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Chair

Mr. Joe Preston

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• (1100)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): We will start our meeting. Today we are in public and televised.

We are here, pursuant to the order of reference of Thursday, October 17, 2013, on the question of privilege related to Elections Canada and the member for Selkirk—Interlake.

Monsieur Mayrand, it's great to have you back. It's always good to have you visit the committee.

I understand you have a short opening statement, and then we'll go to questions.

[Translation]

Mr. Marc Mayrand (Chief Electoral Officer, Elections Canada): Thank you, Mr. Chair, for inviting me to address the committee today.

Appearing with me is Stéphane Perrault, Deputy Chief Electoral Officer, Legal Services, Compliance and Investigations. We are here today to discuss a specific provision in the Canada Elections Act—subsection 463(2).

As you know, this subsection provides that an elected candidate who fails to file a financial return on time, or fails to make a correction to his or her return as requested or authorized by the Chief Electoral Officer, “shall not continue to sit or vote as a member” until the relevant documents are supplied. I agree with the Speaker of the House of Commons that this provision raises a *prima facie* question of privilege, since it deals with members' ability to continue to sit and vote in the House of Commons.

I am not here to offer you any advice on this question of privilege, which extends well beyond my field of responsibility. Instead, I will explain the Canada Elections Act scheme that leads to the application of subsection 463(2), and my role in it as Chief Electoral Officer.

Subsection 463(2) must be understood in its statutory context. As members will know, following an election, every candidate must file an election expenses return and related documents with Elections Canada. The statutory deadline for doing so is four months after polling day. These returns are then subjected to an audit by Elections Canada's auditors. The audit process serves the goal of transparency by ensuring that contributions and expenses are reported in accordance with the requirements of the law.

Auditors also seek to protect the public purse by ensuring that reimbursements are made only for eligible expenses. They also work to ensure the integrity of the political financing provisions by identifying improper transactions, such as ineligible contributions. In performing their duties, the auditors work closely with candidates and their official agents toward the common goal of compliance with the act.

The act provides for various means by which auditors, on behalf of the Chief Electoral Officer, can correct a return themselves, or authorize its correction on application by an official agent. The act also provides that the Chief Electoral Officer may request that a candidate or official agent make a correction within a specific period. Elections Canada only relies on this option in extremely rare situations, where it is evident that more informal discussions with the campaign are not yielding an accurate return.

Those in charge of a campaign may apply to a court to obtain, as the case may be, an extension of the deadline for filing the return, permission to make a correction that was refused by the Chief Electoral Officer, or relief from a request made by the Chief Electoral Officer for a correction to the return. The application must be made within two weeks of the Chief Electoral Officer's decision or of the filing deadline.

This is the context in which subsection 463(2) is situated. The purpose of this section is to provide finality in election filings. There comes a point where, if no return has been filed or if no corrections has been made—despite multiple attempts to bring a campaign into compliance with the reporting requirements of the act—there must be an effective mechanism to ensure transparency.

In the vast majority of cases, our experience has been that subsection 463(2) works as an effective tool for ensuring timely and accurate financial reporting by elected candidates.

[English]

My role in this process is a limited one. It is to ensure that the reporting obligations in the act are met. It's not for me to decide if and when a member of Parliament should be prevented from sitting. This is a matter of parliamentary privilege.

Accordingly, when it is clear that an elected candidate has not submitted a document as required under the act, or has failed to make a correction as requested or authorized, I write to the Speaker of the House of Commons to inform him of the situation. In my letter, I inform the Speaker that the member of Parliament has not submitted the required document within the relevant timeframe.

I refer the Speaker to the terms of subsection 463(2), and I also indicate that the member of Parliament is free to apply to a court for relief from the requirement imposed upon him or her. In the event that a court application is made, I advise the Speaker accordingly.

• (1105)

My sole purpose in writing letters of this nature to the Speaker is to make him aware of the dictates of subsection 463(2). Although it has been reported by some that the aim of my letter is to inform the Speaker that a member of Parliament should no longer sit in the House of Commons, this is not an accurate understanding of my intention.

As I indicated at the outset of my remarks today, I take no position on whether a member of Parliament should continue to sit in the House of Commons, despite the wording of subsection 463(2), as this is a matter of parliamentary privilege. My aim in writing to the Speaker is to acquaint him with the relevant provision of the act so that he may do whatever he sees fit to do.

There has also been a suggestion that I should delay writing to the Speaker for two weeks after a member has failed to submit a document. This is because, as I have noted before, an elected candidate is entitled under the act to take two weeks to file an application in court. It has been said that I should wait to see whether or not a court application ensues before bringing subsection 463(2) to the Speaker's attention.

I understand my obligation under the act differently. For me, waiting two weeks before writing to the Speaker would have the effect of substituting my own judgment for his, or for that of the House of Commons, as to the application of subsection 463(2).

You are gathered here today to study the very question of how the apparent prohibition in subsection 463(2) on sitting or voting in the House of Commons can be reconciled with the opportunity to seek relief from a court. We might have wished for the interaction of these two provisions to be more clearly set out in the statute, but they are not, and, as I have said, I believe their interaction raises a question of parliamentary privilege.

As I do not take any position on the issue of privilege, it is imperative for me to inform the Speaker as soon as possible of the situation to allow for a decision on this issue to be made. Waiting two weeks would mean that I could prejudge the matter, concluding myself that subsection 463(2) should not apply until after the two-week period. Indeed, if I were to wait two weeks in the face of a court application within that period, I might even have to wait until the completion of the entire court process, including any potential appeal.

This is the logical outcome of the argument that my writing immediately to the Speaker is premature, and yet this is precisely the issue of privilege that you are now debating. As I have already stated, it is not for me to determine whether subsection 463(2) applies only after a court process has run its course. My role is solely to inform the Speaker of the situation and the relevant statutory provisions. This is what I aim to do in my letters.

Mr. Chair, that will conclude my remarks. I will now be happy to take your questions.

Thank you.

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

Mr. Lukiwski, you are up first for seven minutes, please.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you very much.

Thank you, Monsieur Mayrand, for being with us today.

I have a couple of questions to try to determine the status of this case right now.

It's my understanding that this dispute is still ongoing, or has the dispute been resolved?

Mr. Marc Mayrand: There's one case that's still before the court. The other one was resolved some time ago.

Mr. Tom Lukiwski: Okay. I'm referring to the member for Selkirk—Interlake.

Mr. Marc Mayrand: That's still before the court as we speak.

Mr. Tom Lukiwski: Okay. Have you any sense—your opinion, I guess, is all I'd be asking for—from what you've seen so far, as you've been dealing with this for some time, of how quickly you think this might be resolved, or how long it might take?

Mr. Marc Mayrand: There are ongoing discussions between counsel. I am hopeful that this matter will come to a resolution very shortly.

Mr. Tom Lukiwski: Good. If that happens—we're close to the end of this session—I would suggest that we may want to invite you back after the resolution has been completed, because it was particularly the dispute between the member for Selkirk—Interlake and Elections Canada that prompted the Speaker to issue the prima facie case. Again, correct me if I'm wrong, but I'm assuming that because the case is still ongoing, you would be unable to speak to any of the details, or are you able to?

• (1110)

Mr. Marc Mayrand: No, not the details. Again, it's before the courts, so—

Mr. Tom Lukiwski: Okay. We may, then, wish to ask you to return after the dispute has been resolved. That's just a bit of a heads-up.

