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# Standing Committee on Procedure and House Affairs

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EVIDENCE

**Tuesday, February 20, 2007**

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**Chair**

**Mr. Gary Goodyear**

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Tuesday, February 20, 2007

• (1110)

[Translation]

**The Chair (Mr. Gary Goodyear (Cambridge, CPC)):** I will now call the meeting to order.

[English]

Colleagues, I want to remind you that this meeting is being televised and will be broadcast on CPAC at a later time.

Ladies and gentlemen, members, on Friday, February 9, 2007, pursuant to Standing Order 111.1(1), the nomination of Monsieur Marc Mayrand to the position of Chief Electoral Officer was referred to the Standing Committee on Procedure and House Affairs for consideration and potential ratification by members. We do have 30 days; however, following this meeting, if the committee deems it appropriate, we can in fact report to the House as early as tomorrow.

Monsieur Mayrand, welcome to the committee. Thank you very much for coming, sir. I will open the floor to you at this point for any statement that you might have, and then we will go to the usual round of questioning following your statement.

Mr. Mayrand.

[Translation]

**Mr. Marc Mayrand (Nominee for the position of Chief Electoral Officer, As an Individual):** Thank you, Mr. Chairman.

Members of the committee, it is a privilege and an honour for me to be here today to discuss my nomination as Chief Electoral Officer.

Let me first briefly introduce myself. I was born in Trois-Rivières, Quebec, where the Saint-Maurice River and the St. Lawrence River meet. I went to college in Montreal and subsequently studied law at the University of Ottawa where I graduated in civil law in 1976. I was admitted to the Quebec Bar in 1977.

After briefly practising law at legal aid in Saint-Henri, Montreal, I taught law for four years at the Civil Law Section of the University of Ottawa before taking part in the Canada Interchange Program with what was then known as the Department of Consumer and Corporate Affairs, to assist with pending insolvency reform. After returning to teaching, I was recruited by the Office of the Superintendent of Bankruptcy where I have been working in various capacities for the last 25 years except for a one-year education leave I took to pursue a master's degree in law at the London School of Economics and Political Sciences.

I am happily married and the proud father of two very fine teenagers, Francis and Maxime.

As you can see from my bio, I have had a very specialized career in the little-known but yet critical field of insolvency. More specifically, over the last 10 years, I have been in the position of the Superintendent of Bankruptcy, the head of the Office of the Superintendent of Bankruptcy, a special operating agency of Industry Canada.

The OSB is the regulatory agency mandated with overseeing insolvency activities in Canada. As such, the superintendent is vested with a wide range of authorities that includes the licensing of individuals and corporations handling the liquidation of assets and reorganizations of the financial affairs of individuals and businesses alike.

The superintendent is responsible for their on-going monitoring; the oversight of accounting in insolvency cases; the adjudication of matters involving the professional conduct of licensees; the keeping of public records of insolvency proceedings; the recording and handling of complaints; the investigation of offences under the Bankruptcy Act or any other act, if these offences would not be investigated otherwise.

Finally, and more generally, the superintendent has the responsibility, under the act, for the setting of standards for the conduct of parties involved in insolvency proceedings, in particular, the trusts, the creditors, and of course the debtors. But an even more general responsibility of the superintendent is to issue directives having the force of law to facilitate the carrying out of purposes and provisions of the Bankruptcy and Insolvency Act.

[English]

In 2006 there were over 106,000 insolvencies registered in Canada involving close to \$6 billion in assets and \$12.5 billion in liabilities. The insolvency system plays a significant social and economic role for debtors first, but also for creditors and for society as a whole.

The insolvency regime has become a tool of industrial adjustment, allowing businesses and individuals to adjust to various shocks that happen in the economy. It allows investors and lenders to assess their exposure and cost their capital accordingly. It provides a safety net for honest entrepreneurs and individuals, giving them a chance for a fresh start while sanctioning the behaviour of those who are less honest.

I bring these matters of my current function to your attention because I believe they are somewhat analogous to the functions and responsibilities assigned to the Chief Electoral Officer.

As a regulator, I've always thought that my first and foremost responsibility was to carry out my functions at all times with independence and objectivity, free from third-party influence, and doing so always in support of Parliament's intention and for the greater public good. As a regulator, I have always carried out my functions guided by what I consider to be the core values of access, transparency, consistency, and fairness. As a regulator, I believe my role is to ensure that rules and standards are relevant; that they are kept modern; that they are clear; and that people are aware of those rules and understand the behaviour expected. I believe the rules should be applied consistently, and whenever they are broken, we should act fairly but decisively against violators, always having due consideration for the rigorous stewardship of resources.

While, as you can tell, I do not have specific expertise in electoral matters, I have spent most of my professional life in the administration of the law. I have managed a diverse and decentralized organization, dealing with a wide range of stakeholders, always seeking to ensure that our programs and services were responsive to an ever-changing environment and providing value to all participants.

I believe Elections Canada plays a critical role in our democracy. It must ensure that all electors can exercise their right to vote. It is important that electors have confidence that the electoral process is impartial, accessible, fair, transparent, efficient, and free from manipulations.

I can assure you that should the committee and the House express their trust in my abilities to perform the functions of Chief Electoral Officer, I will work every single day that I am in the position to earn and keep your trust, and I will do so in accordance with the values that I've just described.

Thank you, Mr. Chair and members of the committee.

•(1115)

**The Chair:** Merci, Monsieur Mayrand.

Colleagues, we will begin our first round of questions. We will start with an eight-minute round, and perhaps, if needed, we will decrease that as we go.

Madame Robillard, you are first. Thank you.

[*Translation*]

**Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.):** Thank you, Mr. Chairman.

I would like to welcome you to the committee, Mr. Mayrand. We are pleased to have you with us today. I have been looking at your curriculum vitae—and you referred to this in your opening statement as well—and I must say that I was relatively impressed with your stability. You have remained within the same organization throughout your career. If I exclude the year you spent with legal aid and the years you were teaching, you have spent almost 25 years in the Office of the Superintendent of Bankruptcy. That is a great deal of career stability.

Could you tell us what your career plan was a few years back?

