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—
Chair

Mr. Gary Goodyear

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•(1130)

[English]

The Chair (Mr. Gary Goodyear (Cambridge, CPC)): Ladies and gentlemen, let's bring our meeting to order.

First, I want to apologize briefly—simply because we're running a little short on time—for starting late this morning. We had some business in the chamber that had to be attended to. So we're starting right away, following a vote in the House, pursuant to the committee's order of reference of Friday, November 16, 2007, on Bill C-18, an act to amend the Canada Elections Act, in regard to verification of residence.

During the second hour of this meeting we're going to begin discussions and consideration of the first report of the Subcommittee on Private Members' Business regarding Bill C-482.

Colleagues, this morning we have a number of witnesses. We have two witnesses here in the room with us, as well as three by video conference.

To the witnesses, in a moment's time I'm going to give you each no more than two minutes to introduce yourself and, if you choose, provide us with an opening statement. That will allow members more time to ask questions that are very specific to their needs.

I want to remind members and witnesses that we have been dealing with a few bills that are very similar. I'm going to listen very carefully and try to keep us on topic and relevant to the topic this morning, which is the rural address identification and verification issue.

[Translation]

Mr. Michel Guimond (Montmorency—Charlevoix—Haute-Côte-Nord, BQ): I have a point of order.

I am sorry to interrupt you. Given the delay in getting started, I think that you will find unanimous consent to... It is unfortunate that Mr. Lukiwski has not arrived yet. He had discussions with us, and we agreed with our NDP colleagues and the Liberals that we could finish hearing witnesses today and deal with Ms. Picard's item, and then do clause-by-clause study on Thursday.

As far as we are concerned, I can tell you immediately, Mr. Chairman, that if the government were to present a motion to have Bill C-18 sent to the Senate as quickly as possible, the Bloc Québécois would support it.

I am asking for unanimous consent. Mr. Reid may not be aware of this, but it is what Mr. Lukiwski has proposed.

[English]

I have unanimous consent with regard to what you suggest. I hope you will be okay with that.

The Chair: I'm sorry, could you please repeat that, Mr. Guimond?

[Translation]

Mr. Michel Guimond: I am asking for unanimous consent regarding what you discussed with Ms. Picard, and your proposal, Tom, through you, Mr. Chairman, that we finish hearing witnesses on C-18 and then immediately move to Ms. Picard's item, and that we do Bill C-18 clause-by-clause consideration on Thursday morning.

I have checked with my Liberal colleagues and my NDP colleague; they agree with your proposal, Mr. Lukiwski. On behalf of the Bloc Québécois, I have announced that we would support having Bill C-18 sent to the Senate as quickly as possible for consideration there.

[English]

The Chair: Mr. Lukiwski.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you, Chair, and thank you, Monsieur Guimond.

What I had been suggesting is that, if possible, we deal with clause-by-clause on Bill C-18 today. I'm not sure how all opposition parties would view this, but if we were able to get clause-by-clause done by today, I would then ask for unanimous consent in the House to report it back to the House today, which would allow us to debate Bill C-18 on Thursday. If we were able to conclude debate on Thursday, we could vote Thursday evening. In that way, Bill C-18 could be referred to the Senate before we rise for Christmas. If we cannot accomplish that, then Bill C-18 will not become law, will not be granted royal assent, until the new year.

My concern is, again, that because of pending elections, we may be in a situation where Bill C-18 is not a law before a byelection or a general election. That's why I'd like to get it done today, if possible, rather than wait until Thursday.

If we wait until Thursday, Michel, this bill will not be given royal assent until sometime in the new year, perhaps as late as February.

•(1135)

The Chair: What I'm hearing between the two conversations is that there's a possibility of doing all three today. We might want to deal with this first motion first and then maybe a motion to extend the meeting today by half an hour if we have to.

I'm just throwing that out there, but we're back to Monsieur Guimond.

Mr. Tom Lukiwski: Chair, if I may, thank you for that. I got in late, and I apologize for that. I was going to ask if we had unanimous consent to extend this meeting by 30 minutes because of the bells, because I want to make sure that Madam Picard has the full opportunity to speak to her concerns on the appeal of the private member's bill. But to do that and clause-by-clause and hear the witnesses, I'm thinking we need an extra 30 minutes.

The Chair: I have some hands up.

I just want to discuss a bunch of motions. We have a motion for unanimous consent to go forward. It sounds to me that we have a slight amendment to that. We also have a motion to extend the meeting by half an hour. I don't want this to go on too long.

I saw Mr. Angus' hand up first, and then Mr. Proulx's.

Mr. Angus, please.

Mr. Charlie Angus (Timmins—James Bay, NDP): I talked with my colleague from the Bloc, and I thought there had been a general discussion that they were going to do clause-by-clause on Thursday. If that's not on the table, it seems to me very strange that we'd hear witnesses, go to another issue, then try to do clause-by-clause. If this bill is as important as everyone says it is then we should deal with this bill and get it done. Then there's a separate issue that can be dealt with whenever.

The Chair: Monsieur Proulx.

