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Monday, September 10, 2007

—
Chair

Mr. Gary Goodyear

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•(1535)

[English]

The Chair (Mr. Gary Goodyear (Cambridge, CPC)): Good afternoon, colleagues. We'll bring the meeting to order.

I want to remind members that today's meeting is being held in public. There is an administrative end to the meeting; it is 5:30. But it is administrative, and we're at the will of the committee to continue or to do whatever it is we decide we need to do.

I'll recognize you in a minute, Mr. Preston. I just want to carry on with the introductions.

I want to remind members, too, that today's meeting is to determine whether the committee wishes to proceed with the study before us. So I will try to keep the conversation centred around that until we've made that decision, and then we'll go forward.

On that point, I'll open up. For members who are not used to the proceedings of this committee, we will recognize in the order that hands go up. On a typical debate, there's no limit or time limit on that; however, we do ask that you respect that if I recognize that folks are repeating themselves or if we seem to be going around in circles, I'll direct that we move forward.

That being said, I'm open for anybody to raise his or her hand, and we'll get the debate going.

Mr. Preston.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Thank you, Mr. Chair.

It's great to have everybody back here in the middle of summer and to see that we are all anxious to get back to work.

I recognize that we're here to discuss the matter you have already mentioned, Mr. Chair, but I'd like to suggest that, since we have this august group together, we also look at studying another question that seems to be on the top of everybody's mind today, including that of the Chief Electoral Officer, who made a statement on television today about the study of veiled voters or voting while veiled. Because of the upcoming byelections and the need to help bring this to some sort of conclusion, I suggest it might be a topic of discussion for this committee too, and I'd like to move a motion to that effect—that we talk about it. And because of the timeliness of it, we might even want to discuss it first.

The Chief Electoral Officer today stated that he needs the help of this committee in making up his mind or in coming to a conclusion on the voting by veiled individuals. We thought we had covered this

reasonably well, as this committee had discussed and passed Bill C-31. I thought we had brought it to a reasonably good conclusion. The interpretation of the new legislation seems to be not as clear to the Chief Electoral Officer, and I'd like us to discuss that, if we could.

The Chair: Are you putting a motion on the floor, Mr. Preston?

Mr. Joe Preston: Yes, I am, to the effect that the Standing Committee on Procedure and House Affairs study the Elections Canada decision to allow veiled individuals to vote. The study needs to be completed as quickly as possible. I suggest that it be completed this week before we get to voting in the byelections next week, so that the study would be completed by Friday, September 14.

I have copies of that motion in both languages. They've just now been given to the clerk.

The Chair: Colleagues, we have a motion on the floor, and we're going to have to debate this motion somehow.

Are you still willing to talk on this, Madam Redman?

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

I am, actually. And I would contend that this motion is out of order. I don't want to be interpreted as being hostile to the intent of the motion, because I don't presume to speak for all colleagues here, but I think it is an important issue and one that probably could be dealt with with a fair amount of dispatch.

I would contend that this meeting's intent, under Standing Order 106(4), is expressly to discuss the allegations made regarding the Conservative Party of Canada's systematic attempt to defraud Elections Canada, as well as the Canadian taxpayer, in relation to the 2006 federal election. I would contend that this is the sole purpose for this meeting. I would reiterate that after we dispense with that matter—and I understand that we do have a timeframe—if the chair wants to seek consensus from this entire committee to save the last 10 or 15 minutes to deal with the whole issue, since the Chief Electoral Officer is seeking clarification on that, we could dispense with that quite quickly. I think most of our parties, indeed our party leaders, are on record with a view on that issue. So I don't think that would take a lot of time, but I would contend that procedurally we are obligated under the Standing Orders to deal with the issue for which this meeting was called.

The Chair: Thank you.

To clarify, originally we were going to discuss whether or not the committee wanted to move forward on this study. I sense the committee does, but we haven't gotten to that point yet.

We'll just continue a bit more with the debate here, because I have names on my list. We'll have Monsieur Guimond, and then Mr. Lauzon, and then Monsieur Poilievre.

[*Translation*]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): Mr. Chairman, I can appreciate that my colleague Joe Preston has raised a serious, relatively urgent matter, given that three by-elections are scheduled for next Monday, September 17. Therefore, before this meeting concludes, it's vitally important that the committee rule on this motion.

Ms. Redman was saying that we could spend the last 10 or 15 minutes studying this motion. I think it's possible for us to discuss the motion on the table in 10 or 15 minutes. We have been called here today to debate the motion now on the table, but now, another urgent motion that we need to look is before us.

In case some of my colleagues from one party might be tempted to use obstructive tactics or to muddy the issue in the hopes of delaying the adoption of this motion, I would just like to say to them that their party would have to assume responsibility for their actions. I'm not making any accusations. I'm simply speaking in general terms. It is best that you be forewarned. If we act in good faith and adopt the motion on the table, we will be in a position to ask each party to table a list of witnesses in less than 24 hours' time. The Standing Committee on Procedure and House Affairs could then meet as early as Wednesday to begin its consideration of this motion.

However, it's important that we then proceed to rule on Elections Canada's decision. Again, I appeal to your good faith. If one party wants to duck the issue, then it can resort to using systematic obstructive tactics until 5:30 p.m. Then, we will have to listen to a lot of crap. We will have wasted out time by coming here at taxpayers' expense and we won't have time to consider the issue of veiled voters, a matter that we the members of the Bloc Québécois deem to be of an urgent, priority nature. Even if you present us with copies of the Gomery Report, going all the way back to Methuselah, the fact remain that we have a motion that needs to be debated. We expect to debate it. I'm not pointing a finger at anyone in particular, but if the shoe fits...

• (1540)

[*English*]

The Chair: Monsieur Lauzon.

Mr. Guy Lauzon (Stormont—Dundas—South Glengarry, CPC): Thank you very much, *monsieur le président*.

I certainly support my colleague's motion, and I'm glad to see that we probably should be able to get unanimous agreement to discuss it, because I think, as my colleagues across the table have said, it is urgent.

The other issue we have on the table is also urgent, and we want to see that discussed probably as urgently as some of the other parties opposite do. We want to get some information on record that I think deserves to be on record, and I think through this committee maybe we'll do that.

I should begin by saying, first of all, I'm a newcomer to this committee, and I'm just here to replace my good friend who couldn't be here, Mr. Hill.

But in speaking to Mr. Preston's motion, I must say, to be honest with you, with all due respect to my colleagues opposite, I have gotten an inordinate number of calls over this issue of the veiled voting. I don't know how many people will be voting behind a veil in those three byelections, but it seems that there are going to be an inordinate number of people who are going to do it, because it's such a big issue.

I would strongly suggest, to build on what Mr. Guimond said and whatever time it takes to do this, that we deal with this issue. I think we agree that we have only a few days to do it. Maybe we could give it priority—do it first—and then go on to the other issue. I think there has to be some kind of solution so that we can do it in a cooperative way and make sure we get both issues dealt with. But I think, as Mr. Guimond suggested, the party that might delay things might not do too well from a public relations point of view. I don't think postponing this issue of veiled voting would serve any of the parliamentarians sitting around here, so I would strongly suggest that we deal with this motion as a priority.

• (1545)

[*Translation*]

The Chair: Thank you, Mr. Lauzon.

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Thank you, Mr. Chairman.

Let me first say that it is possible to discuss both matters. There is no reason why we cannot do so. For that reason, I second the motion put forward by our colleague Mr. Preston. This is an urgent matter, given that by-elections are scheduled for next week. The rules need to be clarified. I for one completely disagree with Elections Canada's interpretation of this question and I strongly endorse the positions taken by the party leaders. However, perhaps some of the parties here do not wish to discuss this key issue. Perhaps some are afraid of a debate because they are not ready to take a stand. Our party's position is clear and we are prepared to have this debate and to clarify the rules.

[*English*]

With regard to some of the points made by other members, not only are we more than willing to go ahead with the discussion on how all parties have carried out electoral financing in previous elections, we are actually quite excited about having this discussion. The more research we do, the more this discussion is starting to become of great interest. So I look forward to—later on, of course—a motion that will bring forward the financial practices of all the parties before this committee. There's no reason why we can't have that discussion in the same week as we're having a discussion on an issue for which there is a short timeframe, and which we will face this coming Monday.

Once again, I strongly disagree with the interpretation of the Chief Electoral Officer with respect to veiled voting. I think this committee has to take a leadership role in setting the record straight so that the misinterpretation is not allowed to go ahead.

So we look forward to having some hearings on both of these issues, and I suspect that they will both be very fruitful. Thank you.

[*Translation*]

The Chair: Thank you.

Mr. Godin.

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

For the record, I want to say that in my opinion, my colleague Michel is trying to have us believe that only the Bloc members are taking the issue of veiled voters seriously, and that they alone can save the world. Michel, I think all political parties agree on the fact that there is a problem, one that we want to address and try to resolve.