**Mr. Marc Mayrand:** It is true that mine has been a relatively stable career. However, I did hold different positions within the organization. I find this field fascinating. It offers interesting challenges and touches on all sorts of aspects of social and economic life. It has enabled me to work both nationally and internationally on occasion. As you know, in the recent past, following the financial crisis in the 90s, there was a movement on the part of international financial institutions to have developing countries establish the legal framework they required to facilitate economic activity. This area led to my involvement in a number of social and economic issues. My area of work has given me and continues to give me a great deal of satisfaction.

**Hon. Lucienne Robillard:** Did you think you would spend your entire professional life in this area?

**Mr. Marc Mayrand:** I have never been much for career planning. Rather, I considered the challenges facing me, and if I found them interesting, I was always concerned about serving the people involved to the best of my abilities.

**Hon. Lucienne Robillard:** You say that you have never done much career planning, Mr. Mayrand. Am I to understand that you never approached the government or indicated that you were interested in the position of Chief Electoral Officer?

**Mr. Marc Mayrand:** That is correct.

•(1120)

**Hon. Lucienne Robillard:** You never approached the government.

**Mr. Marc Mayrand:** I did nothing along those lines.

**Hon. Lucienne Robillard:** Did the government approach you directly?

**Mr. Marc Mayrand:** I was approached by the Privy Council Office.

**Hon. Lucienne Robillard:** If I understand correctly, you were asked whether you would be interested in this position.

**Mr. Marc Mayrand:** I did not know what position I would be asked to fill. I was simply asked whether I was interested in a career change at this point in my professional life.

**Hon. Lucienne Robillard:** If I understand correctly, without doing any career planning, you simply replied that you were interested in studying what was being offered.

**Mr. Marc Mayrand:** Yes, it depended on the conditions involved and the nature of the position.

**Hon. Lucienne Robillard:** In your opinion, Mr. Mayrand, in addition to the regulatory role you mentioned in your presentation, what aspect of your professional experience qualifies you for this position?

**Mr. Marc Mayrand:** I think I do have adequate management experience. I headed a highly decentralized organization—it has 14 offices throughout the country. This organization has a very specific mandate under the legislation, and it carries it out independently. Most decisions made by the office are subject to review by the courts, either a bankruptcy court or the Federal Court. In recent years, the office has grown tremendously because of developments in the economy. It has been quite innovative. In fact, this is one of the few organizations whose funding is provided by access to user fees. Our mandate is to carry out our activities using the revenues generated by our activities. I therefore have had to meet a financial challenge over the years.

I have also been called upon to run some significant initiatives regarding electronic services, which means that 98% of the insolvency cases in Canada are processed electronically today. We are all proud of this project, because it was carried out on time and within budget, and now means that over 95% of insolvency cases can be processed in this way.

**Hon. Lucienne Robillard:** Mr. Mayrand, you said in your opening statement that you have no particular expertise when it comes to elections. You know how important it is for our democracy that the system be effective and transparent. It's also important for people to know that the Chief Electoral Officer is politically neutral.

So, I'll go ahead and ask you the question very directly: Have you previously been a member of any political party?

**Mr. Marc Mayrand:** No, I have not—not at any level, nor in any capacity.

**Hon. Lucienne Robillard:** You have never been a member of a political party at any point throughout the course of your career.

**Mr. Marc Mayrand:** That is correct.

**Hon. Lucienne Robillard:** Would you please tell me, Mr. Mayrand, at what point the Privy Council, or the government, approached you and raised this possibility?

**Mr. Marc Mayrand:** In January. I can remember quite clearly, the first meeting took place January 8. It was a preliminary meeting. I was approached to have the discussion that I referred to a little earlier, but no reference was made to any particular position.

**Hon. Lucienne Robillard:** I'm sure you realize that given the minority government context we are in an election may be called at any moment, whether it be in the near future or the not so near future. Basically, an election could be triggered at any time. Maybe even tomorrow.

If we were to have an election soon, would you have a strategy in mind? What would an imminent election mean for the Chief Electoral Officer?

**Mr. Marc Mayrand:** Well indeed, over the last couple of days and weeks, I did hear about a number of reports from journalists referring to the possibility of an imminent election. What struck me when I reviewed the material for consultation is that Elections Canada has conducted four general elections over the brief period of nine years. This would suggest that the organization is both strong and professional, and that it knows how to conduct elections. I think that Elections Canada has demonstrated this ability over the past years. I have no reason to believe that this ability has in any way

diminished over the last couple of months, since the last general election.

• (1125)

**The Chair:** I'm sorry, your time has run out.

[English]

Next I have Mr. Reid or Mr. Lukiwski.

Okay, Mr. Reid, go ahead, please.

[Translation]

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

Welcome to our committee, Mr. Mayrand. I'd like to use the eight minutes I have in the following way; I'm going to ask you three questions, and you can use the remaining time to answer each question, in as much detail you wish.

[English]

All three of my questions will be on the subject of the manner in which the previous Chief Electoral Officer conducted himself. I will be asking you whether you would be continuing the same practice or changing the practice. I understand that you might want to take some of this under advisement, but nonetheless, I'll lay these things out. It would be very helpful, I think, to all parties to understand whether we can expect continuity or change in these areas, and in particular to know that you are considering in good faith how to deal with these areas.

The first one relates to the issue of the all-party consultative committee that currently exists. This committee existed prior to the tenure of Mr. Kingsley as Chief Electoral Officer. The incumbent prior to Mr. Kingsley was in the habit of consulting with the all-party committee prior to making rulings or issuing interpretive bulletins. This allowed him to gain the on-the-ground wisdom of all the parties in a context in which all parties could listen in on what was being said by all other parties—there was no favouritism being shown—and then he would issue the interpretation bulletins. Mr. Kingsley discontinued that practice and has tended to consult with the all-party committee after the fact.

I would certainly like to know whether you would continue Mr. Kingsley's practice or the practice that existed prior to his tenure. At the very least, I would like you to take back the thought of considering which course of action you would take, and report back to us at a future date.