I have a question for you. You mentioned on a couple of occasions in your preamble the waiting for two weeks and you didn't think that would be appropriate. Was the dispute with the member for Selkirk—Interlake from the 2008 election?

Mr. Marc Mayrand: The request for correction was for three general elections, including the most recent one in 2011.

Mr. Tom Lukiwski: Okay.

How did this come about then? Was it something you saw, either some inconsistencies or non-compliance items from all three of those elections?

Mr. Marc Mayrand: Additional information was provided to the auditor that affected the returns of previous general elections.

Mr. Tom Lukiwski: I'm just wondering, if the first alleged infraction or non-compliance item was in 2008, why it took five years to get to this point.

Mr. Marc Mayrand: The information was not available to the auditor until after the 2011 election.

Mr. Tom Lukiwski: Okay. So that information was not provided until after the 2011 election.

Mr. Marc Mayrand: It came to the attention of the auditor after 2011.

Mr. Tom Lukiwski: Okay. If you got the information in 2011, when did you first determine that there may be a non-compliance issue? In other words, how long does it take when a normal—

Mr. Marc Mayrand: As the member knows, the returns have to be filed four months after the election. From there an extensive review is carried out by the auditor and there will be ongoing discussions between the auditor and the official agent. That will carry on for some time. Of course, as in any matter, at some point there has to be closure. That's one of the effects of this provision we're discussing today: trying to bring closure to a matter.

Mr. Tom Lukiwski: Okay. I'm just trying to determine timelines here. It just seems that if we're going back almost five years for one of the disputes, it's a pretty lengthy time to have a member wondering as to the legitimacy of his or her return. It also doesn't put your office in a very good situation because I'm sure you'd like to resolve these situations as quickly as possible.

Mr. Marc Mayrand: Yes.

Mr. Tom Lukiwski: Let me ask you your opinion.

You've stated what the provisions of the act are. I agree with that. I think it's an accurate reflection. In effect, you're saying your hands are tied. You are required by the act to inform the Speaker. However, are you able to determine or are you able to share with this committee on this particular dispute with the member for Selkirk—Interlake, are we talking a large amount of money? Are we talking tens of thousands of dollars, are we talking of hundreds of dollars, or is that something you're just unable to discuss right now?

Mr. Marc Mayrand: If we want to discuss it at this point, given the ongoing discussion....

Again, the whole purpose of these provisions is to ensure that accurate returns be filed in a timely manner. The significance of the inaccuracy may vary significantly. I want to point out to members that the provision also applies when there's a late filing of a return.

Mr. Tom Lukiwski: Sure.

Would you care to render an opinion, Monsieur Mayrand, on whether the act as it is written now is satisfactory and whether or not you believe that, say, all legal recourse should be dispensed with before a letter from the Chief Electoral Officer advises the Speaker that the member may be in non-compliance? That's why I asked the original question about the amount. I realize there's a principle here, and one could argue that it doesn't matter if it's \$100 or \$100,000, but what I'm getting at is if there is a legitimate dispute between a member and Elections Canada, do you have an opinion on whether or not action should be taken to remove a member from his seat immediately, or do you believe it would be appropriate to have all legal appeals exhausted before the final decision to remove that member?

•(1115)

Mr. Marc Mayrand: There are a few things.

First of all, it does not remove the MP from the seat. It prevents an MP from sitting or voting. They'll still carry out all the functions of an elected representative.

On the matter of whether there could be more clarity in the legislation, maybe. One thing I would point out is that, first of all, these letters are rare. It points to the effectiveness of the mechanism. Again, these don't come as a surprise to the agent or the MP. There's been extensive discussion, several correspondences exchanged with regard to the issue at hand. There's advance notice that if we can't resolve this matter, then that letter to the Speaker would come out.

Again, it's been very effective in ensuring timely and accurate filing of returns.

The Chair: Thank you.

Mr. Scott.

Mr. Craig Scott (Toronto—Danforth, NDP): Thank you, Mr. Chair, and thank you for coming, Mr. Mayrand.

I think it's important to pick up where you left off. I assume that the decision to invoke subsection 463(2) is not one lightly taken, and that Elections Canada's practice is to work as much as possible before that happens. Is that correct?

Mr. Marc Mayrand: Absolutely. In all cases, our auditors try to work with official agents to help in providing the most accurate return possible in compliance with the legislation.

Mr. Craig Scott: Because of the way this rolled out in the House of Commons, we believe this may be the first time that the House has seen this form of letter. It comes up against the question of parliamentary privilege. Have letters like this been issued in the past, or is this actually the first time?

Mr. Marc Mayrand: No, there have been a few others, mostly related to failure to file a return, or in some cases, failure to update a return. There are three situations that occur under 463. It's rare, but there have been a handful of letters over the last two general elections.

Mr. Craig Scott: Right, and those would also have been sent to the Speaker.

Mr. Marc Mayrand: Yes.

Mr. Craig Scott: Okay, thank you.

I'd like to follow up on Mr. Lukiwski's line of questioning. He's absolutely correct that when it comes to the interaction between what the act says and what we, as parliamentarians, are empowered to do under parliamentary privilege, there can be a bit of a gap.

My reading of the act—I'll put it clearly because this was in my own speech in the House—is that there is no provision to delay or stay the effect of subsection 463(2), but as the Speaker also acknowledged and you have too, it's well within the power of Parliament to decide that, notwithstanding what the act says, we may well consider a delay or a holding in abeyance.

Our concern as parliamentarians is to act as much as possible according to the rule of law so as to support Elections Canada's role in compliance functions, so presumptively, we should do what the act says.

Is it your understanding that the act does not provide for any delay regarding subsection 463(2)?

Mr. Marc Mayrand: This very matter of privilege is now before this committee. The act does provide a remedy to ask the court to be relieved from a request from the CEO. However, it does not provide for a stay of the whole proceeding, certainly not explicitly in the statute. It's a question to be determined whether a court would entertain a request to stay the effect of 463(2). The court may be also concerned about impeding members' privileges.

The act does provide, from time to time, when there is court remedy available, that it would have the effect of staying. It does not in this case. One thing we haven't had the chance to do is to go back to the history of that provision and find out the intention of parliamentarians at that point.

● (1120)

Mr. Craig Scott: I believe that the Speaker in his own ruling referred to an example elsewhere in the act where the effect of going to court would be to hold things off until the court proceedings were finished, but such a provision wasn't tacked on to this. That's the kind of thing we would have to take into account in deciding a case that would come before us if it ever comes to a vote. It may not, given the evolution of your own discussions with the member.

As to the Standing Orders, the Speaker asked us not just to resolve the case before the House, but also to take a look at how the Standing Orders should be written to clarify what happens when a letter comes from you to the Speaker. At what stage is the House asked to pronounce on whether or not a member should continue to sit or vote? I won't ask you for any details now. I'd simply ask you whether or not you would be available to provide subsequent advice in writing or by testimony if we got to that stage.

Mr. Marc Mayrand: Yes, I'm always available to assist the committee.

Mr. Craig Scott: I think I'll pass it over to my colleague, the House leader, on the question of—

The Chair: You have about a minute and a half.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): We'll be getting another round?

A voice: You'll get another round.

Mr. Nathan Cullen: Welcome, Mr. Mayrand.