As for the rationale behind the motion put forward, I think it is clear. Each political party has already made it clear that it wants to address both issues. The Conservative government has locked us out for next week, but we still have this week to hold meetings. Jack Layton has clearly stated that the government is locking us out for one month. That's no reason for not working this week, provided the government does not decide to prorogue Parliament when we adjourn today.

The quicker we get down to the items on the agenda, the better off we will be, because one of the things we need to do is decide on the witnesses that we will hear from initially. That is the gist of today's meeting. Then we can move on to the second problem. This week, there is no Question Period or any other committee meetings, which means that we can put in 12-hour days, if need be. Many workers in Canada are now putting in 12- or 16-hour work days. We could manage to do that this week. I don't think we should have any concerns on that score.

I recommend, Mr. Chairman, that we move right away to the first part of the agenda, namely selecting witnesses for the meeting. We'll have some time remaining and we can then speak to the second issue.

[*English*]

The Chair: Thank you.

We'll hear from Mr. Reid on the same debate, and then from Madam Robillard.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): Actually, Mr. Chair, I asked the clerk to put me on. I didn't want to interrupt things. My point is actually a point of order.

My purpose is to point out to the committee that consideration of the matters as stated in the orders of the day, as they are stated in the orders of the day, would in fact be out of order. I have some supporting material to demonstrate why this is the case.

• (1550)

The Chair: Is it on the original matter?

Mr. Scott Reid: It's on the original matter, yes.

The Chair: Would you be so kind as to hold those comments until I hear the end of the discussion on this motion by Mr. Preston?

Mr. Scott Reid: Yes.

The Chair: I'll come back to you as soon as I feel this discussion is over.

Mr. Scott Reid: Okay.

The Chair: Fair enough.

Madam Robillard.

[*Translation*]

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): Mr. Chairman, I think all of the political parties have expressed some concerns about the instructions issued by the Chief Electoral Officer. I feel that it will be rather easy to get a consensus on the federal Chief Electoral Officer's interpretation of the Act. We all feel that it is important for us to clarify this issue for the benefit of the Chief Electoral Officer, if he in fact wants the committee to clarify the situation.

However, as someone who signed the letter asking for the committee to meet today, I think the motion as worded, which focused on the Conservative Party and the 2006 election campaign, should be at the top of our agenda.

This should be the first item up for discussion, Mr. Chairman. As I see it, we can dispense with the matter fairly quickly and, as my Bloc colleague noted, we could then move on to the second item and clarify to the Chief Electoral Officer what we would like to see in place for the September 17 by-elections.

[*English*]

The Chair: Are there further discussions on this debate? Are there any new discussions?

I'm going to go back to Mr. Preston then.

Mr. Joe Preston: To my friend Madam Redman, who suggested that perhaps my motion was out of order—and I know she doesn't do it in any mean or vicious way—it's clearly been ruled in the past by Speaker Fraser that once a committee has been constituted and is sitting, it can change its topic at the will of the committee. So it certainly wouldn't be out of order for us to want to change our topic and discuss something else or, as my friends from both sides of the table said, both topics.

Although I love her help from time to time, I think on this one I feel a little comfort in that I'm not out of order in moving this motion.

The Chair: Thank you for that comment, but we can leave those decisions up to the chair. I don't believe Madam Redman was asking for a ruling on it; it was a comment.

I will, though, acknowledge that this committee does accept motions from the floor. There is no time limit or notification time, so the motion obviously is fully in order.

We have now debated it. I don't see any further discussions on this issue. The motion is on the floor, debate is finished, and I feel it's time to call the question on this motion. And then I will go back to Mr. Reid, who has been kind enough to hold his comments on the original matter.

Mr. Pierre Poilievre: I have a point of order, Chair. We ask that this vote be a recorded vote.

Thank you.

Hon. Karen Redman: On a point of order, I would like to do a twofold thing here. I would challenge the chair's ruling. I think this is out of order. This is a very specific standing order, 106(4). In no way do I mean this to be personal, mean, or vicious to my friend Joe Preston, but I would challenge the chair's ruling. I would also point out that I have not heard one member of any party who is hostile to the intent of dealing with this. I am challenging the chair's ruling merely as regards how we order things. I think some of my colleagues have talked about some of the colourful discourses we've had in the past. Some people might want to characterize them as filibusters. I would hate to think that this would happen regarding such an important issue and such a specific item as the one we've come to discuss today. However, the motion before us does not... I see a timeline here.

Mr. Pierre Poilievre: On a point of order, Chair, challenging the chair is not debatable. It goes right to a vote.

The Chair: You can challenge the chair if you like.

Hon. Karen Redman: I see a timeline, but I don't understand what the process is, so I'm not quite clear on what we're voting on.

The Chair: I think it's quite in order.

Could I just make a comment? Thank you, Monsieur Poilievre. The comment I would make is that this committee is the master of its own domain, and we've always accepted motions from the floor, so I don't see anything out of order here.

You're challenging the chair, so we'll take a vote. My decision is that we are going to call the question on Mr. Preston's motion. You're challenging that decision, so I will call for a vote on the challenge to see whether we turn over the chair's decision.

● (1555)

Mr. Pierre Poilievre: We ask for a recorded vote again, Mr. Chair.

The Chair: We'll have a recorded vote.

Mr. Pierre Poilievre: On shutting down discussion on the issue of veiled voting—that's what we are voting on?

Mr. Marcel Proulx (Hull—Aylmer, Lib.): Who's chairing here?

The Chair: I am.

Mr. Marcel Proulx: Are you?

The Chair: Yes, sir.

Mr. Marcel Proulx: On a point of clarification, would you explain to me why we would be voting on Mr. Preston's procedure before discussing the reason for today's meeting?

Mr. Pierre Poilievre: Mr. Chair, on a point of order, there is a challenge before the—

Mr. Marcel Proulx: Mr. Chair, who is chairing the committee here today?

The Chair: Points of order are allowed during any discussion, and there's no debate on them. However, I would caution members to just take it easy. Let's get through this meeting.

What I see on the table is a very simple decision to make, a decision on the order of the agenda, which has always been up to the committee to decide. Motions have always been put on the floor without notice in this committee. Mr. Preston was recognized first

because he had his hand up first. He chose, as other members have in the past, to put a motion up.

We've now legitimately debated that motion. I have called for a question. I have been challenged on that question. Now we are going to vote on whether that challenge stands.

Is everybody clear? We're going to have a recorded vote. My decision is that we will have a vote on the motion put forward by Mr. Preston. I've been challenged on that decision. I'm calling the vote now, and discussion is over.

(Ruling of the chair sustained: yeas 7; nays 4)

The Chair: The decision is that the chair's decision on holding a vote on Mr. Preston's motion stands. We will now go to a vote on Mr. Preston's motion. I'll read the motion again, and we will have a recorded vote on this motion.

The motion by Mr. Preston is that the committee on procedure and House affairs study the Elections Canada decision to allow veiled individuals to vote, this study to be completed by Friday, September 14, 2007.

Do you have a point of order?

Hon. Dominic LeBlanc (Beauséjour, Lib.): Perhaps it's just a question, Mr. Chair.

If this motion were accepted, would you proceed immediately to a discussion on this motion and not get to the reason for which in fact the committee was called today? Or, suppose this motion were accepted, would you then allow the committee to deal with the item for which the committee was called?

Do you see what I'm getting at, Mr. Chair?

The Chair: Yes, of course.

Hon. Dominic LeBlanc: I want to understand. If this motion is accepted, do you then completely evacuate the agenda for which the committee was called?

The Chair: It's up to the committee. That's my decision. I would hope the committee wouldn't waste a lot of time trying to decide which one would go first.

Order. We're going to have a recorded vote.

Madam Redman.

Hon. Karen Redman: Mr. Chair, I do appreciate your trying to bring order to this.

I want to reiterate that I don't think anybody is hostile to the fact that we're going to deal with this, but I am very unclear other than on a timeline. I would ask, through you to Mr. Preston, what he has in mind. It says a study is to be completed. This is somewhat different from providing the clarification that I understood the Chief Elector Officer was seeking. My question would be, are we then going to sit all week and have a series of witnesses who would come before this committee? I have no objection, but I'm looking for clarification.

I think it's been fairly clear in the media that members of Parliament—certainly the ones around this table and parties—don't view the interpretation that's been made as the correct one. I see Mr. Preston agreeing. We sat around and discussed the fact that photo ID was now required.

I'm trying to understand exactly what this vote means. Mr. Chair, when you say the committee will then decide how to prioritize this and the actual intention of Standing Order 106(4) that this meeting was convened under, how would we go about doing that?

• (1600)

The Chair: First of all, you can probably tell that the chair is trying to move along so we can get the order of business done. That's number one.

