

Ms. Marie-Hélène Gaudreau: I would also like you to shed some light on the issue of the number of signatures required. You spoke earlier about the infamous ballot featuring 91 candidates. You're advocating for a change whereby an individual can't sign more than one nomination paper. As a candidate in 2019 and 2021, I never asked anyone whether they had signed another candidate's nomination paper. I obtained 200 signatures because I wanted to ensure that my nomination would be confirmed. However, if 101 people who signed my nomination paper had signed the paper of another candidate, I would have had no way of knowing this. My nomination paper would have been invalid when I submitted it to the returning officer, since the first signature takes precedence over the others.

How can this proposal be implemented?

Mr. Stéphane Perrault: You're absolutely right. That's why I'm simply proposing a ban on voters signing multiple nomination papers, along with a requirement that a nomination can't be affected by the inclusion of the same signature on more than one nomination paper. If a voter signs more than one nomination paper as a result of absent-mindedness, malice or any reason whatsoever, the returning officer won't reject the nomination papers. In any case, we can't know the order in which the papers were signed.

I'm not proposing a measure that challenges the validity of the nomination paper. However, people must be prohibited from signing more than one nomination paper or from encouraging others to do so, and penalties must be imposed on offenders.

The validity of the signature isn't being challenged. People are being told that, if they do these types of things, they'll face penalties. The candidates aren't affected.

Ms. Marie-Hélène Gaudreau: I understand.

How will your proposed measures ensure that we don't end up with 91 candidates on a ballot? According to the proposal, we vote once and we trust you, but how do we verify this? How long will it take? When will we have the answers? Will it be a race? I'm having trouble understanding this.

Mr. Stéphane Perrault: None of this will happen during the nomination process. This process will take place. If Bill C-65 passes, you'll have 75 signatures to collect and the returning officer will validate your nomination. After the election, we can see whether people have signed multiple nomination papers. The commissioner can then take action, if she deems it appropriate, against these people.

We don't want to challenge the nomination papers at all and create uncertainty around them. That's key. However, we want to introduce a measure that tells these people that, if they start signing 90 nomination papers, they'll face penalties. This isn't the purpose of these signatures. These signatures are meant to confirm the voter's support for the candidate—Ms. Gaudreau, Ms. Mathysen or Mr. Berthold, for example—and not for the nominations in general.

The Chair: Thank you, Mr. Perrault.

If you still have questions, Ms. Gaudreau, you can ask them in the next round.

[English]

Ms. Mathysen, you have the floor for six minutes.

Ms. Lindsay Mathysen (London—Fanshawe, NDP): Thank you, Mr. Chair.

Actually, just before my time begins, I do need some clarification from you.

If you recall, at the last meeting, unfortunately, due to some of the partisan games of this place, we lost the time that we were supposed to have with specific witnesses. There was an indication that we would try to invite them back again. I'm hoping that you can clarify with the clerk whether or not those witnesses are available and when we will be able to hear from them so that we have a full discussion on this bill with those witnesses as well.

The Chair: Ms. Mathysen, I take your point and the objective you hope to achieve here. I'm going to ask if we can save that for the end of the meeting, once we've utilized the time with the witnesses before us, in order to not find ourselves in the same situation. I will absolutely take the question back, have a discussion and commit to you that we'll find an opportunity to raise it. I just worry that if we start engaging in this conversation now, we're going to find ourselves in exactly the same position and down a rabbit hole.

• (1130)

Ms. Lindsay Mathysen: I thought it was a simple answer, but okay.

Thank you, Mr. Chair.

The Chair: No, unfortunately, it's not a simple answer.

Ms. Lindsay Mathysen: All right. Thank you, Mr. Chair.

I appreciate your appearing before the committee today, and I appreciate the professionalism with which you treat your role in understanding the very clear, neutral rules, and the importance of conducting the elections and lobbying.

I'm very happy that Mr. Gerretsen got clarification and ensured that we heard about the extensive work you have done on policy and larger questions around election improvements, considering we want to better enfranchise people to fully take part in the process of voting.

I wanted to mention the specific problems you have with moving the election date. In the NDP, we have been very clear in announcing the amendment we intend to put forward, which would put that date back to the original date. I'm hoping that satisfies your concerns about that. Yes. Great. Perfect.

I wanted to ask you about the current provisions in the Canada Elections Act regarding partisan advertising and election advertising. They clearly exempt communications between unions and their members. They specify that the regulated communications are those aimed toward the public.

Given this, could you explain the decision by Elections Canada to more broadly interpret partisan activities and election surveys? I ask because no clear exemptions exist and no specific audience is clearly defined, but there are no restrictions either.

Is that correct? Could you explain those broad interpretations?

Mr. Stéphane Perrault: Certainly. Thank you for the question.

The act specifies that certain activities are not advertising. This is not done as an exemption or exclusion, but rather for greater certainty. It says, for example, communications between unions and their members...there's a book. It provides a certain list of things that are for greater certainty, not advertising, so it's not an exclusion.

On the other hand, it provides very clearly that activities and surveys that are partisan in nature are regulated, and there is no exception or, for greater certainty, a setting aside of certain activities. That does not mean that these cannot be conducted. It means that in the case of a union or any other entity, if it conducts partisan surveys or partisan activities up to a threshold level, it must register, and then it is subject to a limit, which, I must say, is fairly generous. It's well over a million dollars in the pre-writ period and well over half a million dollars with inflation now during the writ period.

These are not activities that are in any way prohibited, but they are regulated.

Ms. Lindsay Mathysen: Okay. Perfect.

Obviously, we want to make voting easier for everyone and reduce conflict and uncertainty. Could the aspects...? The language in Bill C-65 better clarifies this for individuals as well. It brings these pieces of potential conflict and uncertainty into better harmony.

Mr. Stéphane Perrault: I'm sorry, Mr. Chair.

Can I ask the member to repeat the question? Is it related to partisan activities?

Ms. Lindsay Mathysen: Yes.

Mr. Stéphane Perrault: I do not believe it changes the language in that regard.

Ms. Lindsay Mathysen: It doesn't change anything, so nothing's being interfered with. Perfect. Thank you.

Clause 9 in Bill C-65 moves the deadline for candidate registration back two days, from E minus 21 to E minus 23, but it also brings in the ability for candidates to register during that pre-election period. In the case of that fixed election date, there could be a large gain of time, but in the scenario where there's a by-election, which we've seen a lot of, or a snap election, which may happen, there doesn't seem to be a gain. There may be a loss.

Can you tell me if my summary is accurate?

You also mentioned in the table that you submitted with your opening remarks that you support this change. Can you explain why?

Mr. Stéphane Perrault: I support the opportunity for the preregistration of candidates in the pre-writ period. It provides a lot less stress in the system for both candidates and returning officers, and they can get that clarity up front. The nomination would not be effective until the notice of the writ is published, so within the writ period. There is a bit of a change in the times for the confirmation of candidates and for the parties to provide the endorsement of candidates at that point in time.

This is something I recommended back in 2022. It's in a slightly different form in this bill, but I generally support it.

• (1135)

Ms. Lindsay Mathysen: You still support it.

Mr. Stéphane Perrault: I do.

Ms. Lindsay Mathysen: Okay.

The Chair: Ms. Mathysen, there are just a few seconds remaining here.

Ms. Lindsay Mathysen: Oh, then I'll cede the floor. Thank you.

The Chair: Thank you.

Mr. Cooper, the floor is yours for five minutes.

Mr. Michael Cooper (St. Albert—Edmonton, CPC): Thank you very much, Mr. Chair.

Mr. Perrault, we did indeed meet on February 20, 2024. It was billed as a courtesy meeting. We discussed the departmental plan; your report on the 2019 and 2021 elections and discussions about PROC conducting hearings on that report and your coming to appear before the committee; the Nunavut pilot project; and three-day voting, which had been in the news, or there had been media reports about this idea of a three-day election day and discussions between the NDP and the Liberals, pursuant to the SACA.

I just want to clarify that there were no representatives from the PMO at that meeting. Were there?

Mr. Stéphane Perrault: There were none.

Mr. Michael Cooper: There was no one from the minister's office. Is that correct?

Mr. Stéphane Perrault: There was not.

Mr. Michael Cooper: There was no one from the PCO. Is that correct?

Mr. Stéphane Perrault: There was not. This was a meeting I invited you to so that I could convey to you those very same concerns I had.