The second question I have also relates to the information and interpretive bulletins that Elections Canada issues. These are posted on the website of Elections Canada. When the new Commissioner of Elections was here, I asked him how he treated them or was going to treat them. It struck me that one could argue that it's more appropriate for the commissioner to issue these bulletins than for Elections Canada to do so, given that it's actually the commissioner who would have to rule on them.

At any rate, we would like some clarity as to who is doing what. The impact upon your legal standing, if you attempt in good faith to follow the interpretation written down in the bulletin, is obviously of importance. At the very least, I would ask you if you're willing to read through all the bulletins to see if you agree with them, and if you don't, to change them as appropriate and come back to us, and let us know the progress you've made on looking at those bulletins. I think there are 26 or 28 on the website right now.

The final thing I wanted to ask you relates to a provision of the new anti-electoral fraud bill, Bill C-31. This includes a provision—it's in clause 21 of the new proposed act—which states that in order to cast a ballot, an individual must produce either one piece of photo identification with their address, or two pieces of identification. I'll just quote from the legislation:

(b) two pieces of identification authorized by the Chief Electoral Officer each of which establishes the elector's name and at least one of which establishes the elector's address.

The previous Chief Electoral Officer volunteered to us, at his most recent appearance before the committee, that prior to actually issuing such a list, he would come back to this committee and would give us his tentative list and seek input from us. Would you be willing to do the same thing?

Thank you.

● (1130)

**Mr. Marc Mayrand:** To the third question, I would certainly answer that, yes, I think this committee and probably other consultation forums that you've pointed out should be providing input on what those acceptable pieces of identification should be.

On the all-party consultations, I haven't had any briefings from Elections Canada at this point in time, so I'm not familiar with the various networks—if I can refer to them that way—in place to carry out consultations.

I can tell you that in my current position, we do carry out extensive consultations. I think these consultations are necessary to make sure that rulings or interpretations are the right ones, the best ones. Also, they contribute significantly to voluntary compliance. When people understand what a specific ruling is all about, and they have a chance to express their views, when they have a sense that they've been heard, and they understand your thought process, I think there's certainly a better chance of generating greater compliance.

My view is that consultation should be done prior to any ruling—I'm not sure if I missed your point—otherwise I'm not sure it's truly consultation; to me it's more information dissemination. But again, I can assure you that it's certainly been my practice, in my current position, to seek views from all stakeholders before making any general rulings or decisions.

With respect to information bulletins, I will have to come back to you on these. Again, I'm not familiar with what those bulletins entail, how they were designed, and where they flow from. I would certainly be pleased to come back before you again to discuss this matter further.

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

**The Chair:** Mr. Reid, you have one and a half minutes left on your time.

**Mr. Scott Reid:** I'll just mention—maybe this is not so much a question as an editorial comment—that we did get a very positive reception, with what I thought were very commonsensical responses, from the new Commissioner of Elections when he came before us and we asked him about the bulletins.

I think I recall that we asked him about whether he would be willing to be involved in the all-party consultation committee process. I guess this is really a thought; I think it would be a good idea, and I hope you'd agree with me...to consult with the commissioner and find a way of working on these things jointly so that we actually have a clear joint position or understanding of where the two of you are feeling in relation to each other on these matters.

**Mr. Marc Mayrand:** I will certainly look into it.

**Mr. Scott Reid:** Thank you very much.

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

Monsieur Guimond.

[Translation]

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

Good morning, Mr. Mayrand. Please excuse my croaky voice. You'll realize it's not my normal voice the next times you testify before the committee. If my voice is still like that then, I'll be thinking seriously about seeing a doctor.

Human nature being what it is, it is very tempting for a new office holder to be accompanied by members of his or her former management team. That has occurred on several occasions. It is not as if you had been assistant director general at Elections Canada for the past five years which, granted, would have been a more logical or more usual progression. I'm not saying your nomination is in any way abnormal, but you'll be less aware of the customs, traditions and files in relation to this position.

I have a specific question. Do you intend to keep the management team? I'm thinking about Ms. Diane Davidson who, among other people, testifies regularly before us. She was General Legal Counsel at the House of Commons, and Mr. Kingsley snatched her away five or six years ago, if my memory serves me correctly.

● (1135)

**Mr. Marc Mayrand:** I have no specific plans in this regard, and I have no information that would lead me to think that the team in place does not deserve the full confidence of the Chief Electoral Officer and the other people involved in the elections system. In fact, my impression is that this is a robust, experienced organization that knows how to run elections very well, as it has proven over the last 10 years. I have no reason to think that any major change will be necessary.

I've looked very briefly at the November 2005 Auditor General's report which mentions once again the high-quality administration at Elections Canada and refers to a few areas for improvement. I will follow up on these if my nomination is confirmed.

**Mr. Michel Guimond:** In your current position as Superintendent of Bankruptcy, do you sometimes receive requests—not from citizens, but from people at Industry Canada, the deputy minister or the assistant deputy minister, for specific legal advice or interpretations from the financial services? If so, is this advice provided orally or in writing?

**Mr. Marc Mayrand:** Particularly since the amendments to the act in 1992, there is a very strict separation between the superintendent and the department's administrative authority. Any questions regarding insolvency that could be raised and could be of interest to the department are to be dealt with by a section other than the Superintendent's Office.

As I mentioned, the superintendent's powers come directly from the act. These powers are quasi-judicial. Consequently, the superintendent must use them with all the independence and impartiality required. Of course, if these powers were to be used improperly, there could be a review by the courts.

**Mr. Michel Guimond:** Let me give you an example. I will not refer to any specific points regarding the enforcement of the act.

One of Mr. Kingsley's initiatives was to establish the Advisory Committee of Registered Political Parties. Are you familiar with it?

**Mr. Marc Mayrand:** Not exactly, no.

**Mr. Michel Guimond:** That makes it difficult for me to ask you whether you intend to keep it in place. That was to be my next question. In any case, think about it. It is judged by the political parties.

Will you be having discussions with Mr. Kingsley? Will he be giving you his post-mortem? Are there plans for a passing of the torch, so to speak?

**Mr. Marc Mayrand:** I hope to have an opportunity to meet with Mr. Kingsley. I know that his resignation was effective last Friday. Nevertheless, I do hope to speak with him, and of course, I do intend to meet the management team at Elections Canada.