Number two, that means that the debate on this issue and your questions are out of order, because debate is over and your name was not on the list when I asked if there were any other questions regarding this motion. However, having said that, I would prefer that the committee make the decision, after this vote, on the order it will follow. If I find that we can't seem to get forward on it, then I suppose the chair will have to make the decision. I have heard the suggestion, through the debate, that we leave 15 minutes at the end, which inclines me to believe that this requires a 15-minute conversation. It seems to me that if we just move forward on these items, we might get them all done, but to sit here and nigger about these little points will not get anything done.

I have listened to the debate from all members and asked if anybody else had anything to say. We are at a voting stage on this motion, so I'm going to call the question now. It will be a recorded vote.

I will read the motion again, if members wish.

That the committee on procedure and House affairs study the Elections Canada decision to allow veiled individuals to vote. This study be completed by Friday, September 14, 2007.

Motion agreed to: yeas 11; nays, 0

The Chair: Thank you, colleagues. Obviously that was unanimous, and I certainly appreciate your cooperation on that.

One moment, please. I would ask the committee to quickly decide on the order that we want to go in. I will make the decision.

I would like to remind committee members that Mr. Reid has been very patient there. He had his hand up on the original discussion and was honest enough to tell us that it wasn't about that matter, but I have Mr. Reid still on my list. We need to discuss the order in which we are going to discuss this business. Let's do this quickly, and we can get it all done.

Mr. Poilievre, your hand was up first, and then, Marcel, your hand was up next.

Mr. Pierre Poilievre: Before I begin, I just want to know the process for submitting witnesses for the study that the committee just agreed to do. I have some witnesses in mind who I would like to submit later on for consideration before the committee so that they might be heard. I can submit them at the committee's will. I can do it now. How is that going to take place?

The Chair: Normally we submit any lists for witnesses to our clerks and our researchers, and they can get any information or research that you want for when we intend to discuss this.

Mr. Pierre Poilievre: In this particular committee you don't require a vote for witnesses to be approved?

The Chair: We're usually pretty collegial on that. We discuss the witness list, and people are allowed to submit. We're pretty lenient if somebody remembers a witness they want that night. They're allowed to call us on that issue. There is some regard for the clerk's getting the witnesses contacted and in for the next meeting, which is another discussion we will have once we finish this discussion.

Mr. Pierre Poilievre: Then I can present this to the clerk?

• (1605)

The Chair: You can.

Mr. Pierre Poilievre: Okay, I just want to be very clear on all the procedures. The Liberals were less than enthusiastic about discussing this issue, having raised a point of order to even block it from coming up, so we want to make sure that when we submit this, it is in concurrence with your guidelines for having those witnesses appear.

Thank you.

The Chair: My pleasure.

Monsieur Proulx.

Mr. Marcel Proulx: Mr. Chair, I would propose, in the form of a motion, that the work of this committee be started with the motion that was on the table for today, which was the reason for calling this committee today.

[*Translation*]

The second item being the one the committee has just agreed to discuss, namely the issue of veiled voters.

[*English*]

The Chair: Thank you. That is a great motion that allows some order here.

There are some other names on the list, but we have a motion in front of us right now, and that motion is to proceed with the first matter first and then go to the veiled voting motion. Am I correct on that?

[*Translation*]

Mr. Marcel Proulx: Thank you, Mr. Chairman.

[*English*]

The Chair: Is there any debate on that motion or can we call the question?

I have a couple of hands up here. I see Mr. Reid, and I'm going to recognize him.

Mr. Preston, I saw you first, but I'm going to go to Mr. Reid because he's been patient.

Mr. Scott Reid: Mr. Chair, what I want to do is present a point of order arguing that the matter on the orders of the day is itself out of order. If you concur that I'm correct in my point of order, then it wouldn't be possible to go forward with Mr. Proulx's motion, because the subject matter itself would be out of order.

The Chair: All right.

On a point of clarification for the chair, my question to you is, are you suggesting that the request to have a meeting to discuss this issue is out of order, or the content on the reference?

Mr. Scott Reid: It's just on the content, as presented in the orders of the day. I'm prepared to present a point of order if you'll let me go ahead.

The Chair: Please.

Mr. Scott Reid: The matters addressed in the notice of meeting are out of order for three reasons, and I've enumerated these in writing. I'd like to present these to you now.

Two of the reasons relate to the content of the letter that was sent to the clerk requesting the meeting and to the specific wording of the notice of meeting, as issued by the clerk, on your instruction, Mr. Chairman. The third reason relates to the *sub judice* convention. Relating to your earlier question, I do want to first state that I don't mean to suggest that the chair or the clerk acted in violation of the Standing Orders. I do mean to say that, nonetheless, the matter is out of order for reasons that I'll outline below.

We're here because notice of the meeting was issued in accordance with Standing Order 106(4). I'm advised that on the fifth, last Wednesday, the clerk received a letter signed by four members of the committee, formally requesting that an unscheduled meeting of the committee be convened. The chair, as required by the Standing Orders, then directed the clerk to formally issue the notice of meeting as quickly as reasonably possible—in fact, that was done later the same day—so that the requisite 48 hours' notice could be provided to all committee members.

Let me outline the first reason why the consideration of the matter as described in the notice of meeting is out of order.

Standing Order 106(4) requires that, "For the purposes of this section, the reasons for convening such a meeting shall be stated in the request." Note that the language outlining the reasons for this meeting, as found within the letter to the clerk, and the substantive language as found within the notice of meeting are identical. It's obvious to me that the chair simply directed the clerk to use the exact phraseology found in the letter of request and not to take any editorial licence whatsoever with respect to the proposed reason for this so-called emergency meeting.

As identified by Marleau and Montpetit on page 843, the matter under consideration for today's meeting is simply to determine "whether or not the committee wishes to take up the requested subject, rather than deliberations on the subject itself."

While there can be little question that the primary purpose of the meeting is to consider whether the committee wishes to engage in the study as suggested, I would submit to you that before any such discussion takes place, it's imperative for the chair to make a determination as to whether or not the content of the notice, as issued

by the clerk, is in fact in order. If it's determined that the notice is not in order, then our committee would not even be in a position to engage in any discussion whatsoever regarding the possible study of the topic as requested by the four opposition members.

I want to make it clear that it's my position that the notice of meeting for this committee was not in order for a number of reasons.

To be honest, the reasons for convening the meeting, as indicated in both the letter to the clerk and as shown on the notice of meeting, are so deficient and so blatantly biased that any study along the lines requested by the letter would take this committee well outside its inherent jurisdiction and its mandate, as I'll outline to you in greater detail below. I've come to the conclusion that this committee is not in a position to commence any study on the topic as suggested by the four signatories to the letter calling for it to happen.

Due to the time limitations associated with the manner in which this committee was convened, I haven't had an opportunity to conduct a really thorough investigation of the rules of the committee and the relevant procedures in the House, but I am nonetheless sincere in my belief that there are at least three separate reasons why the overtly partisan and clearly ill-conceived rationale for this meeting aren't in order.

My first objection, which I'll now give, divides itself into two parts. The first of these two parts lies with the nature of the study that is being proposed and that is expressed in the notice of meeting. The relevant portion of the notice reads as follows: "looking into the allegations made against the Conservative Party of Canada's systematic attempt to defraud Elections Canada, as well as the Canadian taxpayer".

Mr. Chairman, to the best of my knowledge, no such formal allegation has been made against the Conservative Party of Canada, save and except those made on September 5 by the members of the committee who requested this meeting and as found in their letter to the clerk. Unless I'm mistaken, I don't believe there's been any acknowledgement or claim of any wrongdoing. Rather, in fact, it is the local campaigns of the Conservative Party of Canada that are seeking formal redress by way of initiating court action against Elections Canada for its failure to provide reimbursement of election expenses that are legally due to them. It's not the other way around.

• (1610)

This brings me to a second observation, Mr. Chairman, the second logical part of my first point. Clearly there is significant disagreement regarding almost all of the material facts of this matter. On the one hand, we have a written statement from the members of this committee who asked for the meeting to be convened making allegations of unlawful activities. On the other hand, we have members of the Conservative Party, myself included, taking the opposite position, that all actions were appropriate and lawful, and that in fact the wrong has been done to the Conservative Party of Canada in this matter by Elections Canada.

Now, it's a well-established principle that neither parliamentary committees nor the Speaker of the House is in a position to determine questions of fact. Indeed, when disputes as to questions of fact have arisen in the House, the Speaker has consistently taken the position that he is simply not prepared to rule in favour of one member against another. Similarly, this committee is not a trier of fact and should not be expected to make any such determinations. A parliamentary committee can hardly be expected to be an unbiased or impartial body.

Furthermore, the rules of its operation and the limited questioning opportunities inherent in our rules of order simply do not allow for proper cross-examination or fact finding, as is customarily found within a judicial or a quasi-judicial entity. I'd suggest that we would all be in agreement with the statement that we are neither properly trained on this committee nor in a position to make any such determinations as to matters of fact. It's one of the basic tenets of parliamentary law that the Speaker, and by extension parliamentary committees, does not engage in such matters that would require him, them, or us to make such determinations of fact.