Mr. Michael Cooper: The very things that I just relayed... Were there representatives from the Conservative Party of Canada present?

Mr. Stéphane Perrault: No.

Mr. Michael Cooper: No. There were representatives present from the PMO, the PCO, the minister's office and the NDP when you had a meeting on January 25, 2024. Is that correct?

Mr. Stéphane Perrault: That's correct—

Mr. Michael Cooper: Thank you very much for that. It sounds like a very different meeting.

I'll move on to another matter. There are changes in the bill with respect to special ballots. Presently, when someone takes out a special ballot, they must write in the name of the candidate. This bill changes that so that if someone were to fill in "Conservative Party of Canada", they could simply mark in their party preference and not the name of the candidate.

I just want to understand the implications of that in the following hypothetical situation. Say there were a candidate who was running, and they, for whatever reason, withdrew before the deadline or the cut-off, and another candidate replaced them.

If someone had voted on day one of the writ and marked in “Conservative Party of Canada”, and the candidate who was standing for the Conservative Party at that date was different from the candidate who ultimately made the final ballot, how would that vote be treated?

Mr. Stéphane Perrault: The vote would be treated such that the intent of that person was to vote for the candidate who was the representative of the Conservative Party, in your example, as it stood at the close of nominations. Therefore, if there were a shift prior to the close of nominations, then the.... The list of candidates and party affiliation is crystallized at the close of nominations.

Mr. Michael Cooper: Just to clarify that, would the vote count or not?

Mr. Stéphane Perrault: If it only mentioned the party, it would count.

Mr. Michael Cooper: Right. Right now—

Mr. Stéphane Perrault: If it mentioned the party and the name of a candidate who was not a candidate of the party, then the intent of the elector could not be understood, and it would not count.

Mr. Michael Cooper: Right now, if someone were to vote by way of special ballot and they marked in candidate A because they were required to specifically write in the name of the candidate, and then if candidate A were not the candidate who made the final ballot because someone else stepped in and they met the filing deadline, that vote would not count. Is that right?

Mr. Stéphane Perrault: That's correct.

Mr. Michael Cooper: Okay.

On another matter, we've seen in a few by-elections this protest movement you've alluded to in which there have been 40 or 50 candidates on the ballot in Winnipeg, Montreal and Toronto. You've proposed some potential amendments to the act. I welcome those suggestions. I would note, as well, that I think in each of the three ridings, the same official agent represented all of the candidates.

What are your thoughts on potentially making an amendment so that an official agent could only act for one candidate in a riding?

• (1140)

Mr. Stéphane Perrault: That's something that I've considered.

These are all nil returns for all of these candidates affiliated with that movement. It is such a small task to sign a nil return that I think it could easily be done with different official agents.

I'm not sure what the policy rationale would be. In the case of the signature, there is a policy rationale for electors supporting the nomination of a particular candidate—not for any person in the world who wants to be a candidate. I think allowing a person to put on the table a series of 75 nomination papers and allowing people to sign them in a string does not conform to the idea behind candidate signatures. That's why I proposed this measure.

In the last four by-elections, I've had to adapt the prescriptions of the act to accommodate the number of candidates. That means I'm setting aside the will of Parliament, and I do not do that lightly. Parliament has designed the ballot in a certain way, and there can be conversations and debates on amendments as to whether this is the right way, but for me to set it aside is a significant gesture. I do not

do that lightly, but there is no other way of allowing so many candidates. I do think that's an issue.

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

Mr. Duguid, you have the floor for five minutes.

Mr. Terry Duguid (Winnipeg South, Lib.): Thank you, Mr. Chair.

I want to thank Mr. Sampson and Mr. Perrault for coming to see us and for all of the hard work they're doing on modernizing the Canada Elections Act.

I want to take us back to 2014 and the Fair Elections Act, which I'm sure you studied before you took your new post. It was widely criticized for restricting voting. Voting is essentially the fundamental right in a democracy. It had inflexible ID requirements, and there's certainly evidence that it made it more difficult for indigenous peoples, seniors, northern residents, rural residents and, particularly, youth to vote.

I wonder if you would offer the committee a few reflections on how far we've come in the intervening 10 years with some of the first amendments made by Minister Gould when she was democratic reform minister in the Liberal government, and where we are now.

Perhaps you could also make some closing comments on campus voting and what you anticipate in the way of increased youth participation in voting. Mr. Gerretsen and I are representatives of large campuses where this is really going to be appreciated and I think will help increase voter turnout.

Mr. Stéphane Perrault: In any piece of electoral legislation, there will be aspects that Elections Canada supports and others that we feel less comfortable with. Our role is to support the work of parliamentarians in examining those pieces of legislation, and that's what I'm here to do today.

Back then there were points of concern. Some of these points were addressed later on in the Elections Modernization Act of 2018. There were things done in the Fair Elections Act like the provisions for guidelines and interpretation notes that were considerable improvements over the regime. There is not always a perfect piece of legislation.

I think that over time one of the virtues of the Canadian system is that we regularly revisit the act and draw lessons and improve upon it. This is another example of that.

Right now, whether the legislation passes or not, we will have campus voting in the next election. We are currently working with 119 campuses of post-secondary institutions. That is the same number we had the last time in 2019. It's largely the same, but with some minor changes; the number 119 is significant. In the last election in 2019, the uptake was not that high. There were 70,000 young voters who chose to use that system.

Nonetheless, it's an important first experience for voters. We know that voters who vote when they're young will vote for the rest of their lives. We certainly heard the disappointment of not having campus kiosks at the last election. I'm very happy to be bringing that back. As I said, this will happen whether or not it is reflected in the legislation.

● (1145)

Mr. Terry Duguid: Mr. Chair, I think I have about a minute and a half left.

Mr. Perrault, we had some of our union representatives come to visit us who had concerns about their ability to interact with their members. The amendments you've proposed would prevent them from freely interacting and informing their members in a writ period.

Would you have any comments on that?

Mr. Stéphane Perrault: With all due respect, I do believe their concern is about the provisions in the Elections Modernization Act of 2018 and not in any amendment either in the bill or that I am proposing.

As I indicated, none of these provisions prohibit any engagement or conversation or partisan promotion by unions. However, like any other group, if they spend more than the threshold amount, they have to register, and then they can spend up to probably around \$1.2 million or \$1.3 million in the pre-writ period, with inflation, and probably \$600,000 in the writ period—I'm rounding it up here with inflation—so they have considerable latitude to do surveys and partisan activities, but they must register.

Mr. Terry Duguid: Thanks for that clarification.

Thank you.

The Chair: Thank you, Mr. Duguid.

[*Translation*]

Ms. Gaudreau, you have the floor for two and a half minutes.

Ms. Marie-Hélène Gaudreau: Thank you, Mr. Chair.

Mr. Perrault, I'm concerned about the vulnerability of people living in residences and long-term care facilities. Let me explain. In my personal life, I spent five years with my father, who suffered from amyotrophic lateral sclerosis. He could no longer use his limbs. However, he could still speak, which other people with this disease can no longer do.

During those five years, there was one election.

Subsection 243.01(1) of the Canada Elections Act currently reads as follows:

If an elector requires assistance to vote, one of the following persons may accompany the elector into the voting compartment at the office of the returning officer and assist the elector to mark his or her ballot:

- (a) a friend of the elector;
- (b) the elector's spouse or common-law partner; or
- (c) a relative of the elector or of the elector's spouse or common-law partner.

Subsection 243.01(2) of the act reads as follows:

A person described in subsection (1) who wishes to assist an elector in marking a ballot shall first make a solemn declaration in the prescribed form that he or she

- (a) will mark the ballot paper in the manner directed by the elector;
- (b) will not disclose the name of the candidate for whom the elector voted;
- (c) will not try to influence the elector in choosing a candidate; and
- (d) has not, during the current election, assisted another person, as a friend, to mark a ballot.

Subclause 38(1) of Bill C-65 proposes to replace subsection 243.01(1) with the following:

If an elector requires assistance to vote, a person may accompany the elector into the voting compartment at the office of the returning officer and assist the elector to mark their ballot.

In addition, subclause 38(2) of the bill proposes to repeal paragraph 243.01(2)(d).

I'm concerned about these proposed changes. I want to know your thoughts on the fact that the people who may accompany electors into the voting compartment could be in positions of authority. They could be members of the nursing staff, for example.