**Mr. Michel Guimond:** You will have an opportunity to do that. The Advisory Committee of Registered Political Parties is very much appreciated by Elections Canada and by the parties. We hope you will see fit to keep it in place.

I will now turn to a more negative point. I asked you a question about legal opinions. You are the watchdog of democracy. Our job is to try to convince people in our riding to vote for us in accordance with the law. When we asked for legal opinions from the financial or legal services at Elections Canada, we never got them in writing. It was always left up to the discretion of the person to whom we were speaking.

How do we know how to proceed if we do not have opinions in writing?

• (1140)

**Mr. Marc Mayrand:** In our system, as in any other, it may be a concern if people cannot get written opinions on various matters that are subject to interpretation. In the area in which I work at the moment, we do provide opinions in writing on controversial issues. For me, this is a way of ensuring that the rules are enforced in a consistent and foreseeable way. First and foremost, we must ensure

that people understand rules and their import properly, and that the rules are stated clearly.

I will find out about Elections Canada's practices in this regard. I imagine there were other considerations that came into play. I will find out about this, but I can assure you that my approach is to provide written opinions on issues that may sometimes be sensitive.

**Mr. Michel Guimond:** How much time do I have left, Mr. Chairman?

**The Chair:** One minute.

**Mr. Michel Guimond:** As you know, Bill C-2 provides for changes in the way returning officers are appointed. I do not want to lay out your work plan for you, but if there is an election this spring, this should become your priority, unless you want to proceed according to the former system, under which the government of the day appointed friends or party supporters to this position most of the time.

Do you intend to establish some priorities so that returning officers are appointed following an open, transparent process?

**Mr. Marc Mayrand:** Definitely. Unless I am mistaken, those provisions of the act are in force. So they must be acted upon.

They are not yet in force?

**Mr. Michel Guimond:** No. Some provisions came into effect after two months, but others will only come into effect after six months. We hope the government will have these provisions come into effect as quickly as possible so that the system of appointing returning officers can be changed.

[English]

**The Chair:** I'll allow a short answer, yes.

[Translation]

**Mr. Marc Mayrand:** I am well aware that there has been a very significant number of changes to the legislation for Elections Canada. I will have to find out about the exact status of these issues so that I know exactly what is in force, what is not and when the provisions will be in force. However, there is no doubt that the priority of Elections Canada is to be ready for an election. The next thing we must do is to ensure the orderly implementation of the various provisions that have just been passed.

**The Chair:** Thank you.

You have the floor, Mr. Godin.

**Mr. Yvon Godin (Acadie—Bathurst, NDP):** Thank you, Mr. Chairman.

I would like to start by welcoming Mr. Mayrand to our meeting today.

For the record, I would like to emphasize that I agree with my colleague, Mr. Guimond. The Advisory Committee of the Registered Political Parties is a very important body. It gives you an opportunity to hear from the political parties and to make a decision in light of this. The committee has been very useful in the past, and I think it should be continued, because we are part of the democratic process. You are not simply isolated in an ivory tower somewhere.

Since being approached for the position of Chief Electoral Officer, have you taken the time to study Mr. Kingsley's policy or the way he wanted things done? For your part, have you noticed anything that you would like to do differently?

**Mr. Marc Mayrand:** I will be very frank with you, Mr. Godin. So far, I have not had an opportunity to do that, and I have been very careful not to request any information from Elections Canada.

The first step was to come here to meet with you today and to await your decision. If you were to approve my nomination, my priority would be to make myself more familiar with Elections Canada and to understand its priorities and policy direction. However, after some consultations, I will have to find out how the other players in the system view Elections Canada and hear what improvements or challenges they think face the organization.

**Mr. Yvon Godin:** As Ms. Robillard was saying, since this is the second minority government in the recent past, we are getting used to having elections every 18 months. It could happen even sooner this time, who knows. So there could be an election, we will soon have a new Chief Electoral Officer, and various legislation is in the process of being implemented, such as Bill C-31.

You have a great deal of experience in the area of bankruptcy and finance. Bill C-31 is of great concern to the NDP, because it would require people to reveal their birth dates to the various political parties. In Canada at the moment, there have been some problems with credit cards. One piece of information that is sometimes requested in order to validate a credit card transaction is a person's birth date.

Is birth date not the ultimate tool to give to people who steal credit cards? Do you think that Elections Canada needs the birth date, as provided for in Bill C-31?

• (1145)

**Mr. Marc Mayrand:** Privacy considerations are a thorny issue for a number of government organizations.

**Mr. Yvon Godin:** Excuse me, but I see that in your brief you say: "Parliament's intention and for the greater public good".

Perhaps you could comment on that.

**Mr. Marc Mayrand:** If I understand it, there must be a balance between facilitating voter participation and maintaining the integrity of the voting system.

In order to maintain the integrity of the vote, from what I understand of Bill C-31, we must be able to identify voters who want to exercise their franchise on voting day.

Bill C-31 specifically requires that a birth date be entered on the list of electors. This appears to me to be the will of Parliament. I would not want to create the illusion that I could change that will; however, my concern would be to ensure that this information is used only as required in order to facilitate the vote.

**Mr. Yvon Godin:** But under Bill C-31, the birth date must be provided, on the list of citizens, to all the political parties.

**Mr. Marc Mayrand:** You mean the list of electors.

**Mr. Yvon Godin:** Even though you say that this is the will of Parliament, in light of the fact that you may be the next Chief

Electoral Officer, you are entitled to your opinion, but you do have a significant responsibility.

On the one hand, there's the need to protect people's privacy, and on the other, all democracies are required to recognize people who come in to vote. But at the same time, the two considerations must go hand-in-hand.

With respect to Bill C-31, would you recommend that we wait, that we give you an opportunity to review it and to come back to the committee before it is passed by Parliament?

[English]

**The Chair:** Excuse me, Monsieur Godin. It's my concern that we're asking the witness to comment on legislation that's before the House of Commons, and perhaps we might want to steer away from that.

**Mr. Yvon Godin:** Is there a reason why?

**The Chair:** Well, you're asking the witness to comment on legislation that's before the House. His opinion, in my opinion, is not relevant. If it's passed in the House, he'll have to abide by that law. So his opinion, at this point, is probably irrelevant.