Forgive me for a moment, but I think we're going to need some help beyond your expertise on the scope of this particular case. While it applies to one sitting member of Parliament, one could easily imagine a scenario in which there's a dispute between elected MPs and Elections Canada, with that number of MPs being significant enough to determine things like who's the government, determine things like confidence votes. This can have implications that go beyond just one individual member.

I was just reading through this section we keep referring to, subsection 463(2), "Membership in House of Commons Suspended", "An elected candidate who fails to provide a document..."—it goes into some detail—"...shall not continue to sit or vote as a member...". Shall be suspended; you're suggesting there's some lack of clarity in that. I read a great deal of clarity in that, that if important documents like this are not provided—as you say, you often seek to settle, to have some sort of arrangement made—they shall be suspended.

Why is there the suggestion that the act is not yet clear enough?

Mr. Marc Mayrand: Subsection 463(2) is very clear. What is not clear is the mechanism that takes place in the House giving effect to that provision.

Mr. Nathan Cullen: I think, Chair, just as a consequence to this, we may seek the parliamentary law clerk to come in, because this was my point, that Mr. Mayrand's expertise brings us to a certain point where he then directs the Speaker in the House that this thing has taken place, that a member under the act should be suspended, but how they get suspended is a question that we don't have a witness for here today.

Is that correct, Mr. Mayrand?

Mr. Marc Mayrand: I would think so, yes.

The Chair: We'll certainly talk about other witnesses under this motion later today.

Mr. Nathan Cullen: Yes, thank you.

The Chair: Mr. Lamoureux for seven minutes, please....

Mr. Kevin Lamoureux (Winnipeg North, Lib.): Mr. Chair, I do want to try to make things as clear as possible. I read your letter and I appreciate the comments that you made. In the letter it states:

Subsection 463(2) of the Act provides that an elected candidate who fails to provide documents required by subsection 457(2) may not continue to sit or vote as a member until the corrections have been made.

Now in listening to your presentation, it was point 10 that I think really came to me as to why that's an important aspect of the legislation. In your point 10 you state:

In the vast majority of cases, our experience has been that subsection 463(2) works as an effective tool for ensuring timely and accurate financial reporting by elected candidates.

From Elections Canada's perspective, that subsection is an important one, because it ensures that you have something that makes sure there's that sense of accountability from elected members.

● (1125)

Mr. Marc Mayrand: Yes, and it's a mechanism that brings closure, because again these matters have been under review for an extensive period of time. That's a mechanism provided by the current statute, but there's a point where you need to bring an end to the review. Subsection 463(2) provides such a mechanism to bring closure on the matter of a return.

Mr. Kevin Lamoureux: That's right. So if it were not for that particular section of the legislation, good or bad, however people want to interpret it, it would make it that much more difficult for Elections Canada to ensure that there is accurate and timely reporting. Is that a fair assessment?

Mr. Marc Mayrand: Yes. As I indicated earlier, the provision has been very effective over time to bring resolution to these matters.

Mr. Kevin Lamoureux: Let's look at the intention of the legislation.

The purpose of the financial legislation is to level the playing field. We want to make sure that all candidates are spending the same amount of money in certain ridings. We invoke spending limits to ensure that takes place. If we have some candidates spending over the limit, technically that gives them an advantage, which goes against the principle of why it is we've brought in the legislation.

The only way we can make sure they're keeping within that spending limit is to ensure we have a provision like subsection 463(2).

The concern I have, based on the presentation, is not that we make an amendment; it seems that the legislation in subsection 463(2) is good because it helps with compliance. The issue I have is more of time.

Why does it take so much time to ensure there is accurate reporting? We're finding out well after the election, over two years after the election, that there were issues related to an accurate report. We have other cases where we have accusations of massive overspending.

It seems to me that we should be looking at allowing Elections Canada more authority to do things in a more timely fashion.

I wonder if you might want to provide a comment on the timeliness of this.

Mr. Marc Mayrand: Again, it's not unusual. You probably are aware that our goal after an election, when we start a process of reviewing the returns, is to have completed the review of the returns within nine months of the time that they've been produced. That already brings us to 14 months after the general election.

That is generally a standard that's met in the majority of cases. There are special cases, or there are cases where it takes a bit more time because there is a misunderstanding on how certain transactions should be reported, at what cost they should be reported, and what's an eligible expense.

That's the discussion that takes place, and sometimes it drags on for a valid reason.

Mr. Kevin Lamoureux: In terms of confidence in Elections Canada, timely accuracy is important. Right?

Mr. Marc Mayrand: Absolutely.

Mr. Kevin Lamoureux: There is a need for us to look at how we can empower Elections Canada, maybe by providing more resources, but the issue is time.

If someone is going to overspend by \$20,000, the only way you can equate justice to that over-expenditure in terms of a consequence is it has to be done in a timely fashion. The only way you can do that, I suspect, is if we give more strength to the legislation, and possibly resources, so that we could have something resolved within the first year, if in fact there have been over-expenditures.

Would you comment on that?

Mr. Marc Mayrand: I will point out that in my 2010 recommendations—and I think this committee examined that specific recommendation regarding how you deal with overspending—I recommended that an amount be withdrawn from the reimbursement that goes to the campaign. I think there was extensive discussion as to what should be the right proportion: would it be dollar for dollar that would be withdrawn from the reimbursement, or would it be two dollars, three dollars, or four dollars per dollar overspent.

I'm pointing out that there are alternative administrative measures that could help expedite this process, but doing it in a fair manner for all involved.

● (1130)

Mr. Kevin Lamoureux: Sure.

Finally, there was the one settlement in which a candidate said they wouldn't spend the extra \$2,000 if they were the nominated candidate. Is that appropriate? Do you have any comment on that sort of a consequence?

Mr. Marc Mayrand: That's in the context of a compliance agreement, which is negotiated between the commissioner and the campaign that's involved in the matter.

I would point out this is still part of a penal or quasi-criminal process and that it does require that the commissioner be satisfied that an offence has been committed. I think we need to move away from that whole regime of penal sanctions.

The Chair: Thank you, Mr. Lamoureux.

We'll go to four-minute rounds.

Mr. Mayrand has to leave at the top of the hour, so we'll try to get as many questioners in as we can.

Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): Thank you, Mr. Chair.

Just to be clear, Mr. Mayrand, Mr. Lamoureux made reference to a dispute over alleged overspending of \$20,000 in his hypothetical example, but we're not talking, in this case, about an alleged overspending of anywhere near that amount, are we?

Mr. Marc Mayrand: We're not talking at all about this case. I thought that was purely hypothetical.

Mr. Scott Reid: I understand that, but in the case where someone does spend some vast sum over the amount, what you recommended in your recommendations to us was that there would be some kind of compensation on more than a dollar-per-dollar basis, that they would have to pay back a larger amount. When this committee discussed it, you were not part of those discussions, but we discussed the idea that, as the amount of overspending is larger, there should be a higher multiple in order to make the punishment fit the crime, as it were.

Here what we're talking about is not an actual crime or offence. We're talking about a failure to provide a document that might be used in determining that the person, the candidate, might have infringed some part of the legislation. Yet the penalty is far more severe the way you've interpreted the law.

I look at the law, and you're right that it's a little ambiguous, but if I were in your position, I could say what subsection 463(1) means is that I send a letter to an elected candidate who has failed to provide a document that I think he should provide after we disputed about it in court, and after all court mechanisms have run out. Instead, you decided at the front end to say he can't sit, and you sent your letter.