Mr. Stéphane Perrault: This clause of the bill reflects a recommendation that I made at the request of groups of people with disabilities. They find it insulting and humiliating to need to declare that an employee who helps them each day and who accompanies them into the voting compartment is a friend, because that person isn't a family member. Under the current Canada Elections Act, they must say that the person is their friend, which isn't the case.

They want the oath to be taken. It's important to them. We talked about it. However, they don't want to need to say that the person accompanying them is a friend. That's the main thrust of clause 38 of the bill. Subclause 38(2) would also allow an individual to help more than one person vote.

Basically, these provisions reflect the comments heard from groups of people with disabilities.

Ms. Marie-Hélène Gaudreau: Unfortunately, my time is up.

The Chair: Thank you, Ms. Gaudreau.

[*English*]

Ms. Mathysen, the floor is yours for two and a half minutes.

Ms. Lindsay Mathysen: Thank you.

Just to build on that in terms of the empowerment, enfranchisement and making it easier for people living with disabilities to vote, there are other systems in place.

Do you have any concerns about any of those recommendations going forward?

I know that the phone voting is indicated. The alternatives to paper ballots are indicated. Could you talk about those changes and how important they could be?

● (1150)

Mr. Stéphane Perrault: For any significant change to the way people vote, I think there has to be a general buy-in from the population as to the integrity of the process.

In terms of phone voting, I think it can be done, but I know it's not necessarily seen as having the same degree of integrity, so this is a difficult question. It's quite possible that we could contemplate a variation on that, which is Zoom voting or Teams voting, where the person shows their identity and their face so that there is greater clarity as to who that person actually is before they move to another room and vote anonymously.

There are ways that technology can help us increase the perceived integrity of these kinds of remote voting, and that's something I think should be examined.

I know that in the U.S., curbside voting, as they call it, is very common and very well accepted. People with disabilities will be driven up or drive up next to the polling location, and a ballot box and representatives will come there. That's something we have recommended in the past that has not been accepted by Parliament, but I believe it's something that should be considered.

I think we need to always be exploring new ways of better serving electors with disabilities.

Ms. Lindsay Mathysen: With regard to that voter turnout, you discussed student on-campus voting and these increases. What does voter turnout look like? There's been a lot of discussion about how that continues to go down. Do you believe these changes will help with that? Are we on the right path in this regard?

Mr. Stéphane Perrault: The turnout is a very complex factor. It's driven by motivation, things in the environment and how parties and candidates drum up support and interest in the election. The role of Elections Canada is to remove barriers, not to generate turnout. I think we each have our own role.

There are a number of elements in this bill that do remove barriers, in a way, or make it easier to vote. Now, whether people have the motivation to go out and vote, that belongs to them and the political conversation.

The Chair: Thank you very much, Ms. Mathysen.

[*Translation*]

Mr. Berthold, you have two and a half minutes.

Mr. Luc Berthold (Mégantic—L'Érable, CPC): Thank you, Mr. Chair.

I'll be brief.

Mr. Perrault, I would like a clarification. During any of your meetings with the NDP and the Liberals regarding the drafting of Bill C-65, did you discuss postponing the election date?

Mr. Stéphane Perrault: No.

Mr. Luc Berthold: Never?

Mr. Stéphane Perrault: As far as I remember, this wasn't discussed.

Mr. Luc Berthold: Thank you.

My other point relates to my concern regarding clauses 25, 27 and 38, which deal with assistance for an elector.

I've experienced many elections. I'm afraid that we're heading towards a danger zone. A number of old-school political organizers

could be tempted—I'm sure—to revert to some of their old habits of trying to get people to vote against their will. I wanted to bring this concern to your attention. I've been told that this used to happen in the old days. It would be a shame if a change in the legislation resulted in a return to this old habit. Some individuals could get a number of people to vote.

I don't need an answer. I just wanted to share my concern.

Mr. Stéphane Perrault: Provisions in the legislation cover intimidation tactics and dirty tricks that force people to vote in a certain way.

I think that the change discussed here involves replacing the word “friend”, which voters find offensive.

Mr. Luc Berthold: We'll see how many individuals bring people to vote. I urge you to keep a close eye on how many people will be brought to vote by the same individuals. I think that this should be monitored on election day.

May I give the rest of my time to my colleague so that he can ask one last question?

The Chair: He has 30 seconds if he wants them.

[*English*]

Mr. Blaine Calkins (Red Deer—Lacombe, CPC): I'll do my best.

Mr. Perrault, this committee has been seized with foreign interference issues regarding our elections in the past. I've had private members' bills in the past that have tried to clamp down on foreign money influence.

On the changes in Bill C-65 that are already there, are there any amendments or any further things that you think this committee should be doing to close any of the loopholes? I still see a lot of loopholes where foreign money can actually be used through third party organizations and so on, even from foreign state actors using those kinds of organizations to influence.

Is there anything else we can do to tighten up these rules and loopholes?

• (1155)

Mr. Stéphane Perrault: In my recent report on threats to the electoral process, which I presented to the Speaker a few weeks ago, there were some small additional elements. For example, it is an offence for a third party to use foreign funds, but it's not an offence for the foreign entity to make that contribution, so there are things that could be tied up in that regard.

I don't think the provisions of the bill allow for that, but the changes to the third party regime that are proposed I think go a very long way in closing opportunities for foreign funding.

The Chair: Thank you very much, Messieurs Berthold and Calkins.

Ms. Romanado, you have two and a half minutes.

Mrs. Sherry Romanado (Longueuil—Charles-LeMoine, Lib.): Thank you very much, Mr. Chair.

Through you, I'd like to thank the witnesses for being here today.

I want to clarify one area.

Monsieur Perrault, you mentioned the longest ballot initiative. I'm going to ask you to correct me if I'm wrong. Years ago when someone wanted to present themselves as a candidate for a federal election, was there not an amount that was required? I think it was a thousand dollars to be a candidate.

I don't think that applies anymore. I don't want people who want to run for office to be prohibited from doing so because of monetary reasons, but would that be something that would reduce the number of, I don't want to call them "fake candidates" because they are legitimate candidates, people who are making up a 91-name ballot?

Mr. Stéphane Perrault: There was a \$1,000 deposit. It was refunded upon the submission of the financial returns. Basically, in a way, it was a sort of performance bond for the candidates. It was struck down by the courts on charter grounds on the basis that it allowed wealthy, but frivolous candidates to run and prevented poor, but serious candidates from running. It's difficult to see any significant amount being imposed as a prior condition.

I understand you have experts coming after who may have a view on that.

Mrs. Sherry Romanado: I just wanted to clarify whether it's still in effect. I don't think it is.

Mr. Stéphane Perrault: It was removed following a Court of Queen's Bench of Alberta decision.

Mrs. Sherry Romanado: I have just one quick follow-up question.

With respect to campus voting, when we talked about it when you were here previously, we talked about involving the education system, which is under provincial jurisdiction, not only to increase the awareness of students to vote, but, as you mentioned, to entice young people to vote. Sometimes, even at the high school level, we have students who are doing mock elections and so on and so forth.

I know we're not referencing any of that in this bill, but is there anything you would also like to include, or recommend that we include, in terms of outreach to young people?

Mr. Stéphane Perrault: You mentioned mock elections. We've done those for many years. They're not provided for in the act. They could be, and we could provide clear authority for them.

We spend money to have Civix, as an organization, run the student vote program. It's a very well received program and has been for many years. It makes a difference. We know that people who participate in those programs tend to vote more, so becoming familiar with the process early is something I think we all must encourage.

The Chair: Thank you, Mrs. Romanado.

Thank you very much, Mr. Sampson and Mr. Perrault, for being here with us today.

That concludes this hour of witness testimony.

Colleagues, we're going to very briefly suspend to turn to our new panel, and we will resume with our second hour very soon.

• (1155) _____ (Pause) _____

• (1205)

The Chair: Colleagues, we're going to continue.

We have a number of new witnesses with us, both online and in person.

I would like to welcome, appearing as individuals, Colin Bennett, professor emeritus and associate fellow, department of political science, Centre for Global Studies at the University of Victoria, who is joining us online; Gerald Chipeur, a King's Court lawyer; Michael Pal, professor, faculty of law, from the University of Ottawa; and, from the Indo-Caribbean Canadian Association, Alim Lila, vice-chair, and Ayesha Khan, management board member.