**Mr. Yvon Godin:** No, Mr. Chair, with all respect, I disagree with you. When we had Bill C-31, we brought the former director of Elections Canada to bring his opinion on Bill C-31. We brought the Privacy Commissioner to give their opinion. Here is a person who will undertake a duty that is very important, and I think I'd like to know what he feels about it.

**The Chair:** Okay. I'll accept that, and you may continue with your questioning. I'll add 30 seconds to your time.

That's my opinion, though.

**Mr. Yvon Godin:** I respect that you have an opinion, but I have mine too.

Thank you.

[Translation]

**Mr. Marc Mayrand:** I understand that Bill C-31 has been passed at the third reading stage in the House of Commons.

Has it not been passed at the third reading stage in the House of Commons?

**Mr. Yvon Godin:** No.

**Mr. Marc Mayrand:** I apologize, I was misinformed.

**Mr. Yvon Godin:** No, that is why I asked the question. There is still some time left to go back to this.

**Mr. Marc Mayrand:** This is a sensitive matter and one I would like to review much more closely before expressing a firm opinion today. I know that this matter received a great deal of discussion by this committee.

I believe you heard from the information commissioner. To some extent, I would really like to have an opportunity to review all the aspects of the issue and to determine if there is a way of placing conditions on this new requirement so that we can ensure people's privacy.

• (1150)

**Mr. Yvon Godin:** Thank you.



[English]

**The Chair:** You have a minute and a half left.

**Mr. Yvon Godin:** But you said you'd give me another 30 seconds.

**The Chair:** Yes, and still have another minute and a half, my friend.

[Translation]

**Mr. Yvon Godin:** Privacy is a consideration in the greater public good, but you say you want the democratic process to apply. I'm referring once again to Bill C-31, which provides that in future people will only be able to vouch for one other person. Not for a group of individuals, as was the case formerly.

I would like you to look into this as well and come back to the committee to discuss this matter. I would appreciate that. I do not know whether you understand what I mean. Let me give you an example.

**Mr. Marc Mayrand:** That is what I might call the cascade effect.

**Mr. Yvon Godin:** Exactly. For example, in the riding of Vancouver-East, a lawyer could prepare affidavits for a group of individuals and certify that they could all vote. In areas where there is a large homeless population, this gives these people an opportunity to vote. Otherwise, each person would have to find someone to vouch for them, because these people do not have a permanent address, and so on.

**Mr. Marc Mayrand:** I see; we will certainly be looking into that.

**Mr. Yvon Godin:** The other point—and I do not know whether you are aware of this—has to do with the list of electors. In the past, enumerators went to each residence to talk to the people there, and take down their address. Now, Elections Canada gets the information from all sorts of sources—from Statistics Canada or the provinces, which have data banks for drivers registration, and so on.

Do you have any views on this? Have you thought about—

**The Chair:** I am sorry, but your time is up.

[English]

Colleagues, we are moving now to our second round of questions. We'll move to a five-minute round.

Monsieur Proulx, you are next.

[Translation]

**Mr. Marcel Proulx (Hull—Aylmer, Lib.):** Thank you, Mr. Chairman.

Good morning, Mr. Mayrand and welcome to the committee today.

Before I begin, I would just like to clarify one point. I would not want anyone to misunderstand: Mr. Guimond did not contaminate me and I did not contaminate him. Is that clear? I'm referring to the state of our health, of course.

Earlier you told Ms. Robillard, Mr. Mayrand, that you had never been a member of a political party and that you had never belonged to a political party in Canada. I assume that you are talking about both the provincial and federal level, but that is not important.

Are you familiar with the way in which political parties operate? Do you know how political parties are organized? Do you know how things work in the ridings, from the grassroots to the top of a political party, its leader? Are you familiar with all that or have you merely seen it in the newspapers, on television, at conventions or other similar events?

**Mr. Marc Mayrand:** I'm familiar with all that as a generally well-informed citizen, but I am not familiar with it in any detailed way.

**Mr. Marcel Proulx:** I see. Does that mean that you will be relying on Elections Canada employees to explain to you quickly how things operate—

**Mr. Marc Mayrand:** Yes, I will be relying on members of this committee and members of the various advisory groups to bring me up to speed quickly on these matters. I can assure you that I will commit myself fully to this task.

**Mr. Marcel Proulx:** Very well.

Mr. Mayrand, as the Chief Electoral Officer, quite often—I would not say regularly—you will have to deal with situations where investigations and audits are required. This activity is not based just here in Ottawa, at the head office of Elections Canada. You will be the chief executive officer of an organization that covers the 308 ridings in this country. So you will not have a constant, daily eye on what is going on. You will hear about situations where allegations, accusations or complaints have been filed.

I have heard that your management style when you worked in the area of bankruptcy was to give people the benefit of the doubt. It would seem that in the case of personal bankruptcies, you always showed a great deal of generosity, you were not inclined to force investigations by the RCMP or other police forces—particularly the RCMP in the area of bankruptcy—even if you had complaints and allegations against the individuals who had gone bankrupt.

Do you intend to continue showing the same generosity—if I may use that word, Mr. Mayrand—as regards elections, or will you be more inclined to investigate and check into allegations to ensure that nothing criminal or irregular occurs under your watch?

• (1155)

**Mr. Marc Mayrand:** I am rather surprised at the reputation you are attributing to me here today.

We have a complaints processing system in our office. All complaints are reviewed on their merits. We have an internal complaint monitoring system and an internal complaint review system. No matter who is involved, if there are grounds for thinking that an offence may have been committed, an investigation is conducted. It is carried out by the RCMP, or occasionally by our own services that we established a few years ago.

I don't think that this is a matter of generosity. In this field, it is a matter of equity and justice. As I said earlier, we must be consistent and logical in the way in which we enforce the act. The system starts to break down when there are various standards for enforcing the act.

**Mr. Marcel Proulx:** So you think you have always acted properly in this regard.

[English]

**The Chair:** *Excusez-moi*, Mr. Proulx, your time is up.

We are down to five-minute rounds. I know that cuts things a little short. Perhaps we can keep our questions short so we can get more answers.