Now, let me turn to my second reason. I've given you the first reason in two parts. I turn to my second reason why this notice of meeting is not in order.

This is due to the fact that the manner in which it is worded would require the committee to make a finding in law. This deficiency, while relating to the earlier deficiency I've described, is even more evident in its existence and even more egregious in its operation.

I remind the committee that the rationale for this meeting relates to the supposed—again I'm quoting from the notice of motion—“systematic attempt to defraud” on the part of the Conservative Party of Canada. Again, I repeat, to date there's been no finding of any wrongdoing in the court, tribunal, panel, or board of inquiry, nor indeed any such allegation outside of this notice of motion.

Indeed, the members who requested this made their request in a way that protects them, through parliamentary privilege, because their letter to the clerk is a parliamentary paper. In other words, they haven't gone out and made the accusation of systematic attempts to defraud Elections Canada and Canadian taxpayers outside, where they're not protected by parliamentary privilege. I think that's an interesting observation, Mr. Chairman.

Accordingly, there has yet to be any indication that the Conservative Party of Canada is engaged in any wrongdoing that could possibly be construed as a systematic attempt to defraud. I'd go further and suggest that the pejorative and politically incendiary phrase “systematic attempt to defraud” has not been used by anyone other than the members of the opposition.

I don't think anyone here today would disagree with me when I suggest that in order for this committee to commence a study on a matter that has been explicitly described as a systematic attempt to defraud, there would first need to have been some finding somewhere that a law, statute, or regulation had been violated and that the Conservative Party of Canada's actions in connection with the 2006 federal election campaign could therefore, on some external basis outside of the allegation itself made by the members calling for this meeting, be construed as what they've described.

I think it's trite for me to suggest that this committee is not in a position to make any kind of legal ruling, to consider issues of legalities, or to make pronouncements as to the operational intricacies of legislation and regulations. The committee isn't a court. It's not a tribunal. Its personnel and its membership are not legally trained. I don't think we could be described as being entirely unbiased or non-partisan.

Finally, I'd suggest that no member of this committee has ever been a member of the judiciary. We simply don't have the legal authority to make such a study. This is unquestionably a matter for the courts to decide.

•(1615)

In that regard, it's important to note that at this time the matter is in fact before the courts as pleadings that have been filed and evidence that is scheduled to be filed later this year. But again, this is a proceeding of the Conservative Party of Canada against Elections Canada for the withholding of moneys that are due to the Conservative Party of Canada...and not this turning of the issue on its head that's been presented by the four members who called for this meeting to take place.

With respect to the inability and/or the lack of authority of this committee to make any legal rulings, Mr. Chair, I want to offer you the following Speaker's rulings, which I believe are relevant to the situation at hand.

First of all, on May 13, 2003, Mr. Speaker Milliken made the following ruling when he was asked to rule on a question of privilege raised by the honourable member for Yorkton—Melville regarding the transfer of ministerial powers, duties, and functions for the Firearms Act. The Speaker stated the following at page 6,124:

As my predecessors and I have pointed out in many previous rulings where legal interpretation is an issue, it is not within the Speaker's authority to rule or to decide on points of law.

He goes on to state, and I quote again:

It is clear that it is not your Speaker who might rule on the legality of the government's decision to transfer responsibility for the Firearms Act from one cabinet minister to another. That is a matter for the courts to decide. I must examine instead the hon. member's argument from a purely procedural perspective.

There was a similar ruling from Mr. Speaker Fraser on October 1, 1990, in a ruling regarding the government's appointment of a number of senators. The Speaker, in giving his ruling, stated the following at page 13,620. I quote again:

First, it is not for the Speaker of the House to rule on constitutional matters. It is not for the Speaker of the House to try to interpret at any given time different legal opinions that may be being expressed across the country.

And it's worth, as well, considering the ruling of Mr. Speaker Parent, made on February 16, 1995, in a matter that dealt with possible violations of the Privacy Act and a related complaint filed with the CRTC. This ruling is closely related to the matter at hand as the facts are, in many respects, quite similar. The Speaker, in making his ruling, stated the following, and I quote again:

It is not for me to decide whether or not, as the Deputy Prime Minister stated, the letter was part of the public record of the CRTC. The application of the Privacy Act and the laws and policies governing CRTC dossiers are beyond my purview. As my predecessors have repeatedly ruled, it is not now, nor has it ever been, the role of the Speaker to rule on questions of law. This has been a longstanding practice and I draw members' attention to Bourinot's Parliamentary Procedure and Practice in the Dominion of Canada, Fourth Edition, 1916 at page 180 which reads that

—and now I'm quoting within the quote from Bourinot—

the Speaker will not give a decision upon a constitutional question nor decide a question of law.

Mr. Chairman, when one considers this 1995 ruling and applies it to the matter at hand, the only material difference is that in our case we would be asked to determine whether or not there was a violation of one of the provisions of the Canada Elections Act, as opposed to a potential breach of the Privacy Act, as was the case in the matter before the Speaker in 1995.

And I have one last precedent, Mr. Chairman. On March 17, 1987, Mr. Speaker Fraser was asked to make a ruling on an issue relating to the Official Languages Act. The Speaker first cited Bourinot, page 180, which states that the Speaker “will not give a decision upon a constitutional question, nor decide a question of law”.

The Speaker went on to consider the matter and made the following clear and concise statement—and now I'm quoting from Mr. Speaker Fraser himself. He said that whether or not the act applies is a legal issue which the courts should decide, not the Speaker.

The position taken by the Speaker in such matters is quite clear, and I suggest that this committee, like the Speaker, cannot be expected to make findings of law and, indeed, is not authorized to make findings of law. Therefore, any matter of study that would require the committee to do these things is not in order and therefore should not be permitted to proceed any further.

As indicated by the pleadings as filed by the official agents of the Conservative candidates as the plaintiffs in the action currently before the courts, which are now part of the public record, the representatives of the plaintiffs have taken the position that they did not act in violation of any act. At all times the actions of the Conservative Party were in full compliance with the Canada Elections Act, but until such time as a judge reviews the evidence and hears from the parties, there has been no finding of wrongdoing or illegality, as asserted in the orders of the day.

• (1620)

Most certainly there has yet to be any finding, or indeed any hint, that anybody is seeking to find or expects to find or is alleging that there exists any systematic attempt to defraud—to use, again, the language of the orders of the day. For this committee to engage in this study at this time would be to act as a trier of both fact and law, unquestionably something that we are not in a position to undertake.

As I suggested earlier, there is little question that this committee does not have the training, the facilities, or the ability to conduct the kind of examination necessary to arrive at a finding of any kind. Clearly such an examination is well outside the mandate and jurisdiction of this committee, and I can only assume that this was

known by the opposition members when they filed their letter with the clerk.

For these two reasons, I respectfully submit that the notice of motion is not in order. Either of the two reasons I've given, frankly, is sufficient for the chair to request that the members of the opposition prepare and file another request with the clerk, but this time make a sincere effort to be less partisan and prejudicial in their request so that this committee can engage in real and meaningful work.

I fully understand and appreciate the appeal of trying to score political points with the media, but by doing so, the members of the opposition are moving outside what is in order.

So I turn now to the third and what I believe to be the most compelling reason that this study is not in order, and that's that the stated reasons for such a study would be in conflict with the *sub judice* convention that has been part of parliamentary practice since the time of Confederation in this country and, of course, has been a part of British parliamentary practice a good deal longer than that. As was indicated earlier, litigation is currently before the courts with respect to this matter, and more precisely—and I repeat this point again—the local Conservative campaigns are presently suing Elections Canada for not providing the proper refunds for several candidates with respect to their election expenses. Therefore, any examination into this matter would violate the *sub judice* convention.

Mr. Yvon Godin: Mr. Chair, I have a point of order.

The Chair: He's on a point of order. You can't interject on a point of order. I'll recognize you after this.

Please continue, Mr. Reid.

Mr. Yvon Godin: He should not get into debate, but he should get to his point of order.

The Chair: He's on a point of order right now, and he's reading his reasons so that I can make a judgment as to whether this is out of order.

Please continue, Mr. Reid.

An hon. member: [*Inaudible—Editor*]

The Chair: Order.

Mr. Reid.

Mr. Scott Reid: I was talking about the *sub judice* convention. Any examination of this matter would have violated the *sub judice* convention. It's this parliamentary convention that dictates that members may not comment on matters before the courts so as to avoid prejudicing or biasing these court proceedings through their debates and discussions. In this vein, Mr. Chairman, I draw your attention to chapter 13 of Marleau and Montpetit, under the heading “The *Sub Judice* Convention”, on page 534 of the English version. It states the following:

During debate, restrictions are placed on the freedom of Members of Parliament to make reference to matters awaiting judicial decisions in the interests of justice and fair play. Such matters are also barred from being the subject of motions or questions in the House. While precedents exist for the guidance of the Chair, no attempt has ever been made to codify the practice known as the “*sub judice* convention”.