To the witnesses from the Indo-Caribbean Canadian Association, if you can hear me, we can't see you, so please make sure that you turn your video on as soon as possible. Thanks very much.

Each witness will have five minutes. The Indo-Caribbean Canadian Association will have five minutes between the two of you.

With that, Mr. Bennett, I'm going to start with you. Please make sure that you're unmuted and that you have your microphone kind of midway between your nose and your mouth. The five-minute clock will begin now.

Professor Colin Bennett (Professor Emeritus and Associate Fellow, Department of Political Science, Centre for Global Studies, University of Victoria, As an Individual): Thank you very much, Mr. Chair.

Good morning, committee.

I have studied and researched privacy protection nationally and internationally for over 40 years, and in recent work I've researched the uses and abuses of personal data in election campaigns. I wish to address my remarks entirely to the requirements of section 444 on the "Personal Information Collected by Political Parties".

First, I doubt whether the Elections Act is the appropriate statutory vehicle for imposing privacy obligations on federal political parties. Contemporary privacy law is complex and requires far more than the obligations for transparency included in Bill C-65. The required amendments fit uneasily within a statute designed to regulate the conduct and financing of elections.

If the government really wanted to establish “a national, uniform, exclusive and complete” privacy regime for FPPs and the organizations that work for them in response to the litigation that's currently under way in B.C., it would either bring the parties into the current Bill C-27, amending PIPEDA, or legislate a separate national privacy protection statute applying to them.

Second, privacy law, as the Privacy Commissioner has pointed out to you in his communication, should include all of the internationally accepted privacy principles, supplemented with serious and enforceable provisions for oversight and accountability.

The current provisions essentially permit the FPPs to collect whatever personal data they wish from whatever sources and to process it in any way they please, provided they are transparent about it, provided they give illustrative examples and provided they don't sell it.

They do not allow individuals any rights of access and correction, and these provisions therefore amount to little more than self-regulation, entirely at odds with the contemporary international consensus about how to protect personal information in the modern digital age.

Third, contrary to the claim in proposed section 444.1 that these amendments “provide for a national, uniform, exclusive and complete [privacy] regime” for FPPs and the organizations that work for them, I think they do nothing of the sort.

There's a recent report from OpenMedia, based on analysis of national and provincial filings on campaign expenditures, which reveals over 90 companies in Canada that work for political parties at federal, provincial and municipal levels. Nothing in these amendments obliges the political parties to obtain consent when they collect personal data from Canadians, yet companies that work for the parties under contract and are governed by federal and provincial privacy laws must ensure that personal data is collected in compliance with those laws. That's according to a 2019 decision from the B.C. and federal privacy commissioners. I think section 444 is likely to create confusion for the companies that process personal information on behalf of political parties.

Fourth, there really is no meaningful, independent oversight. Obligations for compliance are based on the notion that the Chief Electoral Officer could and would cease a party's registration if it did not submit a valid privacy policy. The system for administrative monetary penalties for those who commit violations is also ineffective.

Further, there's no indication of what an individual is supposed to do if he or she is dissatisfied with the response to a complaint from the party's privacy officer. With all due respect to Elections Canada and the Commissioner of Canada Elections, I don't think they possess the resources or the expertise to monitor the complex technical environment of modern digital campaigning. The Office of the Privacy Commissioner does and should be given a collaborative role in the oversight regime, which would be a similar arrangement as exists in B.C.

Finally, there's no effective mechanism for reporting data breaches. We've already witnessed a number of data breaches from political parties, and they're likely to continue. The current provisions

only require the parties to inform the individuals affected if they judge that there is a “real risk of significant harm”. There must also be a duty to report such breaches to an independent body, such as the Privacy Commissioner.

Canada is just one of a few democratic countries where national privacy law does not apply to political parties and to the sensitive information on political opinions they collect. There is no evidence, despite assertions by the parties, that compliance with these laws in other countries and jurisdictions, including B.C. and Quebec, hinders political engagement, constrains their ability to recruit volunteers or otherwise prevents them from communicating with the electorate.

There is also no credible reason why Canadians should enjoy enforceable privacy rights with respect to government agencies and commercial organizations and not with political parties.

At root, this issue is not just about privacy rights; it's about the health and resilience of our democracy.

● (1210)

Political campaigning is changing dramatically as elections increasingly become more data-driven and the voter analytics, predictive modelling and artificial intelligence tools, which you discussed earlier with the Chief Electoral Officer, drive campaign communications. The need to develop and apply a strong and consistent set of enforceable privacy rules for federal political parties is urgent, and the provisions in Bill C-65 do not achieve those goals, in my judgment.

Thank you so much.

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

We'll now turn the floor over to Mr. Chipeur for five minutes, please.

Mr. Gerald Chipeur (Lawyer, As an Individual): Thank you very much.

My testimony this afternoon will address three issues.

First, proposed section 482.01 of Bill C-65 is, in my view, a violation of section 2(b) of the charter. This is because it may be utilized in the same manner as the election laws of Hong Kong to repress protected expression of citizens and the media.

Number two, proposed section 358 of Bill C-65 does not effectively rule out all spending by foreign actors in Canada to influence federal elections. This is because a sophisticated third party may simply have all donations funded from a foreign actor at least two years before a general election.

Number three, the role of the Chief Electoral Officer should be better depoliticized, first by prohibiting the Chief Electoral Officer from changing an interpretation of the act between elections unless directed otherwise by Parliament or the courts, and, number two, by repealing part 18, division 4, of the Canada Elections Act. That is the part that regulates nomination contests.

First, then, I will address freedom of the press.

Proposed section 482.01 should not go forward. It should be removed because it is prone to abuse and violates section 2(b) of the Charter. Recent election law enforcement in Hong Kong should give members of Parliament pause as they consider the authority that this would give civil servants to regulate expression.

Just a week ago, the Canadian media focused intensely on this issue. Proposed section 482.01 is contrary to the charter because it punishes false statements made in connection with the democratic process. In my view, the courts in Canada will not uphold this legislation.

Proposed section 482.01 is nothing more than a restatement of the law of sedition or *lèse-majesté*. The United Kingdom abolished these laws in 2010, and the Belgian constitutional court overturned a similar law in 2021 because it violated the Belgian constitution.

In our courts, Justice Pedlar, in Ontario in 2006, in 790R3-515, said this about prosecution of a defamation action by the government:

...I find that it is inconsistent with section 2(b) of the [charter] for a government entity such as the plaintiff [here] to bring a civil action for defamation against one of its citizens. The risk of a governing body using defamation as a tool to inhibit criticism of institutional government activities, and thereby inhibiting free speech outweighs the risks of allowing such criticism, even if intemperate.

Then, speaking, on behalf of a unanimous court, Justice Côté in the Supreme Court of Canada, in 1704604 and the Pointes Protection Association—that's 2020 S.C.R. 587—said that even vexatious expression will be protected from SLAPP lawsuits where it involves “public participation in democracy”. That's at paragraph 30.

On the subject of foreign influence, I note that sections 349 and 349.4 are going to be amended here. That is a good step, but section 358.1 is undermined by proposed subsection 358(2) in Bill C-65, and that's because, under subsection 358(2), a sophisticated third party could simply avoid all of the limitations of this section by ensuring that third party or foreign actors funded the third party at least two years before a scheduled federal election.

• (1215)

Finally, I note with respect to the issue of the participation of the Chief Electoral Officer in the internal governance of a political party, that has been condemned by the Ontario Court of Appeal in Longley and Canada. That's the 2007 Ontario Court of Appeal, ONCA 852. Paragraph 74 is the operative section or paragraph. In that paragraph, the court said:

Care should be taken to ensure that the impartiality of this critical public role is not unnecessarily compromised—actually or potentially, in the eyes of the public—by enacting a regime that would call upon the Chief Electoral Officer to make judgment calls on how a political party is conducting its internal affairs or spending its [money].

By including nomination contests—

The Chair: Sir, we're over the time, so I'm going to ask you to wrap up right away.

Mr. Gerald Chipeur: Thank you very much. That's where I will quit. You have the section, and I'd be happy to answer any questions.

The Chair: It's much appreciated. Thank you very much.

Professor Pal, we'll go over to you for upwards of five minutes.

Professor Michael Pal (Professor, Faculty of Law, University of Ottawa, As an Individual): Thank you very much, Mr. Chair, to you, the committee and the clerk for the invitation to appear today. I'm a professor down the street in the Faculty of Law at the University of Ottawa, working in the areas of election law and constitutional law.