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

I just want to understand the difference in what Mr. Lukiwski is actually suggesting. Are we talking about working until one o'clock, 1:30, or two o'clock?

The Chair: What I'm hearing is 1:30.

Mr. Marcel Proulx: So the extra half hour would be from 1 to 1:30? And then we would do clause-by-clause today?

The Chair: My thinking is we could probably do them all, and I think Mr. Lukiwski is suggesting that we do all three today, in our two hours—or at least make the best effort we can.

I just want to make sure that Monsieur Guimond, who put the first suggestion forward, is okay with this.

[Translation]

Mr. Michel Guimond: Yes, but I withdraw my suggestion, Mr. Chairman, since this is not quite the way things were explained to me. When Mr. Lukiwski was speaking to Ms. Picard, I was speaking to you. I cannot follow two conversations at once, even if I have two ears. I withdraw my proposal, and I support what Mr. Lukiwski has proposed.

[English]

The Chair: All right.

Can we have general consent that we're going to move with the witnesses and then deal with clause-by-clause as well as the private members' business today? Is everybody okay with that?

Some hon. members: Agreed.

The Chair: Thank you very much.

Now we're back to introducing our witnesses.

Again, I would just offer the witnesses no more than two minutes. I always like to let witnesses talk as much as we can, but we're on a tight rein today. I know that most of the witnesses, if not all, have presented before the committee before, so most of the committee members know who they are.

But we'll start here in the room with Naresh. Could you please introduce yourself?

Mr. Naresh Raghubeer (Executive Director, Canadian Coalition for Democracies): Mr. Chairman, members of the committee, good morning. My name is Naresh Raghubeer, and I am executive director of the Canadian Coalition for Democracies, CCD for short. I appear before you today on behalf of my organization.

We at the Canadian Coalition for Democracies—a non-partisan, multi-ethnic, multi-religious organization of concerned Canadians dedicated to human rights, national security, and the promotion of democracy—are concerned that provisions enacted by Bill C-18 may make the system of voting more susceptible to abuse. Consider the federal government's 1997 study *A History of the Vote in Canada*. It says, "Evolution of the right to vote was neither consistent nor ordered...rather, it evolved haphazardly, with the franchise expanding and contracting numerous times." Today's parliamentary committee hearings serve further evidence that electoral matters continue to evolve, and not always in the most predictable of ways. The quest for accommodation, partly reasonable and partly unreasonable, is raising concerns.

First, CCD is concerned by the government's decision to "permit a voter to vouch for another voter where the acceptable identification of the former lacks a civic address". Taking the government's suggestion to its logical conclusion, we may very soon be seeing on election day a potential voter dressed in a full burka vouching for another voter clad in a burka. While this may not trouble some members of committee who have already voiced their support for—

• (1140)

The Chair: Thank you, Mr. Raghubeer. I appreciate it. I'm terribly sorry. We're running out of time here, and I am going to touch on the point of relevance. This is on rural voting, civic addresses, not veiled voting. Could we keep our comments to this bill?

Thank you.

Mr. Naresh Raghubeer: Sorry.

CCD's second concern is about the government's determination to proceed with the process of registering new voters at the polling stations on election day. In Quebec, voters are required to be registered and on the voters list prior to election day in order to receive a ballot and vote. No Quebecker complains that the legitimate citizens are being disenfranchised by this system, which requires ample time for pre-registration and verification of voters.

CCD urges members of this committee to consider ending the system of registration on election day as a means of preventing potential abuse.

Third, as Canada's population becomes more diverse, the Canadian Coalition for Democracies is concerned about the availability of mail-in ballots to citizens resident in Canada and to Canadians who reside outside the country.

Last year Canada evacuated more than 30,000 dual citizens from Lebanon. We have dual-citizen Canadians fighting as part of the Islamic Courts Union in Somalia, and some dual citizens were in Afghanistan fighting on the side of the country's enemy—

The Chair: Mr. Raghubeer, I'm terribly sorry, but I've let you go over about 50 seconds because I interrupted you.

I still don't see the relevance in your statement. However, there will be time during questions. You may want to get some of those points out, as long as they're relevant.

I will ask the witnesses in Vancouver to turn your microphones on so that you can participate in the conversation when I call on you, which will be in two minutes or less.

Mr. Boyko.

Mr. Ian Boyko (Government Relations Coordinator, Canadian Federation of Students): My name is Ian Boyko. I'm the government relations coordinator for the Canadian Federation of Students, which unites approximately half a million students at colleges and universities from coast to coast in all 10 provinces.

I'm going to abandon my remarks today, because two minutes isn't enough to even touch on some of the things we have concerns with.

What I will flag for the committee is that my members are having great difficulty understanding the rush that was involved with Bill C-31 in the spring and now the rush that's involved with Bill C-18 today, when there are so many flaws in the Elections Act that prevent students and those with transient addresses from registering to vote.

I welcome your questions, specifically with respect to proof of identity and residence and the provisions for vouching, which will ensure that tens of thousands of students won't be able to meet the Elections Act requirements in the upcoming federal election.