On page 534 it goes on to state that:

...the *sub judice* convention is first and foremost a voluntary restraint on the part of the House to protect an accused person, or other party to a court action or judicial inquiry, from suffering any prejudicial effect from public discussion of the issue.

The argument presented by Marleau and Montpetit is based on both House of Commons Debates and on *Beauchesne's Parliamentary Rules and Forms*. I would like to quote from Beauchesne's sixth edition, page 153, citation 505, which states the following:

Members are expected to refrain from discussing matters that are before the courts or tribunals which are courts of record. The purpose of this *sub judice* convention is to protect the parties in a case awaiting or undergoing trial and persons who stand to be affected by the outcome of a judicial inquiry.

I will continue to quote from page 154, citation 511, which states the following:

The freedom of speech accorded to Members of Parliament is a fundamental right without which they would be hampered in the performance of their duties. The Speaker should interfere with that freedom of speech only in exceptional cases where it is clear that to do otherwise could be harmful to specific individuals.

Clearly there can be no greater prejudice than that of partisan interests in a matter of party financing. The uninformed speculation of members of the opposition parties in a highly publicized forum could, and in all likelihood would, greatly prejudice the judicial hearings or proceedings.

Due to the national nature of the media coverage arising from this committee, I am now suggesting to you that the opportunity for the parties of this legal action to engage in an unbiased trial is in serious peril should this committee commence any examination of the matter as proposed within the notice of meeting or the orders of the day.

In reference to any possible suggestion that the *sub judice* convention exists so as to protect and insulate the integrity of only criminal trials—I note there is a distinction between civil and criminal cases with this being a civil matter, not a criminal matter as they've stated in the orders of the day—I'd also like to read into the record a portion from Marleau and Montpetit found on page 535 of that book, which states the following:

No distinction has ever been made in Canada between criminal courts and civil courts for the purpose of applying the convention, and it has also had application to certain tribunals other than courts of law. The *sub judice* convention exists to guarantee everyone a fair trial and to prevent any undue influence prejudicing a judicial decision or a report of a tribunal of inquiry.

One is reminded, Mr. Chairman, of the cautionary component associated with the application of the *sub judice* convention. It is not in dispute that its overarching purpose is to ensure that participants in a legal suit are not influenced in any fashion by Parliament or its members.

Page 536 of Marleau and Montpetit states that:

the Chair has warned on various occasions of the need for caution in referring to matters pending judicial decisions whatever the nature of the court.

This citation is also reflected in chapter 11 of Marleau and Montpetit on page 428, which references Mr. Speaker Parent's ruling in April 6, 1995, in which he states:

The difficulty that I face as Speaker is that any attempt to determine when a comment might have a tendency to influence something can be at best speculative rather than preventative, that is, I cannot make such a determination until after the comments have been made. Hence, it has been the approach of most Chair occupants to discourage all comments on *sub judice* matters, rather than allow members to experiment within the limits of the convention and test Speakers' discretion.

●(1625)

I respectfully submit, Mr. Chairman, that there can be little question that the requested subject this committee has been called back to consider falls under the *sub judice* convention. I would further submit that any such study by this committee would in all likelihood have a direct influence upon and in part, perhaps, prejudice the legal proceedings before any judgment can be passed by a court of law.

I'd like to reference as well Speaker Fraser's ruling on December 7, 1987, page 11,542, where he makes it clear that even if a matter does not meet the technical requirements of Beauchesne's, it could still be declared *sub judice*—and I'm quoting Speaker Fraser here—“if, in the total context, the Chair felt the question was about to prejudice the rights of either of the litigants”.

Speaker Parent's ruling on November 7, 1989, is also of assistance, where he states:

There is no doubt that the House has a fundamental right to consider matters of public interest, but by our convention on matters before the courts the Chair has the duty to balance that legitimate right of the House with the rights and interests of the ordinary citizen undergoing the trial.

I can state with some confidence that within the confines of this committee room, the whole point of this meeting is to cause harm to one of the parties to this legal action, but more precisely, to the plaintiff in the action.

While the application of the *sub judice* convention does not rely upon the motives of the opposition members to be found to be applicable, it must be clear to those present today that the possibility of causing harm or prejudice to a specific litigant is intentional, and that this has been done for clearly partisan purposes. This fact only magnifies the reason why this matter ought to be deemed out of order.

I have several additional precedents, which I will not read to you, Mr. Chairman, but which I will simply draw to your attention. I will provide you with hard copies. For the benefit of members of this committee, I'll now read the appropriate citations so they can find them within *Hansard* if they wish to do so: December 7, 1987, at page 11,542; November 15, 2005, pages 9,664 and 9,665; November 7, 1989, pages 5,654 to 5,657; June 13, 2003, pages 7,280 and 7,281; March 8, 1990, pages 9,006 to 9,009; and November 5, 1990, page 15,120.

I'd ask you to exercise your authority as chair of this committee to hold that the notice of meeting is not in order. Mr. Chair, by applying the *sub judice* convention to this and any future meetings on this topic until such time as litigation has been resolved by the courts, we would be protecting the integrity of the legal proceedings between the Conservative Party of Canada and Elections Canada.

Moreover, I would also ask that you call out of order any comments or motions that specifically mention this topic until such time as the court case has been resolved.

And lest you think I am alone in feeling that this is the appropriate course of action, I would refer you, Mr. Chairman, to the comments made by the Chief Electoral Officer earlier today in response to a question on this subject. I'll read the question first, and then I'll read his response.

He was asked earlier today by Glen McGregor of the *Ottawa Citizen*, and I quote here:

Mr. Mayrand, on a different subject, could you explain your decision—the reason behind the decision to reject the Conservative candidates' claims for regional media buy expenses, and also the reasons behind your decision to refer this matter to the Commissioner of Elections?

To which Mr. Mayrand responded, and again I quote, “As you know, this matter is before the court and is also under investigation. Therefore, I will not provide any comments on this matter”.

I think that he is acting appropriately in informing the media that he will not be commenting on a matter before the courts. I think that it would be appropriate for us as well to be respectful of what the law requires of us, Mr. Chairman.

I want to thank you, Mr. Chairman, for your patience, and also all members of the committee for their patience.

An hon. member: They are not patient.

Mr. Scott Reid: In closing, I am reminded of the words of Mr. Speaker Milliken, when he was making a ruling on April 7, 2003, at page 5,198, regarding committee matters. In this ruling he stated:

We also recognize in our practice that committees are masters of their own proceedings...That being said, committees are also expected to adopt any such limits in a regular and procedurally acceptable manner.

•(1630)

The Speaker then went on to quote from a ruling from Mr. Speaker Fraser of March 26, 1990, who had stated at page 9,758 that

...chairman ought to be mindful of their responsibilities and make their decisions and rulings within the bounds of the fine balance provided by our rules... I would urge all chairman and members of committees to try and strive mightily to ensure that the general rules of this place are followed as far as is sensible and helpful in those committees.

Finally, I want to remind the chairman of the words of our current Speaker when he dealt specifically with the roles of committee chairs in a ruling on April 18, 2002, at page 10,540, wherein he stated the following:

I am confident that committee Chairs continue to be mindful of their responsibilities to make fair and balanced rulings based on the democratic traditions of this place. Members of committees must also strive to resolve procedural issues in a manner which ensures that the rules are followed and that committee deliberations are balanced and productive for these committees.

I ask you to consider the matter closely and reflect upon the materials presented to you. I ask you to make a fair and balanced ruling based upon the three points I have brought to your attention, any of which would, I believe, standing on its own, cause the matter presented in the orders of the day to be out of order.

Thank you, Mr. Chairman.

•(1635)

The Chair: Colleagues, we have a point of order on the table, which is not open to debate. I did allow Mr. Reid to go on in his point of order because he obviously had a lot of facts.

Is it in both official languages?

Mr. Scott Reid: It is *Hansard*. We can get it in both official languages.

The Chair: I'm going to take one moment.

We're not discussing the point of order, Monsieur Godin.

Mr. Yvon Godin: No, I can speak on the point of order. Since when can a person make a point of order of half an hour and we not have our say? We can speak, maybe not debate it, but we can speak.

The Chair: Mr. Godin, please. Order.

Monsieur Godin, we have a list here, so I'm going to go in that order: Mr. Preston, Madam Redman, Monsieur Godin.

I'm sorry, Monsieur Lauzon.

Mr. Guy Lauzon: On a point of clarification, the orders of the day said “allegations made against the Conservative Party of Canada's systematic attempt to defraud Elections Canada”. I just wonder who wrote that. Where did that come from? Perhaps I may ask, through you, Mr. Chair, to the clerk, where did you get that? Where are the allegations?

The Chair: I'll allow the clerk to answer that.

A voice: Mr. Chair, that's not on the point of order.

Mr. Guy Lauzon: It's a clarification, yes, it is. That's part of this point of order. I'd like to know the origin of that.