There are a number of items of interest in Bill C-65, given what a significant piece of legislation it is. I want to focus my comments in the time I have on the same topic as Professor Bennett, the rules around voter privacy, because I think that's an area where amendments would be of use.

Political parties, as is obviously well known to everyone around the table, use data very extensively. Traditionally, though, federal political parties have fallen in between private and public sector federal privacy legislation. There were some provisions, or are some provisions, in the Canada Elections Act around misuse of the voters list, but other than that, restrictions were relatively minimal and certainly nothing approaching what we would understand as the fair information or generally accepted privacy principles that apply through most of the private and public sector.

Recent amendments to the Canada Elections Act have been moving towards a privacy regime applicable to political parties, particularly with the Elections Modernization Act in 2018 obliging parties to have a policy. The problem with the Election Modernization Act was that it was one step forward but it did not actually impose substantive limits on the use, collection, retention and analysis of sensitive personal information of the kind that would give Canadians confidence in how their data is collected and used.

It is worthwhile going through some specific provisions of Bill C-65, some of which I think are an important step forward and some of which need, in my view, significant amendment.

Proposed section 444.2 will allow authorized parties to “collect, use, disclose, retain and dispose of personal information” as long as that is done “in accordance with the party’s policy”. Again, the rule is tied to the particular policy rather than independent principles tied to other privacy values. Parties and entities acting on the party’s behalf “must comply with the policy” or potentially be subject to administrative monetary penalties. Parties must now also protect personal information under their control “through [proportionate] physical, organizational and technological security safeguards”. I think that is a positive development, but more definition is likely needed as to what counts as a “proportionate” safeguard. That is spelled out more directly in the legislation.

Most significantly, parties are now prohibited from carrying on the activity of “selling personal information”; parties are prohibited from disclosing sensitive information “for the purpose of causing harm”; and parties are prohibited from “providing false or misleading information” about their collection practices. Those three measures, I think, are certainly welcome and a step forward from the 2018 amendments.

The main problem that remains, however, is that the amendments are targeted at ensuring parties and their volunteers and representatives adhere to the party’s policy without actually requiring substantive limits on how the data can be collected and used, apart from those specific ones around selling or disclosing.

In conclusion, I would say that this is an important step forward. More remains to be done. The overall concern certainly is in facilitating democratic participation. It is a good thing for Canadian democracy and elections that parties collect data and use it. It helps with communication to voters, advertising and being responsive to the public, but Canadians have an increasing expectation for how sophisticated entities in Canadian society will protect their data, and there is still some way to go, even if the amendments in Bill C-65 are passed.

Thank you.

• (1220)

The Chair: Thank you very much.

Mr. Lila and Ms. Khan, between the two of you, I’m not sure who would like to go, but whoever is representing your organization in the opening remarks will have five minutes to begin now.

Mr. Alim Lila (Vice-Chair, Indo-Caribbean Canadian Association): Thank you very much, Mr. Chair.

My name is Alim Lila. I currently serve as the vice-chair of the Indo-Caribbean Canadian Association. In addition, I serve as the chair of the organization’s VOICE planning committee, which is the civic engagement wing of our organization. I’m joined today by Ayesha Khan, a board director of our organization.

The Indo-Caribbean Canadian Association was established on May 1, 2021, with the goal to connect, serve and amplify Canada’s Indo-Caribbean community. We offer a number of community services and programs in an effort to fill a void in our under-represented and underserved community.

The Indo-Caribbean community possesses roots in the Caribbean, with ancestry from India. We represent a double-dias-

poric community. Our dynamic culture has contributed to many significant elements of modern Caribbean culture. Our community also comprises individuals from a variety of faith groups, including Hindus, Muslims and Christians, and that is what makes our community so special.

I joined the Indo-Caribbean Canadian Association in 2022 to support their efforts to have the date of the municipal elections in Ontario amended because of a conflict with Diwali. While I identify as a Muslim, I recognize the importance of ensuring our collective community’s access to the democratic process.

Furthermore, I believe it’s important that the right to vote does not conflict with one’s participation in a major religious or cultural observance. Whether it is Diwali, Eid, Bandi Chhor Divas, Rosh Hashanah or Easter, we must understand and respect the diversity of our country and ensure that all people are free to participate in their cultural and religious practices while maintaining their access to participation in our democratic institutions.

With that, I will pass it over to my colleague, Ayesha Khan.

Ms. Ayesha Khan (Management Board Member, Indo-Caribbean Canadian Association): Thank you, Alim.

Thank you, committee members, for having us here today.

Bill C-65 includes several measures to ensure that more Canadians have access to participate in the electoral process. It is of crucial importance to our democracy to work towards eliminating obstacles to Canadians participating in elections.

As a nation that proudly professes to benefit from a multicultural society, we must modernize our democratic institutions to reflect and respect this. When barriers to democracy are identified, progressive societies rectify them.

Rightfully, polling stations must be accessible. Voting options must be broader to accommodate the working populace. Such is the way of a modern society that respects the voice of the people who comprise it. Ensuring that a general election is not held on Diwali is a significant step toward this.

As of 2024, 2.3 million Canadians reported as South Asian in ethnicity. India was the top source for immigrants to Canada between 2016 to 2021. These statistics also do not include the growing Indo-Caribbean community in Canada.

The Indo-Caribbean Canadian Association endorses the proposal to move the set election date so as to not conflict with Diwali. In many Caribbean countries, such as Guyana and Trinidad, Diwali and other religious dates, such as Eid and Christmas, are national holidays.

We are not calling for that today, but we believe our government should recognize the massive significance of Diwali and make it so that Canadians who observe this religious occasion do not have to choose between practising their religion and their democratic right to vote. It is important to note that this barrier is not limited to voters, but holding an election on Diwali or any major cultural or religious date is unfair to candidates, campaign staff, political organizers, volunteers, supporters and election staff who observe said occasion.

During the Ontario municipal elections held on Diwali in 2022, the City of Brampton had to implement measures to address—

• (1225)

[*Translation*]

Ms. Marie-Hélène Gaudreau: Mr. Chair, I have a point of order.

I know that the connection quality isn't optimal. We can understand and decipher the English comments. However, I think that the interpreters are clearly struggling to do their job. The interpreters can't do their job properly.

[*English*]

The Chair: Ms. Kahn, unfortunately, your voice is coming in a little broken up. There seems to be some weakness in the connection.

I'm going to turn it back over to you again for just a minute to finish your remarks. If we run into the situation whereby the connection remains a bit finicky, then we may just have you submit in writing the final portion of your remarks.

I'm going to turn it back over to you, but I'm afraid I may have to interrupt if it isn't clear moving forward.

Ms. Ayesha Khan: Thank you.

During the Ontario municipal elections held on Diwali in 2022, the City of Brampton had to implement measures to address unprecedented election resignations 24 hours before polls opened.

In 2022, I myself helped on a municipal election campaign in my home community. I was in the challenging position of supporting a candidate who I believe in, but I was unable to spend this special evening with my family. I know I'm not alone in this. I recall seeing on election night as I went door to door, traversing the community, residents leaving the house and lined up to vote in traditional garb, and cars pulled out of driveways already lined with traditional lamps. Despite the observance, there were folks in my community who felt it important to participate in their democratic right to vote. I believe that no one should have to make that choice.

Moreover, amending an election date is not a new concept in Canada. In 2007, the Ontario government amended the election date from October 4 to [*Technical difficulty—Editor*] because of a conflict with the Jewish holiday of Shemini Atzeret, on which some members of the Orthodox Jewish community would be unable to vote.

The Chair: I'm sorry, Ms. Khan, but unfortunately we've run into the same issue. There were 10 seconds remaining in your intro-

ductory remarks. I'll ask, for your own benefit and for the benefit of the committee, can you submit to the clerk the opening statement?

The clerk just mentioned to me that we have it already. We'll be sure to distribute that to the committee so that they have the opportunity to be fully informed of what message you were intending to convey.

With that, colleagues, we are going to enter into our first round of questioning.

I will turn the floor over to Mr. Cooper for six minutes.

Mr. Michael Cooper: Thank you very much, Mr. Chair.

I'll direct my questions to Mr. Chipeur.