What you've done is you've taken the most aggressive available option, the most aggressive available interpretation. I would suggest to you that that is inappropriately harsh.

Mr. Marc Mayrand: I did not request a suspension. I brought to the attention of the Speaker the existence of subsection 463(2).

Mr. Scott Reid: What you did, Mr. Mayrand, is you sent the Speaker a letter saying that, under the law, the individual can no longer perform his functions as a member of Parliament. You did that when there were still court options available, when it was not yet determined that you were in the right in the actual dispute you were having, and that he was in the wrong. Now that seems to me to be pre-emptive, and unnecessarily so.

Mr. Marc Mayrand: I also pointed out to the Speaker that there was a remedy available to the candidate in this case, going to court, and that I would advise the Speaker as soon as such remedy was filed in court, which I did. Again, the point here, as I mentioned in my introduction, is whether it's up to the Chief Electoral Officer to determine the question of privilege or to this committee and the House. I believe it's up to the committee and the House to determine how this matter should be addressed.

Mr. Scott Reid: I have only one minute, so let me turn to another question very quickly.

It is your position that an expenditure occurred in the 2011 election and also the same exact expenditure occurred in 2008 and in 2006 in the same riding, as I understand it.

My question is, do you believe that a member can be suspended or can have his voting privileges taken away based on something that occurred in the election to a prior Parliament, or only in relation to election to that particular Parliament?

• (1135)

Mr. Marc Mayrand: Again, I think it's a matter of privilege for the House to assess. Subsection 463(2) doesn't make that distinction. It doesn't provide those kinds of directions. It may happen that a return that was filed several years ago does require to be reviewed in light of new information being made available.

Mr. Scott Reid: I'm out of time.

Thank you.

The Chair: Thank you.

Mr. Cullen, do you have something to finish?

Mr. Nathan Cullen: I do. Thank you, Chair.

I have to admit, I was just reflecting on Mr. Reid's line of questioning, and I'm a bit disturbed by the supposition in there.

You pointed out the law earlier, subsection 463(2), which advises all parliamentarians on what happens when election laws are broken, that a member can be suspended. You keep referring to privilege, that the question of privilege as to whether someone having been

seen to have broken the law can sit in the seat is a question that the House has to seize to remedy.

Again, I'm away from the particulars of this case to the general, which I think is important. Elections Canada has been involved in a number of incidents with sitting MPs and those who were not elected in which laws seemed to be contravened. Whether it was the robocall affair or the in-and-out scheme, there seems to be a pattern that's growing in a worrisome fashion.

I go back to you, Chair, and to the committee members. Obviously, we're going to have to bring in the law clerk or other legal experts who can advise us on this question of who decides when such a contravention takes place.

Mr. Mayrand, I have a question for you on the way the law is written right now. Under the current act, if the House were forced to wait until all appeals were exhausted, could we not set up an unfortunate situation in which somebody or a party knowingly breaks the election spending limit, then makes appeals through your office initially and then appeals to the court which could take, in some cases, years to remedy? Is that a reality with the situation we're facing right now? Could it be dragged out over a long period of time?

Mr. Marc Mayrand: It could take a significant time. If it goes to appeal, of course, we're talking certainly more than a year, probably more than two.

Mr. Nathan Cullen: Just to be clear on the process with Elections Canada, how long has this process taken before the party went to court for appeal, in the two cases we've dealt with and in the case we have here today?

Mr. Marc Mayrand: It started with the filing of the return in 2011, so four months. It was late August or early September 2011. Since then, it's been an ongoing discussion of reviewing the return and making sure it is accurate.

Mr. Nathan Cullen: We're almost two-and-a-half years out.

Mr. Marc Mayrand: Yes.

Mr. Nathan Cullen: In terms of the court process, there's no end in sight because the appeal being made can be appealed to a higher court, or are we at the end?

Mr. Marc Mayrand: Yes, it could be appealed to a higher court.

Mr. Nathan Cullen: Right. We're saying that knowingly or unknowingly, a candidate can break the law, be elected as an MP, sit in the House, not be suspended, and be under investigation by Elections Canada, be found to have broken an Elections Act law, appeal through you, then appeal to the courts, appeal any hearings they get there, and essentially run the clock until the next election.

Is this not worrisome in terms of the legitimacy of members of Parliament sitting in the House?

Mr. Marc Mayrand: In theory. That's why I suggested in the past that we need to revisit how the provisions of the act are enforced, because we are seeing more and more cases taking more than one election cycle to resolve. I'm not sure that it's appropriate for the circumstances.

The purpose of subsection 463(2) is not to determine whether there has been a breach or not. It's to ensure that the return is filed and is filed correctly. Matters of breaches will be dealt with as a separate matter, but the first thing we need is an accurate return that reflects the transactions. If that return points to breaches, well, the process would follow its course and it may be referred to the commissioner.

Again, subsection 463(2) is about a procedure to ensure that we bring closure in ensuring that there is a returned file and that it's accurate.

The Chair: Thank you, Mr. Cullen.

Mr. Lukiwski, you have four minutes.

Mr. Tom Lukiwski: I'm going back to the line of questioning I started in my original intervention, but it follows closely to what Mr. Reid was saying.

Despite the protestations of my friend, Mr. Cullen, about this potential of a conspiracy, that someone could deliberately fudge a return and continue appeal upon appeal while continuing to sit in the House, I believe, frankly, that if a legitimate dispute between a candidate and the Chief Electoral Officer, and it happens, lasts for so long that there can't be an immediate resolution, the only resolution would be through the court system. I think that is the appropriate action to take.

It may be that the candidate is right; it may be that the Chief Electoral Officer and his officials are right—

• (1140)

Mr. Marc Mayrand: Yes.

Mr. Tom Lukiwski: —but the only place that can really be determined is the courts. I think it is inappropriate in any way, shape, or form, to try to remove a member from his rightful seat until that legal dispute has been resolved.

There is an old saying we all know, and this speaks to what Mr. Cullen was saying, this so-called conspiracy theory, that it's better that 10 guilty people be set free than one innocent person be sent to jail. You have to resolve this through the court system.

I would also point out to Mr. Cullen and to others who might buy into this conspiracy theory, that if that were true, a candidate who deliberately tried to flout the law and then keep his or her seat through a series of appeals, it would mean the chief financial officer and the auditor and their legal team would be complicit in that action. I don't think a chief financial officer, given the constraints and restrictions they have and the oath of duty they have taken, or an auditor, would allow themselves to be part of that deception.

Based on that, I believe it highly appropriate that we do something in the act to change it, to allow the legal course of action to go its full course and a determination in the courts to be made, if it gets to the point where it's that long-standing and almost irreconcilable dispute between your office, Monsieur Mayrand, and a candidate. I think that's democracy. I think that's why we have a court system. That's why we have a system of justice.

It seems to me to somehow put in disrepute...even the thought of removing a member until it has been determined in a court of law

whether that member either deliberately or inadvertently was in non-compliance with the Elections Act, is absolutely inappropriate.

Again, I ask for your comment on that. Do you think it should go to the end of the court system before we trigger this letter to the Speaker?

Mr. Marc Mayrand: My first comment is to recognize and not only accept but welcome that there are remedies available when there's a dispute. There's a procedure provided in the act. I respect that fully. These disputes are generally and vastly well intended or carried in good faith. We can have a disagreement on certain provisions in the act.