The Chair: It's obviously a request made according to Standing Order 106(4), whereby four members of the committee request that a meeting take place. The phraseology, the wordsmithing of this, was really a cut and paste of that request to make sure there wasn't any way the chair would influence the terms of reference of the order.

Mr. Guy Lauzon: Are we going to discuss that point of order on orders of the day that just sort of came out of the air?

The Chair: I don't think they came out of the air. They were legitimately sent to the clerk's office as a request to have this meeting to discuss whether we would move forward on this.

Before us right now is a point of order—

Mr. Guy Lauzon: Do they not have to be backed up or substantiated?

An hon. member: Mr. Chair—

The Chair: No.

Madam Redman.

Hon. Karen Redman: Thank you, Mr. Chair.

I do appreciate the time that Mr. Reid took to bring forward his point of order. I think he would have a point if we were asking the Speaker to interfere in a court proceeding or indeed insert the committee discussion in lieu of a court proceeding, but that's not what's happening.

Very clearly, under Standing Order 108(3)(a)(vi), this committee is permanently charged with the “review of and report on all matters relating to the election of Members to the House of Commons”. I would say that as much as this wording—and I would underscore that it says “allegations made”—does make some of my colleagues on the Conservative side uncomfortable, which may be fodder for another debate, this is in order.

I find it somewhat interesting that there is such an issue made of things being before the court when that didn't seem to be a problem for our Conservative colleagues in previous Parliaments. I think specifically of Mr. Radwanski and the fact that there was a fulsome debate around that despite the fact that there were court proceedings as well.

There are only two, to my knowledge, official agents who are named in the court case, and this takes a much broader view. I believe that it is an appropriate undertaking of this committee to look at the Canada Elections Act and suggest that amendments be made to it if there seems to be a systemic anomaly that has gone from Prince Edward Island to the west coast.

This isn't a one-off. This is something that is very appropriately dealt with by this committee. Notwithstanding Mr. Reid's hard work, I believe this is in order and that we should move forward on the motion to deal with this as outlined by the four members who submitted this appropriately to you, as chair.

• (1640)

The Chair: Thank you.

Mr. Godin.

[*Translation*]

Mr. Yvon Godin: Thank you, Mr. Chairman. I just have one comment.

According to the argument raised by Mr. Reid in his point of order, the matter would be in the hands of Elections Canada and could be referred to the courts and so forth. For instance, in the case of the sponsorship scandal, the court became involved, the RCMP conducted an investigation, the Gomery Commission conducted its own special inquiry and a parliamentary study was done. What is sauce for the goose is sauce for the gander.

Furthermore, the Speaker of the House, Mr. Milliken, has made it clear each time that this committee is its own master.

I simply wanted to make that point.

[*English*]

The Chair: *Merci.*

I have Mr. Lauzon, but he's not at the table. We're going to move forward to Mr. Martin, please, and then Mr. Poilievre.

Mr. Martin.

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

I only wanted to point out that while I was listening to Mr. Reid, I was having a sense of déjà vu, and then it came to me where I had heard these very same arguments before. It was sitting around the public accounts committee in 2003 when the Liberals were making exactly the same case for why we should not call witnesses in the sponsorship scandal because of the court cases that we could be jeopardizing.

I'd ask the chair to not consider these points as valid, or to come to the same conclusions as the chairman of the public accounts committee came to at that time in the face of these spurious arguments and these long-winded diversionary points of order.

The Chair: Thank you, Mr. Martin.

I just want to clarify: was that 2003? Do you recall that date—2003? I won't hold you to it—

Mr. Pat Martin: I'm lost in the sands of time, Mr. Chairman.

The Chair: All right. Thank you.

Mr. Poilievre.

[*Translation*]

Mr. Pierre Poilievre: What is sauce for the goose, is sauce for the gander, or so says Mr. Godin.

I am amazed that no such study has been done into opposition party finances. It is clear that all parties transferred funds from their national party office to local candidates. However, opposition members are not willing to shed light on the finances of their party and their candidates. Therefore, I am very surprised that this motion makes no mention of...

[*English*]

The Chair: It relates to the point of order.

Mr. Pierre Poilievre: On the point of order—this relates to the point of order—we have here a motion that concludes that there are allegations that don't actually exist. The allegations that are referred to in this motion have not been made anywhere. Nobody has made these allegations. It makes reference to allegations that don't actually exist. No one would make such allegations, because they know that they would not stand up in a court. In fact, there are no allegations at all against the Conservative Party.

We are the plaintiff. The Conservatives are taking Elections Canada to court—not the other way around—because we are right. In fact, we are going to be depositing all of the financial records of our campaign. We'll be putting all of that out in the open, and we're going to have a very public examination of how we finance our electoral operations.

What is very fascinating, though, is that the Liberal Party and the Bloc Québécois will not do the same thing. I'd be interested to hear if the NDP would be willing to open up its books. But so far, I see a bunch of opposition parties not willing to stand up to the same principles as they would like to thrust upon others and the same principles as we ourselves have already agreed to uphold.

We could solve the problem of Mr. Reid's point of order if the opposition would just agree, right now, to change the wording so as to have an examination of all of their books for the last two elections, both 2004 and 2006. So far we haven't seen that. I will be very interested to see if they will change their minds. They don't look very happy with the suggestion right now.

• (1645)

The Chair: Order, please. Thank you.

Is there anything further that would assist the chair in making this decision on this point of order? I'm going to take a second here before I make any further comments.

- _____ (Pause) _____
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The Chair: Colleagues, I'm sorry. Thank you very much for your patience. I've had a discussion with our analysts and our clerk.

Just allow me to make some comments. Mr. Reid and other members have raised my level of awareness, and I have to admit that I'm concerned about this matter. It is a serious situation. Mr. Reid has raised a number of references. Mr. Martin raised some potentially helpful precedents in the past.

I'm going to reserve my judgment on Mr. Reid's point of order until 3:30 tomorrow, which, my analysts and clerk advise me, should be enough time to pull all of that, have a look at it, and have a discussion.

• (1650)

As well, I will inform the committee—I'm told I should ask the committee this—that I would like to ask for an independent legal opinion, and I would suggest Mr. Walsh, who is the law clerk for Parliament. If anybody has a significant objection to that... I'm simply asking the members to understand the volume of the decision that I have to make. I would like to make sure I make the correct decision.

I'm going to reserve my judgment until tomorrow at 3:30. With the committee's permission, I would like to invite Mr. Walsh to review the minutes and give me his opinion, as well as do my own research. That's my decision.

Now, we still have some time left. If the committee would like to move forward on the first issue, we can get our witnesses together.

Mr. Guimond.

[*Translation*]

Mr. Michel Guimond: Mr. Chairman, I disagree completely with your interpretation. In my opinion, putting off this decision until 3:30 p.m. tomorrow is merely one way of accomplishing indirectly what you do not want to approach directly, that is muddy the waters, prevent the truth about this motion from coming to light and prevent a genuine discussion on the motion on the table.

Mr. Chairman, I challenge your ruling and I want you to know that we the members of the Bloc Québécois can vote on your decision.

[*English*]

The Chair: Thank you.

I don't need to make a comment on that, because I've made no decision. There will be no discussion on my right to reserve my decision, but thank you for bringing that up.

Is there any further discussion on the motion regarding veils? We have time left in this meeting.

Mr. Preston.

Mr. Joe Preston: While we have a moment, why don't we move forward and discuss witnesses and actions of this committee on that very pertinent topic of today? With the Chief Electoral Officer going on TV and trying to explain himself, I'd love for him to come here

and try to explain to us what he doesn't understand about photo ID. I'd certainly like that to be something we could do.

The Chair: I think what I'm asking the committee for is a list of witnesses they may want to have. Let's talk about when we want to have this.

Madam Redman, please.

Hon. Karen Redman: Mr. Chair, I understand this is somewhat new territory and you've been getting lots of help from your Conservative colleagues; however, my understanding was that you were asking permission from the committee to reserve your decision. You're just announcing that you're going to wait until tomorrow.

The Chair: No. I'm going to reserve my decision until tomorrow. I was announcing to the committee that I might ask Mr. Walsh to assist me in the decision-making.

Hon. Karen Redman: Then I would move a motion that we move immediately to dealing with the motion and the whole reason we're here under Standing Order 106(4). I'm happy to read it again. We've all got it in both official languages:

That the committee discuss looking into allegations made against the Conservative Party of Canada's systematic attempt to defraud Elections Canada, as well as the Canadian taxpayer, in relation to the 2006 federal election.

I would put that motion on the floor, Mr. Chair. We respectfully ask that it be dealt with. It has been debated. I respect that you have to make a decision. I understand that it's up to the committee whether we challenge the decision of the chair. I would ask that the motion be dealt with forthwith.

• (1655)

The Chair: I'm going to raise a point of order on this issue. I'm going to have to rule that motion out of order, because you obviously aren't hearing the substance of what I have to review: whether witnesses can appear before this committee, whether we can actually get our work done, and whether we will in fact have some influence on the trial that's already ongoing.