With respect to the third party regime and the influence of foreign money, this act proposes to require third parties to set up separate bank accounts for their election activities concerning political parties and candidates at election time, but it would only apply where the third party received more than 10% of its revenue within the previous calendar year. That, as you noted, leaves a significant loophole with the potential for a third party to use foreign money to influence voters during the pre-writ and the writ periods.

Would it be your recommendation that the solution to that is simply to require third parties to set up a separate bank account and to rely on individual contributions during the pre-writ and writ periods for regulated expenditures?

Mr. Gerald Chipeur: That's exactly my recommendation. Simply drop proposed subsection (2).

Mr. Michael Cooper: Okay. Thank you very much for that.

In the previous hour, the Chief Electoral Officer answered questions that I posed to him with respect to changes around special ballots. Presently, one must write in the name of the candidate. Under this bill, a voter could instead simply write in their preferred political party. I asked the Chief Electoral Officer, in the hypothetical: If a candidate was standing on day one and the voter had marked the "Conservative Party", but the Conservative Party had replaced the candidate with a different candidate before the candidate filing deadline, would the vote that had indicated preference for the Conservative Party then be counted towards that second candidate?

This seems to me to turn upside down the process we have had in terms of electing members of Parliament and not voting for political parties. It seems to me to be inconsistent with the statutory scheme and, arguably, to be constitutionally questionable. Would you agree?

• (1230)

Mr. Gerald Chipeur: I would agree.

There are three concerns that I would have with that approach.

The first is section 3 of the charter. The whole idea of the right to vote is individual, and the right to run is individual. The statute itself is a statute that talks about individual members of Parliament being elected. If an individual is elected as a member of Parliament, then they are not required to stay with the party that they came to Parliament with.

Those are the three concerns. One is the statute itself, which talks about electing individuals. Number two is that the individuals, once elected, are free to go to any party. Number three is that the charter itself sets up rights that are individual in nature.

The approach of putting a party name in seems to be—at least from my perspective, and I don't have any case law on this—inconsistent with all three of those approaches.

Mr. Michael Cooper: Thank you for that.

You raised issues with respect to section 482.01, which establishes new offences under the act. You stated that it is your opinion, and you cited case law that it could contravene, or would likely be found by the courts to contravene, section 2(b) of the charter. I'll invite you to elaborate on that, if you wish, but I would also ask you this: Would you also have the concern that these new offences could create a chilling effect that perhaps is unintended with respect to legitimate questions around electoral processes?

Mr. Gerald Chipeur: Absolutely. That was indeed the concern raised by Justice Pedlar, I believe, in the Ontario courts.

The idea that one can be prosecuted for what one says.... The legal onus stays with the government, but the onus would be on the individual to prove the truth of what they were saying. If it were false and they “knew” it were false, they could be prosecuted. Without going into the issue of whether or not they were successful in defending themselves, the cost of defence, in and of itself, would be so high that individuals would simply comply with the bureaucrat or the Chief Electoral Officer without taking on a battle, when the only thing they wanted to do was participate in the democratic process.

The democratic process we're talking about here heightens the review a court would give to this legislation. I highlighted the words of Justice Côté of the Supreme Court of Canada. She said that, when we're talking about the democratic process and participation in the democratic process, that kind of expression is entitled to greater protection. When it comes down to a balance between, let's say, protecting the reputation of an individual or institution of government, the courts should come down on the side of freedom of expression, not on protecting the reputation or, if you will, the name of the institution or credibility of the process.

There's no doubt that the institution of elections is a very important thing, but the courts have come down on the side of freedom of expression in Canada. I think the courts in other free and democratic societies like Belgium and the United Kingdom have also said that there's no need to go into the protection of the Crown.

• (1235)

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

Mrs. Romanado, the floor is yours for six minutes.

Mrs. Sherry Romanado: Thank you very much, Mr. Chair. Through you, I'd like to thank our witnesses for being here today.

Before I begin, I'd like to ask if it's at all possible for both Professor Bennett and Mr. Chipeur to table their opening remarks with this committee. I was trying to take notes of all the references to case law and so on. I'll be honest with you. It was very difficult to follow. If it would be possible—

The Chair: Mrs. Romanado, for the record, the clerk has informed me that she has them all, already. We'll make sure to get them to you.

Mrs. Sherry Romanado: That's perfect. Thank you.

Mr. Gerald Chipeur: Yes, she has them. However, over the last week, I added some case law, so I will provide the clerk with the full text.

Mrs. Sherry Romanado: Thank you very much.

My first question is for you, Mr. Chipeur.

At the end of your opening statement, you were starting to talk about nomination contests. I'd like to give you the opportunity to finish your thoughts on that, because it is something I am quite intrigued with.

Mr. Gerald Chipeur: In a case called *Knox v. the Conservative Party of Canada*, the Supreme Court of Canada said:

Simply because a decision impacts a broad segment of the public does not mean that it is public in the administrative law sense of the term. Again, judicial review is about the legality of state decision making.

Is not necessarily appropriate in the case of the internal operation of a political party. I think last week's events in Hong Kong highlight this even more. The Government of Hong Kong was attacking the Democratic Party in Hong Kong because of some internal elections that were taking place.

I think the decisions on *Knox* in the Court of Appeal of Alberta and the *Longley* case in the Court of Appeal for Ontario, in my view, support the view that the Chief Electoral Officer should not be given authority over the internal operations of a political party. The regulatory arm of the state—in this case, the Chief Electoral Officer—should kick in at nomination. When you have an individual presenting their name for election, that's the time when the regulatory regime should step in. Before that, in my view, it should not.

Mrs. Sherry Romanado: Thank you very much for clarifying that.

My next question is for Professor Pal.

I want to get your thoughts on what we've been hearing about disinformation and misinformation campaigns. Our previous witness was the Chief Electoral Officer, who brought up the question of how deepfakes and AI can impact voters' decisions to support or not to support a candidate.

Could you elaborate a bit on whether you think that Bill C-65 addresses some of those issues with respect to misinformation and disinformation, and/or would you have any recommendations for us on how to improve that?

Prof. Michael Pal: Thank you very much for that question.

Freedom of political expression is one of the foundational values in the Canadian Charter of Rights and Freedoms, so we should be very careful in passing electoral legislation that restricts freedom of political expression. Since disinformation and misinformation now are so prevalent and are deliberate tactics, frankly, often by foreign actors, state or non-state actors, who are hostile to Canadian democracy, these are very pressing problems.

Bill C-65 has clarified some of the offences that exist, partly from the Elections Modernization Act, where there was some ambiguity. The language was broad, but it wasn't clear that deepfakes necessarily were covered. It has clarified that, so I think that is quite welcome.

Where I might have a different view from my fellow witness today is on section 482.01. Again, I'm a constitutional law professor. I start from the point of view that we should absolutely protect freedom of political expression. However, one of the tactics around the globe, by actors hostile to democracy, is to try to undermine confidence in the electoral system by spreading disinformation about the quality of the election, about how it is administered. Therefore, section 482.01, I think, is a useful attempt to try to address some of those concerns.

• (1240)

Mrs. Sherry Romanado: Thank you very much.

With respect to external threats, as you mentioned, you elaborate on that as sowing those seeds of distrust in our democracy. We saw that south of the border in previous elections, where the validity of the election was an issue that was brought up over and over again. Do you think that Bill C-65 goes far enough to ensure that Canadians can have faith in our democracy and can have faith in our elections?

We did hear a bit about the question, when we were looking at foreign interference here at PROC, on whether the outcome of the last federal election was impacted. We understand from the Chief Electoral Officer that the final results were not impacted. What are your thoughts on this specific issue of sowing the seed of mistrust on the validity of an election?

Prof. Michael Pal: That is a very complex policy question because of the charter and because we do need to respect and want to respect freedom of political expression. Some of the offences try to get at that issue, offences around false statements, but that's a blunt tool. It's a tool that I think is important, but it is blunt. Education campaigns are perhaps other softer tools that I think are important.

I was invited to be an expert witness at the foreign interference inquiry a couple of weeks ago, and I expressed a similar view. I agree with my fellow witness that it would not be in the interest of Canada to have Elections Canada run nomination contests. Political parties are and should be independent from the state, but we might want to address some of the campaign finance aspects in nomination contests to a greater degree than we currently do.

The Chair: Thank you so much.

Madame Gaudreau, you have six minutes.

[*Translation*]

Ms. Marie-Hélène Gaudreau: Thank you, Mr. Chair.