Mr. Lukiwski, please.

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

Welcome, Mr. Mayrand.

I want to follow up on a line of questioning that I think was first introduced by Madame Robillard, and that's to talk a bit about your managerial and administrative experience.

Elections Canada, particularly at elections time, is a huge organization. I think there are a few hundred permanent employees during non-elections, which swells to hundreds of thousands of employees, involving hundreds of millions of dollars, during an election period.

I'd like you to talk about the experience and skill set you possess that could comfort us, as committee members, as to how you would be able to manage this huge organization. What skills do you possess? What experience do you have in dealing with this type of organization? This is a huge human resources challenge you would have, and a huge financial administration challenge.

**Mr. Marc Mayrand:** Yes, I'm aware of the challenges that exist in such an organization.

As I mentioned in my opening statement, I have had the chance to manage a very diverse organization over the last 10 years. It's a decentralized organization that relies heavily on partnerships. These are partnerships with licensees, which are an extension of the office of the superintendent and carry out the administration of hundreds of thousands of estates.

You should know that in 2006, \$1 billion in funds were distributed under the insolvency legislation in Canada. All of those funds were subjected to the scrutiny and the taxation of my office.

So there has been some experience in terms of financial resources and ensuring that there's rigorous stewardship with respect to the management of those financial resources.

I did manage an organization that has grown significantly over the last decade, almost doubling in size and more than doubling in budgets. We successfully managed that growth. We also made sure that value was brought for the service provided to our stakeholders.

● (1200)

**Mr. Tom Lukiwski:** Thank you. I'm not sure I got a sense of your comfort level, which is what I'm trying to get at. Again, you will be dealing with literally hundreds of thousands of employees in a very compressed period of time. I'm wondering exactly how comfortable you are—relating back to your personal and professional experiences—working in that kind of environment.

**Mr. Marc Mayrand:** From the information I've had so far, Elections Canada is a robust organization. They've gone through the process of growing to 160,000 people and downsizing afterwards. They have done that repeatedly over the last 10 years. I can assure you that I will rely on their expertise in managing those kinds of

events. I will be relying on the quality of the management team and the people at Elections Canada.

I haven't gone through this process before, so I'm sure I will learn. But whatever the complexity, I think the value and the approach you bring to your job make a difference to people in that organization.

**Mr. Tom Lukiwski:** Whenever I have been in a position of hiring, I've always asked this question of prospective employees, and I would ask you the same question. How do you rate yourself on a scale of one to five, with one being the lowest and five being the highest, in terms of being an administrator and particularly in terms of being a manager of human relations?

**Mr. Marc Mayrand:** I'm not sure I'm the best person to answer the question, but I think you would find that I rate rather highly on that scale.

I think I've had excellent relationships with staff. I've been able to engage them and to generate their commitment to a vision over the last 10 years. I also work hard on maintaining constructive business relationships with stakeholders.

I live in an environment that is also very conflictive. Bankruptcy is about people losing, and you can expect that it generates a fair bit of dispute. I put great effort into building relationships with people, with all people in the system.

[*Translation*]

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

Ms. Picard, for five minutes, please.

**Ms. Pauline Picard (Drummond, BQ):** Thank you, Mr. Chairman.

Good morning, Mr. Mayrand, and welcome to the committee.

I would like to follow up on a question Mr. Proulx asked about the way in which complaints are dealt with. I think the appointment of returning officers through a competition, which will take into account merit, will probably eliminate some of the complaints Elections Canada receives.

I would like you to give me some reassurance about one aspect of the way in which complaints are handled. When the Chief Electoral Officer receives complaints from candidates or returning officers, I would like some reassurance that they will actually be investigated. At one point, the former Chief Electoral Officer told this committee that he no longer made any recommendations about the way the complaints service should manage the complaints, because it was of absolutely no use to do that.

I hope that as Chief Electoral Officer, these investigations will be pursued, so that these complaints which recur from one election to the next in some ridings will be settled once and for all.

I know that we have to give you a chance, because you are just about to assume this position. A number of amendments have been made to the Canada Elections Act through various pieces of legislation, such as Bill C-31.

Have you heard about the introduction of a voter number? If so, how would you plan to implement that, if an election were to be called tomorrow, for example?

•(1205)

**Mr. Marc Mayrand:** I'm sorry I cannot give you a more specific answer to your question. I know that Bill C-31 provides for a random voter number. That is about all I know. I really have no idea about the context of this provision or the use that will be made of this number. This is something I will have to find out about as soon as I assume the position, in order to see how we will go about implementing all of this.

**Ms. Pauline Picard:** Based on your experience or the information you have received in recent weeks, have you seen any areas that require improvement, such as the processing of complaints received at Elections Canada?

**Mr. Marc Mayrand:** To be quite honest, I have learned about some of the debates that have taken place in this committee, including appearances by Mr. Kingsley and the electoral commissioner.

At one point, when I was reading the transcripts of your meeting, I noticed that there did seem to be some concern in this area.

I honestly cannot tell you where this concern originates nor how to go about correcting it. I did see that this was something that had attracted the committee's attention, and that had given rise to some discussion. So I will have to look into this as soon as possible if my nomination is confirmed.

**Ms. Pauline Picard:** Great. Thank you.

[English]

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

Go ahead, Monsieur Godin.

[Translation]

**Mr. Yvon Godin:** Thank you, Mr. Chairman.

As we know—and the new legislation will change that—in the past, returning officers and assistant returning officers were appointed on the basis of their political allegiance. Mr. Kingsley has already complained about the fact that, in election periods, he had tried to solve the problem with politically-appointed returning officers but did not have the authority to do so. They would almost send him elsewhere. The returning officers would tell him that it was not he, Mr. Kingsley, who had appointed them, and that they could do what they liked. That complaint was often voiced before our committee; people complained about that.

What could you do if there were to be an election in the next few months, and you were not able to apply the provisions C-2, and, for example, you were unable to make the appointments yourself? The idea is to eliminate any political interference, to judge on the basis of people's experience and not their political views, as in the past.