Any motion on this order is going to be ruled out of order if you push me on that issue. My decision is to reserve it and research it well. Frankly, to be quite honest with you, I don't understand the push to have the chair make a decision on something so serious without due consideration. I will take the 24 hours. I hope this committee doesn't get out of order. I would certainly not want to adjourn the committee because we're out of order. Let's stay on track.

Hon. Karen Redman: Mr. Chair, I challenge your ruling that I'm out of order. I'm asking you to make a decision now. If you're ruling me out of order, I'm challenging that decision.

The Chair: We can do that all day. Your motion is out of order.

On a point of order, Mr. Reid.

Mr. Scott Reid: Mr. Chairman, if the previous motion and the orders of the day were out of order, this too would be out of order. So if we move to this new item, I'll have to make my point of order all over again for exactly the same reasons. There's no way out of this bind for Ms. Redman while introducing the motion in its current form. If she wishes to change it so that it is not violating the *sub judice* convention, I suggest to you that could be done, and that it wouldn't violate the other objections I have—presupposing facts that are in dispute and using highly aggressive language. I think she could come up with something, but this particular one, if she introduces it this way.... She can go through the charade of having us vote to overrule the chair and say that there are no rules of order at all here, and that rather the majority has the right to throw aside the rule book whenever it feels like it—something that is nowhere permitted in our rule book, Mr. Chair. She can have us go through that, but if she does, I'll go through my point of order again, because the motion will be out of order in exactly the same way as the first item was out of order. It's got to be dealt with, and the substantive points I've raised don't change.

The Chair: Colleagues, we're getting to a point where our committee meeting is just making discussions for the point of making discussions, and I would expect from a senior committee like this one that we wouldn't be doing this. I have the right to reserve my decision so that I can make the right decision that's informed, and that's what I'm going to do.

The next order of business is the motion on the veil issue. If members don't want to discuss that today, then the business of this meeting is done, and I'll entertain a motion to adjourn.

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: Regarding the question of veiled voters, I would like to move a motion. Since I have not had time to get it drafted in English, I will not actually table it. I will, however, read it. Let me explain the rationale behind my motion. We have not had time to do a lengthy study or to call witnesses. I think there is agreement that individuals should not be allowed to vote in Monday's by-elections if they are veiled.

Mr. Mayrand has come to a decision and he reiterated his position at this morning's press conference. Clearly, the parties disagree with his position. Consequently, I would like to put forward a motion calling on the Chief Electoral Officer to reconsider his decision. We could ask the chair to sign it and it would be the equivalent of a committee report. The motion would read as follows:

That the members of this committee call upon Elections Canada to reconsider its decision to allow veiled individuals to vote.

That is the motion that I wish to put forward, if I have the unanimous consent of the four parties. I attended Mr. Mayrand's press conference this morning and he appeared to be saying that if Parliament were willing... I don't know if the government is willing to recall Parliament this evening for an emergency session. It might be hard to get a quorum. However, if we were to ask the chair to write to Elections Canada and submit this motion, then this might put an end to the debate on veiled voters, in advance of Monday's by-elections.

• (1700)

[*English*]

The Chair: Monsieur Guimond, do you have that motion written down?

Mr. Michel Guimond: I have it written in French.

The Chair: I think that's acceptable if we can get a copy of it.

[*Translation*]

Mr. Michel Guimond: I'll repeat the motion so that my anglophone colleagues can catch the interpretation:

That the members of this committee call upon Elections Canada to reconsider its decision to allow veiled individuals to vote.

[*English*]

The Chair: We have a motion on the floor. Obviously we'll start debate on that.

Merci, Monsieur Guimond.

I will go by the list; however, we do have a motion on the floor. Monsieur LeBlanc, do you still wish to speak on this motion?

Hon. Dominic LeBlanc: I do not, other than to say, Mr. Chairman, that I would be in favour of this motion, and that I hope colleagues would deal with it expeditiously so this matter could be disposed of quickly.

The Chair: *Merci*.

I still have names on my list here. Monsieur Lauzon, do you want to say something on this motion or do you want to pass? You're good, Monsieur Lauzon? *Merci*.

Mr. Poilievre.

[*Translation*]

Mr. Pierre Poilievre: I would like to thank my honourable colleague and friend, Mr. Guimond, for putting forward a motion on this important issue.

The word "reconsider" is not forceful enough.

[*English*]

For the anglophones among us, that means reconsider. We want him to reverse his decision. I think that's a stronger and more appropriate word. I expect that would be a friendly amendment.

Mr. Chair, for the purposes of the discussion, the word "reconsider" has been replaced with "reverse".

I think the good thing about this motion is that it does not preclude us from doing some deeper work on this matter later this week. The matter can still be discussed. I think the chair should go to the Chief Electoral Officer to ascertain if this motion will have the effect of changing the Chief Electoral Officer's position on veiled voting. And if it does, then the matter is resolved.

However, if it does not cause him to reverse his position, then he does need to come before this committee, as do other witnesses, to explain his position and defend himself for having made a decision that this committee has indicated it thinks is wrong.

Mr. Chair, I would move in a moment, after we've done with this motion, that we authorize you to call him as a witness to explain his decision and defend his decision against questioning if he refuses to succumb to the demands Mr. Guimond has placed in his motion.

Thank you.

The Chair: Thank you.

Mr. Preston, and then Monsieur Guimond.

Mr. Joe Preston: Although I love the direction we're taking, I don't understand why we don't call Mr. Mayrand here to ask him that, instead of sending him a letter to that effect.

This committee had Mr. Mayrand come during the review of Bill C-31. We thought that what we were trying to say was very clearly understood then. I think he very clearly said at a news conference today the opposite of what we're going to try to ask him to do in another letter. I'd rather ask him to his face than in writing.

I suggest that we have Mr. Mayrand here at the earliest convenience. I'll ask him that question. I don't think it will take long to get the answer.

The Chair: Let's see how the vote goes on the motion, because maybe we can get the letter out. It does make sense to me. It sounds like an efficient use of time.

Monsieur Guimond, it's your motion, and you're the last speaker.

[*Translation*]

Mr. Michel Guimond: I'm afraid we're going to get sidetracked here. I think Mr. Poilievre's amendment is quite acceptable. The committee must make it very clear to the Chief Electoral Officer that he needs to reverse his decision. My colleague Mr. Poilievre has said that the committee needs to think about calling him here to testify should he refuse to reverse his decision. We have only 25 minutes remaining. Immediately following the meeting, you, Mr. Chairman, and the clerk could draft this letter and forward it without delay to Mr. Mayrand. Then we'll see how he reacts to our request. I don't think we need to do anything further at this point in time. The committee will decide its next move based on his response.

My colleague Preston is suggesting that we call him before the committee and that's a good idea. However, all of the parties agree that his decision makes no sense. This motion must confirm our position, because by-elections are in the offing. Should he refuse to reconsider his position, we will then convene once again by unanimous consent. We don't need to have four people agree to call in four members of the committee. We can talk about this again tomorrow morning and convene another meeting at the earliest opportunity. During this morning's press conference, the Chief Electoral Officer mentioned that if he were to receive a request of this nature, he might be open to reconsidering his position.

• (1705)

[*English*]

The Chair: Colleagues, is there any final comment that's going to alter this, or is it time for the question?

Monsieur Godin, are you voting for the question? Is that what you're asking for?

[*Translation*]

The Clerk of the Committee (Ms. Miriam Burke): The motion reads as follows:

That members of the committee call upon Elections Canada to reverse its decision to allow veiled individuals to vote.

[*English*]

(Motion agreed to)

The Chair: Yes, we're going to pose the question, but I'd like to read the motion one final time so all members are clear, with the friendly amendment of "reverse" versus "review".

Please.

[*Translation*]

Mr. Yvon Godin: It concerns voting practices.

[*English*]

The Chair: There is one final question for clarification by the chair: This will go in a letter so we have a record of it, but I'm asking permission to phone the Chief Electoral Officer, to read the letter to him over the phone and ask him to respond as quickly as possible.

Now, what does "as quickly as possible" mean?

Mr. Marcel Proulx: Can we fax the letter once you've talked to him or before you talk to him?

The Chair: Of course. Okay, that's fair. He probably knows about it already, by the way.

Monsieur Poilievre.

Mr. Pierre Poilievre: All right, I would just like to clarify that Mr. Preston's motion still stands and that we are going to continue with a study this week on that. So could your office be in contact with us about when the other witnesses are going to be coming? We will still be having witnesses from Elections Canada, including the Chief Electoral Officer.

Just for clarity's sake—I think there's some confusion among the opposition—there was nothing in Mr. Guimond's motion that would preclude Mr. Preston's motion from going ahead. It's still there. It's been passed and adopted. Unless, that is, the opposition wants to change its mind and prevent the Chief Electoral Officer from being held accountable before this committee, that process will still go ahead. We look forward to finding out when those meetings will occur.