I would like some clarification. I'm not sure whether I understood all the remarks, which were quite informative.

Mr. Bennett, you spoke about clause 444.1 of the bill. You also said that 90% of companies worked for political parties.

Could you please remind us of the context in which you brought this up?

[*English*]

The Chair: Mr. Bennett, you're on mute, sir.

Mr. Bennett, sir...

Can he not hear me?

Mr. Bennett, can you hear me? You're on mute.

Prof. Colin Bennett: I'm sorry. Okay. Thank you.

OpenMedia did some work on a number of the companies that were employed by political parties at federal, provincial and municipal levels. It came out to be about 90 different enterprises.

My point is this: Those companies have to comply with federal and/or provincial privacy law, principally PIPEDA, the Personal Information Protection and Electronic Documents Act, at the federal level. Many of them will not be processing personal data from political parties, but some will, so they have to ensure that this information is provided with appropriate consent, typically. That has been stated by the federal and provincial privacy commissioners in a decision involving AggregateIQ, which was the company that was implicated in the Cambridge Analytica scandal.

My point about Bill C-65 is that however much you amend it, it's still going to be inconsistent with the rules that companies are going to be having to abide by. Therefore, it is not providing the uniform regime for political parties and the use of personal information in political campaigning that the bill claims to achieve.

I hope that's clear.

• (1245)

[*Translation*]

Ms. Marie-Hélène Gaudreau: Thank you.

In your remarks, you also talked about British Columbia and Quebec. What was the context? Are these provinces examples to follow?

I want to make sure that I took good notes.

[English]

Prof. Colin Bennett: Yes, in both B.C. and Quebec now, provincial political parties are obliged to abide by provincial privacy law. I was making the point that this is not really a threat to political parties. It is perfectly possible, in those provinces and, indeed, in the majority of democracies—in Europe, in New Zealand and elsewhere—for campaigns to exist and for political parties to communicate with the electorate while, at the same time, complying with basic privacy principles.

In B.C., as you probably know, there has been litigation on the question of whether B.C.'s provincial law should apply to federal political parties to the extent that they capture personal data in B.C. Earlier this year, a judge in the B.C. Supreme Court said that the answer was yes. All three political parties are currently appealing that decision to the Court of Appeal.

I hope that's clear.

[Translation]

Ms. Marie-Hélène Gaudreau: Thank you.

Mr. Pal, I'm worried about artificial intelligence.

Just last Tuesday, I asked the clerk, the Sergeant-at-Arms and the law clerk and Parliamentary Counsel of the House of Commons to identify the global challenge that should most concern us on a domestic level. The first answer was artificial intelligence.

By the way, I just came back from an international conference attended by over 50 countries. The topic of the day was artificial intelligence.

To act, we need tools with teeth. It's fine to make changes to legislation. However, we need the tools required to take action. This isn't about quality or innovation.

As a legislator, I'm concerned. Of course, we must keep up the pace, but real life also comes into play. The general election process is extremely complex. With digital technology taking up more and more space, what can be done to help people vote?

I would like to hear your thoughts on this.

The Chair: Ms. Gaudreau, you don't have much time left.

[English]

Professor, you have about 20 seconds, please.

Prof. Michael Pal: Artificial intelligence in elections is a very serious issue. The big picture to me is that it makes all of our problems worse—disinformation, misinformation, campaign finance issues and foreign interference. I don't see Bill C-65 addressing that directly, so I think there's much more to do on artificial intelligence in elections.

The Chair: Thank you so much.

Ms. Mathysen, you have six minutes.

Ms. Lindsay Mathysen: Thank you, Chair.

Thank you to the witnesses.

I think I'll pick up from Madame Gaudreau's line of questioning.

Professor Pal, you co-edited a book about cyber-threats. It's about the larger impact of the dangers they entail in how information, disinformation and misinformation get to voters, as well as the protection of voters.

I wanted to ask about the extensive use of AI within partisan advertising. What are the limits currently placed upon that advertising by election law?

Do changes need to be made, considering that we know now that in marketing, it's down to a science in how people are manipulated for consumerism?

If you look at electioneering as that same kind of taking in of a product, how could we change the laws or keep up with it when we see it in advertising? How is it being used against people with that AI? What are those dangers?

• (1250)

Prof. Michael Pal: Thank you very much, and thank you very much for referencing the book I edited with my colleague, Holly Ann Garnett, at the Royal Military College. Royalties for academic books are very modest, so it's nice to have it mentioned.

Ms. Lindsay Mathysen: That was not a plug.

Prof. Michael Pal: In terms of partisan and election advertising, the strongest tool that exists in the Elections Act is spending limits. I believe the Chief Electoral Officer mentioned that there are quite generous spending limits for third parties in the pre-writ period. They're stricter during the writ period.

Spending limits have been upheld as constitutional by the Supreme of Canada on multiple occasions. There's the Harper case, the Libman case and the B.C. FIPA case. There are a number of cases.

The tool is, in some senses, less effective because technology has made it so much cheaper to engage in political communications. That is a positive thing. It has democratized people's ability to communicate with large numbers of voters, but it means that the third party spending limits and the political advertising and partisan advertising spending limits are less effective when entities are using technology to communicate at a very low cost.

Part of the reason why we have these offences about false statements and other things is that they are trying to target the communication in the advertising, rather than the amount that is being spent. I think where it puts us is we need to come up with new mechanisms for the responsible use of technology. Parliament did so in relation to social media companies in the Elections Modernization Act. We didn't know what ads were being run on Facebook, so now there's a repository of ads.

I think we need similar updating of election laws in relation to artificial intelligence and other new technologies. There is some of that in Bill C-65, but I think there's a lot more thinking, frankly, that we all, as Canadian society, have to do to try to address that. The technology and techniques are changing so quickly that it's a matter of trying to respond in real time.

Ms. Lindsay Mathysen: When those marketing strategies are applied at such a high or sophisticated level, using AI, is democracy being undermined? Could it be considered an undermining of democracy in that regard because there's an idea of potential manipulation?

Prof. Michael Pal: I don't think simply the use of AI on its own causes harm to democracy. We might want transparency around it and disclosure that artificial intelligence is being used. That is a challenge when all of the software that people use also has AI built into it in various programs, but certainly, additional transparency would be beneficial.

There are not that many drawbacks to additional transparency, but because the AI tools can be used for positive, good purposes as well, we should be careful about restricting their use. There are some examples of U.S. companies with AI tools having internal rules restricting their use for political advertising, so I think we need to learn more about what the practices of those companies are in the Canadian political space, because they have an impact on elections.

Ms. Lindsay Mathysen: Thank you for leading into the next question.

I want to ask you about the comparative research you have done between different jurisdictions on that role or function within elections and election administration. Can you talk about other jurisdictions that are getting it right, in terms of electoral integrity? If this piece of legislation is on the right track or not, what could we learn from other specific examples in other jurisdictions, be they provincial or other international—

The Chair: Again, we're at time.

Ms. Lindsay Mathysen: Oh, shoot.

The Chair: Be concise, please, Mr. Pal.

Prof. Michael Pal: For the sake of time, I would note that Australia's legislature has a new bill in front of it that is moving closer to the Canadian regime than it was. There's some evidence there that people view the Canadian regime positively.

• (1255)

The Chair: Thanks very much.

Mr. Calkins, the floor is yours for five minutes.

Mr. Blaine Calkins: Thank you, Chair.

Mr. Chipeur, I don't know if you know this or not. I had a private member's bill in the very first parliament with the current Trudeau administration, which would have significantly limited the amount of money that third parties could use from foreign sources.

I know my colleague, Mr. Cooper, has already asked you a question about this, but I'll give you a hypothetical example.

The Tides foundation, if you believe the information that's publicly available, has about \$1.4 billion in assets. The David and Lucile Packard Foundation has \$6.7 billion in assets. The Pew Charitable Trusts has \$6.7 billion. Those three organizations, alone, have just under \$15 billion in assets. They fund organizations, not only in the United States, but also in Canada and elsewhere, through non-governmental organizations, not-for-profits and so on.

All of those organizations may choose to become registered participants in the election process when we have a federal election. Of course, they would align themselves with, potentially, a political party. I'm just using those three examples. We're not even talking about unions. We're not talking about foreign actors, state actors or anything like this.

There are billions of dollars that could be coming in from all manner of sources. The changes being proposed here may have helped, but it is illegal, in Canada, for any political party to accept money from outside of Canada. Why is it still illegal?