**Mr. Marc Mayrand:** I must admit, as I was saying earlier—

**Mr. Yvon Godin:** You did not know what you were getting into, did you?

**Mr. Marc Mayrand:** I am not aware of progress made with respect to the appointment of returning officers. I know that C-2, the Federal Accountability Act, changes the rules of the game regarding the appointment of returning officers. At present, I have no idea of when exactly those provisions will come into force, and even less do

I know the scope of preparations Elections Canada has made to put those provisions into place.

However—and I say this without prejudice—I imagine I will have to check where the authority lies and what powers the Chief Electoral Officer will have with respect to returning officers. I still believe that the Chief Electoral Officer will be the person to issue instructions, but that could indeed end up generating even more complaints.

**Mr. Yvon Godin:** The basic principle is that Elections Canada cannot be tied to any political party in a democracy. The people decide which party will lead the Government of Canada. It is not up to the Government of Canada to appoint returning officers as it did in the past. Lastly, we hope that the legislation will not only go forward but be enforced very stringently.

With respect to appointments, one suggestion has been the public postings approach. Postings would be in universities and many other places, and returning officers would be selected on the basis of their qualifications.

•(1210)

**Mr. Marc Mayrand:** Yes, it would be a merit-based appointment process, according to the criteria—

**Mr. Yvon Godin:** What do you think of that idea?

**Mr. Marc Mayrand:** What I understand from my reading of C-2 is that the legislation draws a great deal of inspiration from human resources reforms within the federal public service, which is based on defined merit criteria.

**Mr. Yvon Godin:** As with judges, you mean? No, it's not the same with judges, is it?

**Mr. Marc Mayrand:** I will not commit myself to going there today.

As I was saying, there have been significant reforms in the Public Service human resources staffing process in recent years, and I believe the measures in Bill C-2 are heavily based on those reforms.

The Public Service staffing process is transparent and merit-based, relying on stringent assessment of the skills and qualifications of people who apply for positions.

**Mr. Yvon Godin:** Thank you, Mr. Mayrand.

[English]

**The Chair:** Thank you very much, Monsieur Godin.

We will start a third round right now, colleagues. I'm going to remind you that we're going to move down to three-minute rounds, so keeping our questions short and the answers longer would be the best idea. There seem to be enough questions for a third round and possibly a fourth.

We'll start with Mr. Owen, please.

**Hon. Stephen Owen (Vancouver Quadra, Lib.):** Thank you.

Welcome, Mr. Mayrand. If I may say so, congratulations on your very successful career. To have been superintendent for the last 10 years under Liberal governments as well as...the confidence you've shown with the Conservative government, I think that speaks a lot for your accomplishments.

As you know, Elections Canada, under Mr. Kingsley in particular, has been very involved in international work, assisting in the creation of electoral commissions in newly democratizing countries, designing electoral processes, and overseeing the actual election process. I wonder if that's a responsibility you think is appropriate for an agency of this size to have.

Is it something you were involved with, in terms of capacity building, as Superintendent of Bankruptcy? Because that's, of course, an extremely important function within a democracy. Is it something, as I say, you've had any experience with, and is it something you're enthusiastic about continuing? Or do you feel that it is perhaps not the right role for our domestic agency?

**Mr. Marc Mayrand:** I think an international presence is an important element. It should not, certainly, come at the cost of other core activities of the organization, but I think it speaks well that Canada is seen as a model of democracy. I think it bodes well for Canada to be able to brand itself in other countries in assisting them to develop the democratic process for various countries in need.

I have had the opportunity to participate in a number of activities at the international level. As superintendent, I worked with the World Bank in a working group that was asked to design some critical factors for a successful and effective insolvency regime. In fact the World Bank was looking at emerging countries and wanted to facilitate the flow of capital to those countries, and they realized that one of the pieces of the puzzle was the need to have a solid legal infrastructure, and a piece of that legal infrastructure was to maintain an insolvency regime. So I had the opportunity to work with the World Bank, with the IMF, with UNCITRAL, which is a united commission dedicated to the harmonization of commercial law around the world.

We took various initiatives regarding cross-border insolvencies. We also helped countries design proper insolvency regimes so that, again, creditors, lenders, and investors could go confidently to various countries and place their capital there.

**The Chair:** Unfortunately, that's the end of that time for that question period.

Mr. Hill, please.

•(1215)

**Hon. Jay Hill (Prince George—Peace River, CPC):** I'll just add my words of congratulations to those of Mr. Owen and others for your very successful career thus far. I'm anticipating that your success will continue.

My question is connected with the appointment of returning officers, and whether you can inform us whether you've given any thought to that process. As you're probably aware, it has been changed somewhat recently. Our understanding, from Mr. Kingsley's last appearance before this committee, is that his appointment process is under way, he's been interviewing people, or at least Elections Canada has.

Given the fact that it's unclear at this point in time how soon the opposition is going to drag the government into another election, I want to ask whether you're foreseeing any problems, if we are thrust into a sudden election this spring, with all of the 308 ridings being

ready with a qualified and competent returning officer in place. Can you offer any of thoughts on that?

**Mr. Marc Mayrand:** I'm generally aware of the changes in the legislation that provide for the Chief Electoral Officer to appoint returning officers based on merit. I'm not aware of the progress that Elections Canada has made so far. That's one of the top issues that I will have to look into, to see the level of readiness to implement the new provisions of the legislation, to look at some of the timelines on appointing returning officers, and also to look at what are the merit criteria that have been designed so far to select those returning officers. It is something that I will be looking at very early on, should the appointment be confirmed.

**Hon. Jay Hill:** Okay. Just to wrap that up then, your thoughts, at least thus far, are that this would be a big priority for you if your appointment were ratified.

**Mr. Marc Mayrand:** I think it would be one of them, yes. The first priority for Elections Canada is to be ready for an election. Part of that involves having a competent returning officer in place to help manage the process.

**Hon. Jay Hill:** I know some questions have already been asked, by my colleague Mr. Godin, about the pending Bill C-31. Have you given any thought to whether there's going to be any holdup in implementing that in a relatively short period of time, should it become law? Because there are some provisions there, as I'm sure you're aware, that are going to take some time to get into place.