Thank you, Chair.

The Chair: As committee members know, we normally ask the committee members to provide witnesses to us versus our chasing committee members around, so let's get those lists of witnesses and reports you want.

I'm going to go with Monsieur Proulx first and then Monsieur Godin.

Mr. Marcel Proulx: Mr. Chair, I presume that in this case, contrary to the previous one, for which you needed advice from the Conservative Party, we are to understand, sir—

The Chair: Excuse me, would you mind retracting that?

Mr. Marcel Proulx: No, sir. We understand that if Mr. Mayrand tells you that he will be changing his decision, we don't need witnesses.

The Chair: Well, that was not necessary, because it was clear to me.

Mr. Marcel Proulx: Super. Thank you.

The Chair: Monsieur Godin.

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, if we put this motion to Mr. Mayrand and he reverses his decision, I do not see why we would need a public hearing. For what purpose? We wanted to study this matter until Friday so as to convince the Chief Electoral Officer to change his mind. If he refuses to do so, then I suggest we call him before the committee. However, if he agrees to our request, then there is no need to have a meeting.

• (1710)

[*English*]

The Chair: We have a motion on the floor that if the CEO refuses to change or indicates to me that he has no intention of changing his current stand or interpretation, he will be called before this committee at the earliest convenience. Is that the motion?

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: On a point of order, Mr. Chairman.

I do not know if my words were misinterpreted earlier, because I was speaking allegorically, but I did say that it was vitally important that we send out this letter. Based on the response received, you may contact us and we can quickly meet once more to draw up a list of witnesses. Let's not jump the gun. I think more frequent visits to the Optimist Clubs in your ridings is in order. I'm an optimist by nature. There is no need to say that we will call him before the committee if he refuses to reverse his decision, because that is implicit in my motion. If a meeting is necessary, we will hear from seven or eight witnesses. That's beside the point.

Let's start by sending him a letter and based on his response, you can contact us tomorrow morning and we can then decide on a course of action. The important thing here is to get a letter to him.

[*English*]

The Chair: We'll have Madam Redman first, and then Monsieur Poilievre, and then Monsieur Godin.

That makes sense to me, by the way, Monsieur Guimond.

Hon. Karen Redman: Thank you, Mr. Chair.

I had originally sought some kind of clarification from Mr. Preston, because I think many of us around this table were here when we passed that new legislation, and I guess the interpretation that was made was not one any of us anticipated. And while I have not consulted widely, I have certainly read media reports from people in my own riding who are saying that nobody who wears a burka or a veil objects to exposing her face to a female.

So it seems to me there's not a great body of people feeling that it would be egregious to interpret it the way this committee—indeed I

would say almost to a person—felt, that if you are going to give photo ID you have to be able to do that visual photo ID. I don't anticipate this being a long-drawn-out affair.

It seemed to me from everything I read, while I wasn't at the press conference, that the Chief Electoral Officer truly was seeking clarification. I would think that your letter will more than appropriately do that, so I'm very much in agreement with what's before us.

The Chair: Thank you.

Monsieur Poilievre and then Mr. Godin.

Mr. Pierre Poilievre: Before I commence my remarks, may I ask as a point of clarification that Mr. Guimond's motion be read one more time—the one that passed? I just want to clarify.

[*Translation*]

The Clerk: It reads as follows:

That the members of the committee call upon Elections Canada to reverse its decision to allow veiled individuals to vote.

[*English*]

Mr. Pierre Poilievre: So for clarification, there is nothing in that motion that cancels Mr. Preston's call for a study. There is nothing whatsoever that cancels or supercedes the need for study on this issue. So for Mr. Guimond to assume that just because his remarks implied something, that would cancel a previous motion...is procedurally invalid. We don't know what the Chief Electoral Officer will say, but I think it's important for us to be clear that he will be held to account before this committee if he does not reverse his position. He got it wrong, and we want to communicate that very clearly to him.

What I would propose—and I know Mr. Godin has a motion on the floor, and I will offer this as a friendly amendment, which he can reject if he wishes—is that if the Chief Electoral Officer accepts the committee's desire for him to reverse his position on veiled voting, then the study on that subject be considered cancelled. So in other words, if he agrees with our decision, if he agrees with us that people must demonstrate their face before voting, then this whole study is done. We won't even proceed with the study at all. His motion was about more than just bringing forward the Chief Electoral Officer; it was about bringing forward witnesses, etc. What I'm saying is that if, as we hope, the Chief Electoral Officer reverses his position, then the whole matter is considered cancelled before this committee. Is that reasonable?

The Chair: I'm not clear that that motion is any different from what Monsieur Godin—

• (1715)

Mr. Pierre Poilievre: It is, because Mr. Godin speaks only about bringing forward the Chief Electoral Officer. Mr. Preston's motion was for a whole study on the matter. So what I'm saying is that we cancel the whole study if the Chief Electoral Officer reverses his position.

Is that considered a friendly amendment?

The Chair: Yes, that's very clear. That's clear to me. I appreciate that. We have the motion on the floor, and it is clear to me. Thank you, Monsieur Poilievre.

Do you believe that it's a friendly motion, Monsieur Godin?

Mr. Yvon Godin: I believe it is. And I want to be clear. I normally don't vote on the phone. I don't presume. We are here to make decisions. I will go with the motion and will be clear, and I would like the amendment to take place.

The Chair: Thank you. Just give us a second to write out what we believe is the correct interpretation of Mr. Poilievre's amendment.

Pierre, would you like to repeat your motion so we can get the wording?

Mr. Pierre Poilievre: Yes. It is that in the event that the Chief Electoral Officer reverses his position on veiled voting, this committee consider its study on that matter to be cancelled.

The Chair: Can you read from the motion?

Mr. Pierre Poilievre: I'm sorry. That might not be precisely how I said it last time, but—

The Chair: I think it's clear.

Is there any further discussion on that motion? Mr. Preston.

Mr. Joe Preston: I would like to speak to it. Although I understand and I'm in favour of what the now amended motion says, we're only talking about one little nuance of Bill C-31. I believe Elections Canada got it wrong on this one issue. I want to be prepared in case they get it wrong on something else on it too. This committee will always be able to study Bill C-31, so I will agree with this.

The Chair: Is there any further discussion, or is it time for the question on this motion? Do I need to read the motion again to members, or can we just vote?

An hon. member: You might as well.

The Chair: Read it again, please.

The Clerk: The motion is "That in the event that the Chief Electoral Officer reverses his decision on veiled voting, this committee consider its study on that matter cancelled."

(Motion agreed to)

The Chair: Obviously I'm getting permission from the committee, with the clerk's help, to draft a letter that presents the intent of this committee's discussion. The letter will be faxed and mailed, and I will call the Chief Electoral Officer and get back to you as soon as I can. I obviously have a lot of homework, but I promise the committee I will do my best to get in touch with the Chief Electoral Officer and hopefully have a decision or some response from him by tomorrow.

Is there any further business? Madam Redman, please.

Hon. Karen Redman: Can I ask for clarification on when the meeting tomorrow will occur and how long it will go for?

The Chair: I'm open to the committee, but I'm thinking, after discussing with the analysts, that we will start at 3:30, and my guess is that we will proceed with a typical two-hour meeting. If we want to extend it longer, we can have the committee discuss that.

Is that reasonable for everybody?

Hon. Karen Redman: I'd be happy to start at 9 a.m., but I understand the chair needs to reflect and talk to Mr. Walsh.

The Chair: Yes.

Mr. Yvon Godin: What difference would it make to have it on Wednesday morning instead? Is there any problem?

The Chair: There is a lot of heat on me to make this decision pretty quickly. I'm open to the committee. If you want to go to Wednesday morning, let's hear from members.

Monsieur Proulx.

Mr. Marcel Proulx: Mr. Chair, would you consider having meetings with Mr. Walsh tonight and first thing in the morning and maybe reconvene tomorrow morning at 10 o'clock or 11 o'clock?

I'm not in the position of having to make airline reservations to go home, but I see a lot of people around the table who have to travel. If we could deal with this tomorrow morning or late morning, they might be able to go back home early tomorrow afternoon.

• (1720)

The Chair: We understand, Monsieur Proulx.

Mr. Marcel Proulx: I think you can decide by yourself. You don't need anybody else to coach you.

The Chair: I will tell the committee that I intend to work at this as diligently as I possibly can, starting right away. If I come to a conclusion early, I will reconvene the meeting as quickly as we can and we can proceed if we have quorum.

Am I wrong on that? All right, help me out. I can do the best I can. Right now what I can tell committee members is that we will reconvene tomorrow at 3:30.

Mr. Marcel Proulx: If I may suggest, you can't bring it back in earlier by deciding tomorrow at 10 o'clock that it'll be at 11 o'clock, because people are going to be travelling, and so it's going to be 3:30.

The Chair: Okay, is everybody clear on that?

We're adjourned until tomorrow at 3:30.

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