On section 463, it's more about a procedure than a substantive issue. It's about the fact that a return has been filed and corrected. The correction may raise substantive issues, but section 463 simply says you need to correct or there is a possible suspension of your right to sit and vote. Whether that's a proper remedy, that's how the act is structured right now. Whether it should be amended or not, I just want you to keep in mind that it's meant to get timely and accurate return files.

The Chair: Thank you.

Mr. Reid, four minutes please.

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

Mr. Mayrand, I think you and I may disagree over how subsection 463(2) ought to be read.

Let me ask you this question. Do you deny that a reasonable person could read your obligations under subsection 463(2) as requiring you to take the action of writing to the Speaker only after court remedies have been used up? That's what I think you should have done. Do you deny that a reasonable person could interpret the law that way, given that the law, as you said, could have been drafted more clearly? You said that in your written presentation.

• (1145)

Mr. Marc Mayrand: Section 463 doesn't make that distinction. It could have been done very easily in subsection 463(2) by simply inserting a few words to the effect that subject to a court application....

Mr. Scott Reid: May I understand you then in saying that you think you are obliged to act before the courts have been consulted?

Mr. Marc Mayrand: That's what I indicated before in my opening statement. I feel that I need to alert the Speaker. I'm not taking a position on the right of the member, but simply advising the Speaker of the situation.

Mr. Scott Reid: Okay. We do differ. I think you acted in a manner that the law does not require you to act, and I think it was an overly aggressive manner, which was, frankly, inappropriate. You disagree with that, which is cool. I would hope that you would be supportive of your own position.

You said that these letters are rare. Mr. Cullen inquired how rare they were; or perhaps it was Mr. Scott. Could you actually submit to the clerk of this committee all the letters you or your office submitted for the last three elections, just so we can get a sense of what they look like and when they were done? It'd be very helpful to us to see if there's consistency in your actions.

Mr. Marc Mayrand: Absolutely. We can do it for the 40th and 41st federal elections.

Mr. Scott Reid: I'd like for the one previous to that, too, seeing as you've mentioned that this is in relation to three elections.

Mr. Marc Mayrand: We can do that.

Mr. Scott Reid: All right. Thank you very much.

The Chair: Mr. Lamoureux.

Mr. Kevin Lamoureux: Are we all going to be provided with the information that has been requested?

The Chair: I would think that's the case if it's been asked for the committee. We'll make sure it's distributed to all members.

Mr. Kevin Lamoureux: So we don't have to ask for it. We'll all be given it simultaneously.

The Chair: Yes.

Mr. Reid, you still have a minute or so.

Mr. Scott Reid: I thought I was out of time.

In that case, I didn't fully understand your response to my question the first time in relation to the problems of reporting, or that you alleged were related to reporting, of the 2008 and 2006 elections in Selkirk—Interlake.

I'll change my question and put it in a way that makes it really clear.

Let's say that in the 2000 election, I, Scott Reid, ran a completely clean election. There were no problems, but it turns out that looking back in 2008, you believe that I overspent by \$1 million, and I refused to provide you with documentation. Would you feel comfortable writing to the Speaker and saying, "Scott Reid who won fair and square in 2011 in the 41st election ought to be excluded from the 41st Parliament for an offence relating to the 2008 election to the 40th Parliament"?

Mr. Marc Mayrand: Section 463 doesn't make a difference between how long ago the election took place. The whole purpose of the legislation is to ensure that there be accurate returns. It's all about transparency and accountability for the expenditures and the transactions that occur during a campaign.

From time to time, information may require that returns be amended to accurately reflect what happens during that campaign. Section 463 doesn't make a difference. Otherwise, you're turning it upside down. It's not because the election is gone that there's no longer a duty to account for that election.

Mr. Scott Reid: In terms of the question, could you just answer by saying, yes, I think I could send a letter based on the 2008 elections affecting the 41st Parliament in 2011?

The Chair: Mr. Reid, your time's up.

Mr. Cullen, on a point of order.

Mr. Nathan Cullen: Mr. Chair, I have a point of order.

It's on Mr. Reid's last question and the two before. He's talking about the overly aggressive posture of Mr. Mayrand, but I'm finding the level of aggressiveness and hostility towards Mr. Mayrand's answer as the one who's holding up the integrity of Canada's election laws—

The Chair: It's not a point of order, thank you.

Mr. Nathan Cullen: I find the position that the Conservatives are taking absolutely obtuse to their reasons [*Inaudible—Editor*].

We've invited a guest here, Mr. Chair—

The Chair: Would you like to just keep speaking when I—

Mr. Nathan Cullen: Mr. Chair, we've invited a guest here, and part of the role that we all take is ensuring that the guest is treated with respect at all times.

The Chair: I understand that, and that's truly the role of the chair. Thank you for bringing it to my attention. I was watching it closely and I would have dealt with it. Thank you for telling me how I'm not doing my job very well.

Mr. Lamoureux.

Mr. Kevin Lamoureux: It's fine. Thank you, Mr. Chair.

The Chair: Okay. You didn't want to go there either.

Mr. Christopherson, for four minutes.

Mr. David Christopherson (Hamilton Centre, NDP): Thanks, Mr. Chair.

I'll pick up where my House leader left off, and I'll just say that it's disappointing. It's disappointing more than anything, because we really did, are doing, and will continue to deal with this in a non-partisan way. You have a majority government; whether you had this seat or not it's not going to change the balance of power.

We're far more concerned about making sure we have processes that work, that are respected, that the cornerstones of accountability and transparency are met. It's very disappointing to come in here and it didn't take very long before, all of a sudden, the government's view was that the public servant in the name of Mr. Mayrand is the problem.

Unfortunately, there is a track record. If you take a look at the court cases, what has been said by judges about the government, notwithstanding their claims in the House that they're always cooperative, courts are saying they've done everything they can to delay things, and this is just more of the same. It's disappointing because it does a disservice to all of us, to Parliament, and any disservice to Parliament is an automatic disservice to Canadians. Hopefully, we can get off this kind of nonsense, quite frankly, and get back to the issue at hand. This is serious. My House leader has outlined a situation where what we're dealing with now could lay the groundwork for the determination of what happens if we get into a minority House and it's one or two seats deciding who has all the power in this country and we're unclear as to procedures or we have procedures that don't work because they were forced through by a majority in a partisan way, rather than in a fair-minded, balanced way. We're going to continue to try to do that, but the government is not making this easy.

I also want to make sure that I get this on the record. I'm glad Mr. Watson finds this all amusing, but I would encourage anyone who really is interested in our change—

• (1150)

The Chair: Let's try to keep this between the witness and yourself, please.

Mr. David Christopherson: Thank you, Mr. Chair. I hope everyone's listening to that.

The Chair: I'll watch also.

Mr. David Christopherson: There was a report that came out of this committee, and there's been some reference to it. I'm only mentioning it because it's value is this. We did work over, was it two different Parliaments, Tom? It was at least two, maybe into three. But they were in a minority and the world was very different when they were in a minority. That report in terms of electoral reform does reflect, in my view, the honest work and the honest evaluation of all the members who participated because it was a minority and we were trying to make it work. We spent hours working it through, and I enjoyed it. It was quite stimulating, it was good work.

In terms of that report—and this is why I'm raising it for those who follow these matters—it will be interesting to see how close the government reform package, in terms of all these issues we're dealing with here today, comes to the work done when we had an honest evaluation in a non-partisan way. I think there were only one or two issues where we actually disagreed at the end of the day and it wasn't enough to have the opposition at the time say, "No, we're not with the government." It was unanimous except for those one or two items.