In your opinion, do you think it should be legal for any registered party that wants to participate in an election to receive any funds from outside of Canada, full stop?

Mr. Gerald Chipeur: When you make the case that clearly, the answer is clearly no.

Why is that the case? I think the reason is that it would dilute, in section 3, the right that belongs to the citizen to make these choices.

I do note that in the last election in the United States, the party that spent about 50% more than the winning party lost, so money doesn't necessarily buy you an election. However, the influence is what is inappropriate, in my view, under section 3, because it is a right of citizenship, and that right should be defended aggressively by Parliament. I think that's Parliament's duty.

Mr. Blaine Calkins: If that's the case, then do you think it should be an offence for third parties to knowingly accept contributions from any foreign entity for any regulated election activities?

Mr. Gerald Chipeur: I think it should be.

I also agree with what the Chief Electoral Officer said earlier, that it should be an offence for that third party, who is outside of the country, to make those donations, because it seems that both state actors as well as private actors have been bragging recently about how influential they have been in the Canadian election. I think that is something that, in my view, should be an offence. This Parliament should be offended by those kinds of reports being published.

Mr. Blaine Calkins: I can only speak for myself, Mr. Chipeur, but I was horrified to see some of the revelations from this very committee's study and, now, from the public inquiry into foreign election interference. I don't believe that Bill C-65 actually goes far enough to address some of those concerns. I do believe there are some steps in the right direction.

I'm going to shift gears a bit from foreign influence and foreign funding. Clause 43 of the bill amends the act such that a single person can assist an unlimited number of electors in marking their ballots. Do you see any concerns or questions about that when it comes to the integrity of our process? Do you have any concerns with that?

The Chair: You have about 20 seconds, sir.

Mr. Gerald Chipeur: I'll be very quick.

Yes, I do. There have been instances in both Canada and the United States of ballot harvesting. This is something that could be abused by someone wanting to do that. Therefore, one of the things you should consider is a transparency requirement for individuals who participate, so they disclose who they are, what they have done and how many they've helped.

• (1300)

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

Madame Fortier.

[*Translation*]

Hon. Mona Fortier (Ottawa—Vanier, Lib.): Thank you, Mr. Chair.

I would like to give the representatives of the Indo-Caribbean Canadian Association the opportunity to answer some of my questions.

Given that some technical issues arose during their remarks, perhaps this will help clarify their comments.

How might holding federal elections on Diwali affect civic participation among Indo-Caribbean and other South Asian communities?

What strategies would you recommend to ensure that this schedule doesn't disenfranchise voters who celebrate this holiday? Do you have any ideas to share on these issues?

[*English*]

Mr. Alim Lila: Thank you for the question.

We see it as an impediment for people from our community, the Indo-Caribbean community, which is part of the South Asian diaspora. However, we also see Bengali Canadians and Indian Canadians experiencing those same obstacles.

The challenge is this: People are trying to balance their participation in these religious obligations. Diwali is a very significant holiday for the Hindu, Jain and Sikh communities. They are balancing those obligations with that most important right—the ability to participate in the democratic process. We've seen this occur. As my colleague Ayesha noted in her remarks, we saw this with the municipal elections in Ontario in 2022. People were experiencing that challenge in real time.

To your question, though, we have, as a community organization, put a lot of effort into “get out the vote” efforts, driving people toward advance polls. However, based on our engagement with our stakeholders and community members, that conflict was evident and felt.

[*Translation*]

Hon. Mona Fortier: In this case, could you suggest any specific measures if a federal election were held on the same day as Diwali?

Could other measures be used to encourage participation in the democratic process?

[*English*]

Mr. Alim Lila: The addition of advance polls, the ability of people to cast their ballots early, is something that we, as a community organization have driven people toward.

In terms of broader expansion of this bill, we will defer to you, the parliamentarians.

Hon. Mona Fortier: Thank you. This is why we have witnesses. It's so we can have ideas to reflect on.

I don't know whether Ayesha Khan also wants to share her thoughts on these two questions.

Ms. Ayesha Khan: From my perspective, I believe that the date should ultimately be moved. I don't know if there is a workaround, given that it is everyone's right. Whoever is eligible to vote in an election should be able to have the writ period to make up their mind, should they desire it. Having to pivot to voting may deprive them that ability, so I think the only real way to do it is to move it.

Hon. Mona Fortier: Thank you very much.

The Chair: Thank you very much, Madame Fortier.

Hon. Mona Fortier: I'm done. I asked the two questions I wanted to ask.

[*Translation*]

The Chair: Okay. Sounds good.

Ms. Gaudreau, I think that you told me that you had no further questions.

[*English*]

Ms. Mathyssen, if you like, you have two and a half minutes.

Ms. Lindsay Mathyssen: I am going to provide the rest of my time, considering that it was short and that my last question was cut off, to Professor Pal. If he want to expand on anything, I am happy to give him the rest of my time.

The Chair: Professor, if you'd like to use the two minutes, you're welcome to use them.

Prof. Michael Pal: That was a question on democratic electoral integrity.

Democracy in elections is under significant threat around the world, so we are all searching for solutions to try to have more integrity in our elections. There are some areas in which Canada is doing very well. There are other areas where more can be done, particularly around nomination contests.

Particularly on the question you asked earlier about adjusting to new technologies, such as AI and others, I'll go back to my testimony at the foreign interference inquiry. It's about adapting to the ever-evolving techniques of those who are hostile to democracy writ large. I think there are a number of different mechanisms in Bill C-65 that, overall, move us closer toward that ideal of electoral integrity, but I believe the Chief Electoral Officer mentioned periodic updates to the act. We had a big one earlier for the Fair Elections Act, in 2018. I would suspect that this committee will be studying another big change in future years, because we'll need to keep on updating to deal with those new challenges.

I think I'll leave it there.

• (1305)

The Chair: Wonderful. Thank you very much.

Colleagues, we have one order of business to deal with before we adjourn, but I am going to provide the opportunity for our witnesses to drop off now.

Thank you very much to all those who took the time for us today.

Colleagues, I spoke informally with members of all parties the other day about an invitation we received from members of the Ukrainian Parliament who would like to come to visit us. There was agreement, but we have to pass a procedural motion to move forward with that.

I'm going to read that motion and look for consent around the table. I spoke with all of you about this prior to the meeting, so hopefully there are no issues.

It reads:

That the committee meet, in an informal meeting, with a delegation of women parliamentarians from the Ukrainian Parliament on Thursday, November 28, 2024, and that the committee defray the hospitality expenses related to this meeting.

In other words, it's not a formal meeting. You are not required to attend. There will be no business of the committee discussed. It's simply an opportunity for these women parliamentarians from the Ukrainian Parliament to join us.

(Motion agreed to)

Mr. Michael Cooper: I have one quick point.

The Chair: Okay, Mr. Cooper.

Mr. Michael Cooper: Thank you, Mr. Chair.

I just wanted to raise informally the deadline for amendments. We discussed the deadline of Monday. We still have a number of witnesses to hear from. I think there are eight on the list whom we haven't heard from. The Chief Electoral Officer came before us and proposed a number of amendments.

It seems to me, in the face of that, that this Monday deadline is rushed. I realize there's perhaps a desire to see this bill get out of committee in a relatively expeditious manner, but allowing a little more time would make sense in the circumstances.

The Chair: Okay. Mr. Cooper, I appreciate your sharing your thoughts. The committee agreed, through a previous motion, on the date. In order for us to alter that, we would have to have agreement of the majority of members on the committee. There are two ways to do that. One is for me to survey the room right now. The other would be for you to formally move a motion on that matter.

Colleagues, I'm looking around the room. Please give me an indication as to whether or not you would like there to be an extension of the deadline.

I'm seeing a no from Ms. Mathysen. I'm looking at our Liberal members, who are saying no. That is the majority.

If you would like, Mr. Cooper—

Mr. Michael Cooper: No. We'll have our amendments ready. It's just disappointing that Ms. Mathysen, who previously expressed this very concern, has suddenly flip-flopped to go along with her Liberal friends in the coalition.

The Chair: Okay. Thank you, Mr. Cooper, for your feedback.

• (1310)

Mr. Ryan Turnbull: There's lots of time.

The Chair: Colleagues, I'm going to move to adjourn the meeting. We will meet again on Tuesday to continue this.

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