**Mr. Marc Mayrand:** Yes. It's only a thought at this point, but I'm struck by the very heavy legislative agenda that touches upon Elections Canada. Having the task of implementing the various pieces of legislation as they come through Parliament will be an added pressure for Elections Canada. In addition to being ready, and introducing changes at the same time.....

Hopefully there will be some time to ensure that implementation is completed before the election is called. Otherwise, we'll have to deal with the situation as it unfolds.

**The Chair:** Thank you.

We probably will have time for another round. I just want to confirm that my colleagues from the Bloc and the NDP are waiving this round of questions.

Yes? Thank you.

This is actually our fourth round of questioning. I think we have time. We'll stay at three minutes. If anybody would like to ask a question, please raise your hand. Otherwise, we'll wrap up.

We will go now to Madam Redman, please.

**Hon. Karen Redman (Kitchener Centre, Lib.):** Thank you, Mr. Chairman.

I too would like to add my voice of welcome, Mr. Mayrand. I read with great interest your background as described in your opening statement. It struck me as somewhat amusing that somebody with a background in insolvency would be seeking the position of head of Elections Canada. Of all the words that one would use to describe Elections Canada, I think “insolvency” would be probably the furthest from anybody's mind.

I notice in your CV that one of the things you highlighted in your professional experience was that you managed culture change throughout the organization in your role as head of the Office of the Superintendent of Bankruptcy. Do you anticipate that this is something you will have to bring into force as head of Elections Canada?

•(1220)

**Mr. Marc Mayrand:** It's really too early to tell, but looking at it from the outside, I think there have been tremendous changes in the electoral process over the last few years, and these reforms are still taking place. It will require a fair bit of adjustment and probably new skills at Elections Canada to meet the expectations of Parliament in that regard. But again, I have all the confidence that they can run elections.

**Hon. Karen Redman:** That's a good segue, because I would have to agree with my colleague Mr. Hill; I have no doubt that the government may well drag this country into an election sometime soon, if we are to believe the pundits in the newspapers.

You have not yet had a chance to sit down and speak with Mr. Kingsley, I take it from your intervention so far.

**Mr. Marc Mayrand:** Not yet.

**Hon. Karen Redman:** After having served long and outstandingly in this role, Mr. Kingsley left and went on to other challenges. Some of the things he has left are pending.

Is it your understanding that the Conservative Party broke the law in the reporting of the \$2 million for the convention contributions? Mr. Kingsley was working on that and had undertaken that he would continue that investigation.

I'm wondering what your understanding of that issue is, and if it would be your intention, if you are successful, to continue that?

**Mr. Marc Mayrand:** This is not something I can—

**The Chair:** Excuse me, but that's borderline out of order in terms of whether or not it deals with the qualifications of this person for the role he's seeking.

Perhaps I could ask the committee if they are wanting an answer to this borderline question.

**An hon. member:** Of course.

**An hon. member:** Why not?

**Hon. Karen Redman:** I'm sure he can answer.

**The Chair:** I am seeing a number of members at the table nodding in agreement, so please carry on.

**Mr. Marc Mayrand:** It would be highly inappropriate for me to form an opinion based on a statement and some comments that may have been read in the newspaper. The first thing would be for me to familiarize myself with the file and figure out if it's my

responsibility, within the apparatus, to be involved in that file, and to what level. But if I have to be, yes, I will be involved. I will familiarize myself with all aspects and carry out the functions that the circumstances call for.

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

That ends the round and the list of questioners that I have on my sheet.

Are there any other questions that need to be asked? Madam Redman? No?

Monsieur Godin, did you want to be on the list? We will go to another round of three minutes.

**Mr. Yvon Godin:** I just want a minute. It's more a point of order.

To my colleague Mr. Hill, if the government acts as a minority government, there will not be an election.

**The Chair:** Is that debate or a point or order? It sounds like debate to me.

**Mr. Yvon Godin:** It's half of one.

**The Chair:** Fine.

Madam Redman, I will allow another round of three minutes.

**Hon. Karen Redman:** I actually have a question of clarification on process for the chair.

How does this ratification process go forward? Are we going to entertain a vote at the end of this, or is this just for information?

**The Chair:** I'm going to ask the members of the committee if they're ready for a motion to ratify. If you're ready for the motion, then we'll take a vote on that particular motion.

•(1225)

**Hon. Karen Redman:** Thank you.

**The Chair:** And then, of course, I would report to the House.

Seeing no further questions from committee members, Monsieur Mayrand, I want to thank you very much for coming out this morning, spending time with us, and answering the questions of the members. You were very detailed and very thorough, and we certainly appreciate that.

Colleagues, I also want to thank you for significant and substantive questions.

I don't like to use the word “dismiss”, but I am able to dismiss the witness, although “excuse” is probably a better word. Thank you.

You are excused, Monsieur Mayrand.

Colleagues, I will just ask, by a show of nods, if we are in fact ready for a motion on the ratification of the witness. I'm seeing some nods, so I will put the motion forward if that's okay. I will read the motion in English, and perhaps Lucile can read it in French if that's necessary:

That the nomination of Marc Mayrand as Chief Electoral Officer of Canada be concurred in and that the Chair report such to the House.

We'll read it in French as well.

[*Translation*]

**The Clerk of the Committee (Ms. Lucile McGregor):** The English version reads as follows:

That the nomination of Marc Mayrand as Chief Electoral Officer of Canada be concurred in and that the Chair report such to the House.

[*English*]

**The Chair:** Do we have a mover for the motion?

**Mr. Scott Reid:** I so move.

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

(Motion agreed to)

**The Chair:** Thank you very much. That was carried unanimously, and I will report it to the House.

Just so colleagues know, I will report that to the House on Wednesday, and our congratulations go out to Monsieur Mayrand.

Colleagues, I'll just remind you that for our meeting on Thursday, February 22, we will be meeting in our usual room. I believe it's room 112, and we will be meeting with Mr. Jean-Pierre Kingsley. We will also discuss other meeting business at that time.

Is there any further business for today's meeting?

[*Translation*]

Are there any other comments?

[*English*]

Seeing none, I adjourn the meeting.

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