I put that on the record because I hope people will look at it. That was an honest attempt to provide rules that are fair and reflect the needs Canadians have for fair elections.

Mr. Mayrand, I wanted to ask you if this is correct. It's been posed by others that we've really got two key pieces to this. One is your part of it. For the other one we start getting into the issue of privilege. In that regard, it seems to me, Mr. Chair, at some point we may even want Mr. Mayrand here and we may want the parliamentary law clerk side by side as we work this through in making our deliberations. Whether we're going to be able to do this by the end of our time or not, I'm not sure, but we need to do this properly. We need to stay on it until it's done, but please let's ratchet down the partisanship. That's not helping anyone, and it's certainly not helping the member whose seat is in question.

Thanks, Mr. Chair.

The Chair: Thank you, Mr. Christopherson.

That's exactly where we are, folks. I'd like us to stay on this topic. We are talking about a remedy for the Speaker and for Monsieur Mayrand on what to do when it happens on subsection 463(2). Let's try to keep it there.

Mr. Lukiwski, you're our last one today. You have four minutes, please.

Mr. Tom Lukiwski: Thank you very much.

I'd like to make a further comment on what David was saying. Listen, you may be critical of my colleague Mr. Reid's line of questioning, but quite frankly, the questioning in his line and my line is exactly what you're talking about. We need to make sure due process is followed.

My point has always been, and I agree with you, that particularly in a minority configuration, should it surface again, this issue had better be dealt with appropriately. One seat could mean the

difference between a government toppling or a government remaining in power in a minority situation.

That's why I am taking this seriously. I was part of the minority government two-term examination of electoral reform. I reiterate my point. That's why I think it's so vitally important that if there is a dispute of the magnitude where the Chief Electoral Officer and the candidate cannot come to a resolution between the two of them, in my view the only result would be that the courts have to determine the appropriateness of the return. I don't think there's any other way around it, quite frankly. Is it a perfect solution? Perhaps not, but it's the best one we've got in our society.

Clearly, if there's a dispute between two individuals that cannot be resolved between the two of them, the courts ultimately are the final arbiter. I think that has to happen here, because to disenfranchise a member, even though Monsieur Mayrand is saying he's not the one who is making that determination, subsection 463(2) of the act says the member shall not continue to sit or vote as a member until relevant documents are supplied or 462 is satisfied.

If there is dispute whether or not all documents have been supplied, and that dispute continues, who then is going to make the final determination? Do we allow the Chief Electoral Officer to make an arbitrary decision? Does he have that amount of power? I don't think that's appropriate. With all due respect to Monsieur Mayrand, I think the only course of action to determine the appropriateness would be through the courts. That's how we operate in today's society.

•(1155)

Mr. David Christopherson: You didn't feel that way about the Senate.

Mr. Tom Lukiwski: Well, thank you again, David, for keeping us in a non-partisan discussion.

Mr. David Christopherson: You can't have it both ways.

Mr. Tom Lukiwski: Well, look—

The Chair: David and Tom, speak through me.

Mr. Tom Lukiwski: Mr. Chair, despite the protestations of my friend opposite that I'm trying to make this into a partisan discussion, I'm not trying to make this partisan in any way, shape, or form. I think this is important for all parliamentarians. We have to come to at least a clear understanding and a clear set of rules and procedures to guide us. In my view, and I'll make it quite public, as I've done in the past, if there is a dispute that cannot be resolved between discussions from the Chief Electoral Officer and a candidate's team, legal team or otherwise, then the only proper and appropriate recourse would be for the courts to decide and let that decision be final.

Thank you, Chair.

The Chair: Thank you very much.

Monsieur Mayrand, thank you for coming today and thank you for helping start this.

Mr. Marc Mayrand: Thank you.

The Chair: You may have brought us more questions than answers, but we thank you for your help in getting us going on this. We have to answer now to what the Speaker has asked us to do on this motion of privilege.

You have a point of order, Mr. Christopherson.

Mr. David Christopherson: I'm seeking advice or guidance, Chair. What would be the appropriate time to move a motion to invite the parliamentary law clerk?

The Chair: Right after we excuse our witnesses, we're going to do some committee business based on this study.

Mr. David Christopherson: We can't do that in public? I can't move the motion in public?

The Chair: Sure, you can do that.

Mr. David Christopherson: That's great, thanks. Could you signal when that would be appropriate?

The Chair: Sure, that would be right now.

Mr. David Christopherson: I move that this committee call in the parliamentary law clerk as a second witness. If we can, I'd like to have Mr. Mayrand there at the same time.

The Chair: The committee would like to have some discussion on that motion, I would think, because it's about witnesses.

Mr. David Christopherson: Okay.

The Chair: I'd like to excuse our witnesses.

Mr. Marc Mayrand: Thank you.

The Chair: We'll allow them to go, so they can get on with their day while we do a little bit of our business. Some of this is the selection of witnesses, which isn't usually done by motion, but we're happy to talk about it today.

Mr. David Christopherson: I did move it, Chair.

The Chair: I know.

I have Mr. Reid, then Mr. Lamoureux.... Actually, I have it backwards: it's Mr. Lamoureux, then Mr. Reid.

Mr. Kevin Lamoureux: I don't have a problem in terms of inviting another witness, but I do want to make a comment, Mr. Chair.

I'm somewhat concerned that when we have these independent offices like Elections Canada come before the committee, we have to be a little bit more guarded, I suspect, in some of the allegations. In one of the lines of questioning, for example, we posed a question in which it seemed to me we were implying to Elections Canada that they should consider breaking the law. I thought Elections Canada witness was actually very clear in the presentation that he wrote the letter because his interpretation of the law was that he had to write the letter.

I just say it as a cautionary note. As a committee member, I wouldn't want to tell Elections Canada in any fashion, or imply in any way, that they have broken the law. If I had moved the motion, my motion would have been to that effect, that we commend Elections Canada on following the law and providing the letter to the Speaker, because I think that's an important point.

• (1200)

The Chair: Let's not write the report from this committee until after we've heard all our witnesses.

Mr. Kevin Lamoureux: Sure.

The Chair: I'm happy for the input, but right now I have a motion from Mr. Christopherson.

Mr. Kevin Lamoureux: In regard more specifically to the motion, Mr. Speaker, if there is the opportunity for us to have more witnesses, I think that would be an appropriate witness to call.

The Chair: That's our intent.

Mr. Reid.

Mr. Scott Reid: Unlike Mr. Lamoureux, I was going to talk just to the motion, but if you'll forgive me, he did just assert that I asked Mr. Mayrand to break the law. That of course is not what I said.

I said that my view was that his interpretation of the law is incorrect on two points, number one, asserting that he can go back to previous elections and say that a failure to provide a document vis-à-vis a previous election means you are unable to sit in a Parliament for which you were elected in full compliance with the law. I think it's a crazy interpretation, actually.

The Chair: I'm trying to give equal time here, so....

Mr. Scott Reid: No, but my point is that I'm not suggesting he break the law. I'm suggesting that if you were to take that interpretation in the future, you probably would be breaking the law, actually.

The second thing I was pointing out was that by acting aggressively, acting before the court's been brought in, he is taking an unwarrantedly aggressive interpretation of the act. I pointed out that a reasonable person could do it differently, and I think that would have been the appropriate course of action.

With regard to the motion itself, I think Mr. Christopherson's motion to invite the law clerk is a good one. I think he threw in an add-on, which I hope is not part of the motion, to have Mr. Mayrand back at the same time. I think we should hear from these witnesses individually.

The Chair: Your chair was going to suggest, as we went into committee business, that we start to gather witness lists. The law clerk is a fantastic suggestion.

I have to deal with Mr. Christopherson's motion—

Mr. David Christopherson: May I ask a question, Chair, in the interest of efficiency?

The Chair: Yes.

Mr. David Christopherson: It was a last-minute throw-in because I thought at some point we may want the two.

Could I ask, Chair, through you, what Mr. Reid's concerns are about having the two there right from the get-go? What would be the downside to that, Scott?

Mr. Scott Reid: I think each of them has their own point of view and should be asked individually. I chaired the human rights subcommittee, and I found that it was usually not helpful to have people from different organizations representing different points of view; the lines of questioning are frankly more confused than if you simply have them individually.

If your proposal is that we have Mr. Mayrand back, I'd have to think about it. It might have some merit. But I wouldn't recommend having them at the same time. It's different when you get multiple people from the same organization, such as Monsieur Mayrand and Monsieur Perrault. It's their job to have the same point of view. Hopefully they discuss it among themselves beforehand.

Thank you.

The Chair: Go ahead, David.

Mr. David Christopherson: Thank you, Chair.

I just wanted to thank Mr. Reid for that. While I'm not sure I agree, just in the interest of us not getting bogged down in procedure—that's the kiss of death in terms of ever getting to something we can agree on—if that's what makes the government benches happy to give us a unanimous vote to get the parliamentary law clerk in, I'm willing to leave my motion at just the parliamentary law clerk, in the interest of getting that unanimous support.

The Chair: As I said, it's not usually a motion as to how we pick witnesses for our committee. It's usually done in a good discussion, with each party handing in a list, but since we're at this point, I have Mr. Lukiwski on the speaking list.

Mr. Tom Lukiwski: Very quickly, I concur, obviously, with my colleague Mr. Reid. We have no problem with the law clerk.

I would suggest, however, that we have some...or at least I have a few thoughts on potential witnesses. I believe it would be appropriate at that time, at least, to go in camera, because it's future committee business, which we always deal with in camera.

I have no problem with the motion itself, even though it's unusual. I have no problem with it.

The Chair: I'm looking for your guidance. We could have a vote on it, but I'm going to suggest that we have good concurrence that we all want it to happen. I would like to have all parties submit some lists of witnesses. At that point, once that was done, we would then talk about the length and timing of the rest of this study.

Mr. David Christopherson: I hear you, Chair. If you don't mind, though, we're this far into the motion. We are in agreement. If we could just nail that down, it's just one less piece of work to do later.

The Chair: Those in favour of having the parliamentary law clerk as one of our witnesses? Any opposed?

(Motion agreed to)

Mr. David Christopherson: I appreciate that.

The Chair: If you're all right, we'll suspend for a minute.

Ms. Nycole Turmel (Hull—Aylmer, NDP): No, on the motion—

The Chair: Kevin has his finger up, and then I'll get back to you, Madame Turmel.

Mr. Kevin Lamoureux: Mr. Chair, I do think there would be some value because a number of the questions were focused on the member for Selkirk—Interlake and some cost-related.... The Chief Electoral Officer indicated there was a very good chance there could be a settlement coming up.

I think as part of a report back we might be making some sorts of recommendations. There might be some value in terms of having the

member for Selkirk—Interlake come before the committee so that he can give us his own personal perspective.

• (1205)

The Chair: Folks—

Mr. Tom Lukiwski: A point of order.

The Chair: We can do a quick witness list right here today and just keep throwing them out. We can do it that way, or we can do it the way we usually do it. I'm okay with what you're trying to do here. It's great that you want to just yell them out, or you can send them in Christmas cards. But the answer usually is that this has been a very good way.

Mr. Tom Lukiwski: On a point of order, I just move we go in camera and continue the discussion.

The Chair: There you go.

Sorry, but I have Madame Turmel very quickly first, and then that's going to be the case.

Go ahead, Madame Turmel.

[*Translation*]

Ms. Nycole Turmel: I appreciate the fact that we can discuss this in a public meeting and on a much lighter note than that of yesterday's discussions. I would like us to consider the motion I have submitted. It reads as follows:

That the Committee recommend to the House of Commons that it replace the current practice of having the Speaker recognize a Member to lead the House in singing the national anthem, and recommend that a rotating schedule of school choirs, both locally and from across Canada as available, be invited to sing the national anthem at the beginning of each Wednesday sitting.

We would like this change to be implemented as soon as possible in order to break this habit and help our colleagues in the House.

[*English*]

The Chair: You've heard me sing.

Ms. Nycole Turmel: You sing? That's hard to hear.

Mr. Tom Lukiwski: Point of order, please.

The Chair: Mr. Lukiwski.

Mr. Tom Lukiwski: Procedurally, I believe I'm correct when I say a motion to go in camera is non-debatable. We need to deal with that first, immediately. I'm not trying to delay Madame Turmel's motion, but I think we can deal with this fairly quickly in camera, because from our side, at least, we want to think about some witnesses, and then come back out. Then we can deal with Madame Turmel's motion in public, if you wish.

The Chair: You are in order now. You weren't in order the last time because you were doing it on a point of order for Mr. Lamoureux and I could not have you move that motion. But now you're in discussion so you've asked for a vote on going in camera. Is that correct?

Mr. Tom Lukiwski: Correct.

Ms. Nycole Turmel: On this vote?

Mr. Tom Lukiwski: No, not on this one, on a witness list of future discussion.

It doesn't really matter.

The Chair: He's asking now to go in camera.

Mr. Tom Lukiwski: I'm moving we have a vote to go in camera.

Ms. Nycole Turmel: Can I ask a question on procedure?

The Chair: There's no debate on it, apparently. There is not supposed to be any discussion after that.

Mr. David Christopherson: It's a question on procedure, that's all. Of course, we would allow someone to be clear on procedure.

The Chair: Well, that's a lot like a point of order because that's all about the procedures. If it's a point of order, I suppose I could take it.

[*Translation*]

Ms. Nycole Turmel: Mr. Chair, this is a matter of procedure. The member asked that we sit in camera, but the motion I presented has nothing to do with the witness list. I cannot understand that we are unable to openly discuss a topic that, in principle, should be very light.

[*English*]

The Chair: Now we're there.

Mr. Tom Lukiwski: We'll deal with the in camera motion very quickly.

The Chair: Let's deal with that.

(Motion agreed to)

The Chair: We will go in camera. I will pause for a couple of minutes while that happens.

[*Proceedings continue in camera*]

•(1205) _____ (Pause) _____

•(1220)

[*Public proceedings resume*]

The Chair: We're back, and I'm going to recognize Madame Turmel.

[*Translation*]

Ms. Nycole Turmel: Thank you, Mr. Chair.

I know that you are currently in an electoral campaign. I do not want to comment on this one way or another, but I must say that I appreciate the calmness with which you are presiding over the committee's work.

I want to come back to my motion. Members and people who have been hearing the national anthem on Wednesdays commented to me. They think the way the anthem is sung is unfortunate. Most of us are not singers. They feel that the motion I am presenting today would remedy the situation. No partisanship would be involved. School choirs could come sing the national anthem on Wednesday. That is the goal of my motion.

Thank you.

[*English*]

The Chair: Thank you.

Mr. Butt.

Mr. Brad Butt (Mississauga—Streetsville, CPC): I'd like to ask Madame Turmel a couple of questions.

Has she discussed this with the Speaker? There are a lot of logistics involved in this. I know this from OHL hockey games, when we have the schools come in. There are 30 or 40 kids. It's a logistical nightmare sometimes to do it. This is the House of Commons. There's security. There's getting kids here and back by bus. There are liabilities involved in that.

My first question is, have you discussed this with the Speaker? Is the Speaker okay with this change taking place, with 30 or 40 individuals every single Wednesday, potentially, coming in to sing *O Canada*? I'm assuming this would be done on the floor of the House of Commons. I don't know what those rules are.

Has this been discussed with the Speaker? Does the Speaker have no issue with this taking place? Are there other logistical things that we need to know about before we support this motion?

I'm not necessarily opposed to the motion, but I need some answers to these questions before I know this is actually going to work.

The Chair: Madame Turmel, on that, please.

I've put Mr. Cullen on the list.

Ms. Nycole Turmel: It hasn't been discussed with the Speaker. I agree. At the same time, we know that a lot of school kids visit. When possible, if we agree in principle to look at this motion, there's always a solution. If the House of Commons and the Speaker say it's not feasible, or the security part is not feasible.... At least we can look into the principle of this.

•(1225)

The Chair: Mr. Lukiwski.

Mr. Tom Lukiwski: I have a couple of points.

Number one, I've already mentioned to some of the members of the NDP staff that before we make any official decision, I'd like to discuss that we want to bring this back to our caucus. We meet tomorrow. We'd like to bring this forward and get the views of our caucus. Until we meet, it's certainly not something that I can say we have a defined position on right now.

I can tell you, however, that I will certainly be thinking about this, and I will be raising a few scenarios at our caucus. I'll be quite honest with you that one of the things I've always found to be absolutely offensive is the refusal of the Bloc Québécois to sing the national anthem on Wednesday mornings. They won't even come into the room. We have a separatist party that supposedly is here for one purpose, and that's to break up our country, and prove that by refusing to come into the chamber to sing the national anthem. I don't mind demonstrating that to the rest of Canadians.

I like when members of Parliament show their patriotism to our country by standing up. We may not be the best singers, but it sends a very good message to our constituents. I don't mind that contrast between people like us, who do believe in a united Canada, and those who don't, who refuse to sing along with us.

We'll discuss this, but clearly, that will be part of our discussion. I'll just put that out to you.

Maybe there could be something on an ad hoc basis, or maybe it will be permanent, where we bring in school groups, choirs, or something like that. Hey, let's discuss that.

I know this is going to prompt some very lively discussion in our own caucus, primarily because of the situation I just referred to.

The Chair: Mr. Lamoureux.

Mr. Kevin Lamoureux: First off, Tom, I appreciate the comments. I think you are quite right in your assessment of the Bloc, so I support what you are saying there.

In the motion mention is made of "across Canada". Like all MPs, I'm very proud of my riding's schools, such as Sisler High School, with its choir group of—if I say 45 or 50, I'm sure I would be underestimating the size of the choir. We have Maples Collegiate, R. B. Russell Vocational High School, Children of the Earth High School. These are all wonderful, fantastic high schools, and I wouldn't forget Stanley Knowles School.

The point I am getting across, of course, is that I am sure there would be hundreds of choirs out there, and some of them, because of their size.... What sort of financial commitment or resources would we be talking about if we were to move ahead on this motion? We want to make sure it's not just the rich kids in the suburbs who participate. We want to make sure we have inner-city kids. We want to make sure it goes beyond just high schools.

It might be worth our pursuing the idea itself. I just don't think we need to be in any great hurry. We can maybe bring it back to our respective caucuses and then maybe look at having a bit of a discussion on the motion.

I would suggest it might be better if we just table the motion until we've had the opportunity to get an understanding of costs and the implications of the motion itself.

The Chair: Okay. I have two more speakers before I talk about tabling.

Mr. Cullen, we'll do it fairly casually.

Mr. Nathan Cullen: I think we're getting into the weeds here a bit.

We see school groups in here all the time. They're coming through the House on a continual basis.

The intention of this motion, as I understand it from Madame Turmel, is to open up the House to the people it belongs to, particularly to kids, and secondarily—no offence to you, Chair, but I will include myself on this list—to keep the Canadian public from being exposed to some of the singing talents that certain members of Parliament possess or don't possess.

Someone asked a sort of logistical question. The House isn't technically open when we sing *O Canada*. The House has not yet convened itself, so there are no issues procedurally. I'm sure we can talk to security and I'm sure Madame Turmel will follow that up. Talking to our caucuses is great, but just on the surface, folks, the idea of having young people sing *O Canada* once a week is an

incredibly patriotic thing. It's an incredibly positive thing. Members of Parliament could even join in with them, if they'll have us and we have enough talent.

Getting into the issues of equity and access and who's paying for what, the school groups are already here. They're here on a regular basis. I think we get 20 to 50, depending on the time of year, every single week. It's just something to explore. It's a positive thing. I don't know why we would look for reasons not to do it. Why wouldn't we look for reasons to do it? The kids in my riding who have come to visit would love to be on the floor of the House of Commons doing something incredible like singing *O Canada*. That would be a true moment in a young person's life.

• (1230)

The Chair: Mr. Butt.

Mr. Brad Butt: I want to re-emphasize this. Can we ask the Speaker for his opinion on this? I'm not prepared to vote on this. Whenever we do, and it's obviously not going to be today, I am not prepared to deal with this until I have an opinion about this from the Speaker.

The Chair: Okay. As your chair, I would suggest that we have a quick discussion with the Sergeant-at-Arms and the Speaker's office about what they think their role might be in this. We'll give the time for each of you to take it back to caucus. Mr. Lamoureux and Mr. Lukiwski have asked for time for it to go back to their caucuses, so we'll table this motion until we return. The steering committee can ensure it's on the agenda. By that time maybe we'll have had some input from the Sergeant-at-Arms about the logistics side. I'm sure it will be handed to him and the Speaker's office to take care of.

Would that be fine to table it until we returned?

Go ahead.

Ms. Nycole Turmel: When you say having a discussion with the Sergeant-at-Arms, is it the committee or just—

The Chair: I was going to take it on myself.

Ms. Nycole Turmel: Can I be part of that? This is my only question, a request. I would appreciate that.

The Chair: Certainly. We'll have to make an appointment then, so it may be after we return.

Ms. Nycole Turmel: Yes, that's fine with me.

The Chair: Super.

Are we okay with that? We'll table this motion until we get back. Madame Turmel and I will have a meeting with the Sergeant-at-Arms and someone from the Speaker's office, hopefully the Speaker, and we'll see what they bring to this suggestion, so that we can come back to the committee with some knowledge in hand. You can sell it or not sell it to your caucuses, whichever it may be, in the interim.

Is there anything else for the good of this committee today?

We do not have a meeting scheduled for Thursday, so Merry Christmas to all of you.

Mr. David Christopherson: Merry Christmas.

The Chair: I wanted to say Merry Christmas to all of you.

Mr. Nathan Cullen: Mr. Chair, through you, our thanks to all the support staff that we have. We are adjourned.

The Chair: Absolutely. Thank you to the staff for all their help.

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