As I said, we have serious concerns about the way students are being alienated from this process and why there is the rush on rural voters and not the rush on other very important voting populations who were ignored in Bill C-31 and are also ignored in Bill C-18.

The Chair: Thank you.

We can go to our Vancouver panel.

I'm looking at Ms. Bradford. Perhaps you could introduce yourself. You have two minutes to open; then we'll just move across the panel to the other speakers.

Thank you.

Ms. Tina Bradford (Staff Representative, BC Government and Service Employees' Union): My name is Tina Marie Bradford, and I'm a labour lawyer practising in British Columbia.

Until two years ago I was a resident of the riding of Vancouver East. This area of Vancouver struggles with poverty and the associated problems of substance addictions and mental illness.

For a number of years I have organized a group of volunteer lawyers to assist residents of this area to obtain sufficient identification to permit them to vote in the federal, provincial, and municipal elections.

Types of identification that are common to you and me are simply not available to the majority of the people living in this area. My experience with these individuals is that they have transient lifestyles similar to those of students or workers who are moving with work. I simply point this out, as I'm going to be speaking just in respect to my experiences with residents of the downtown eastside.

They often reside in rooming houses, hotels, or other forms of transient housing, such as shelters. They have difficulty obtaining government identification. If they do obtain it, personal belongings are often lost or stolen.

The types of identification that are easily obtainable for you and me, such as property tax notices, bank information, and credit card information, are simply not available to a number of people in this area, who are struggling simply to feed and clothe themselves.

The only types of identification they are able to scrape together, and which they try to use for voting on election day, are things such as welfare receipts, rent receipts, shelter receipts, and possibly court documentation.

A number of years ago, a group of Vancouver lawyers came together to try to help people vote in elections. We would set up tables in the downtown eastside and swear what's called a "statutory declaration" for them, which they could use as a piece of identification to take to the voting stations.

During the last few years, I've spent countless hours during the advance polls and all of election day swearing statutory declarations for these individuals. In the many hours I've spent in polling stations, I've seen first-hand many people turned away from polling stations because they did not have sufficient identification.

● (1145)

The Chair: Thank you, Ms. Bradford. I'm terribly sorry. We're going to have time for some questions after. I'm trying to keep the opening statements down a little bit.

Do you have a point of order, Mr. Lukiwski?

Mr. Tom Lukiwski: Yes. I didn't want to interrupt the witness, but I point back to your earliest observations about relevancy. We're dealing with Bill C-18, which merely states that anyone who has a non-civic address, if that same address appears in the voters list, should be allowed to vote. That's all we're talking about; it's a very simple bill.

The complexities the witnesses are bringing forward go far beyond what we're dealing with in Bill C-18. I think we have to come back to Bill C-18.

The Chair: My apologies. I'm getting the impression that maybe the witnesses weren't properly briefed as to what we are dealing with this morning. I think Mr. Lukiwski has summed it up pretty closely.

Did you have a point of order?

Mr. Charlie Angus: Mr. Chair, we're running through this like a kangaroo court. This bill is about the verification—

The Chair: Do you have a point of order?

Mr. Charlie Angus: Yes, I have a point of order. This issue is about the verification of residence. That's what the witness was giving testimony to. She only has two minutes. I don't believe we have to cut it down even further.

The Chair: I actually have allowed the witness two and a half minutes, although I appreciate what you're saying.

Mr. Quail, please.

Mr. James (Jim) Quail (Executive Director, British Columbia Public Interest Advocacy Centre): Last winter Mr. Kingsley predicted that some 5% of voters would have difficulty casting ballots because of Bill C-31. That estimate was extrapolated from the experience of urban voters in Toronto municipal elections. Some 14 million Canadians voted in the last general parliamentary election, so 5% of that number is about 700,000.

Bill C-18 addresses a different problem, that of rural voters without assigned civic street addresses. In the public discussion accompanying the introduction of Bill C-18, we heard estimates that about one million rural voters could be affected by this problem. That million voters is a different group from the 700,000 urban voters Mr. Kingsley has warned us about.

Bill C-18 would fix a part of the problem created by Bill C-31, but only a part of it. If a voter without a street address or a post office box collects mail from general delivery in the Spuzzum post office and brings a hydro bill to the polls as one of their documents, according to Bill C-18 they will now be able to vote. An identically situated voter who does not use general delivery will not be allowed to vote.

If anyone can explain how it furthers the cause of confirming voters' qualification to have people prove that they use a post office box or a general delivery slot in a post office, I would be fascinated to hear about it. There is a word for a rule that makes a distinction in voting rights based on that kind of scenario. In my respectful submission, that word is "silly".

After Bill C-18 there would remain distinctions that are a lot worse than silly. Parliament will still have disenfranchised homeless people. It is a result akin to reintroducing the concept of a property qualification for elections. Bill C-18 does nothing to resolve any of the problems created by Bill C-31, except to assist some rural voters who would otherwise lose the ability to vote. They would still have to jump through all of the other hurdles put in place by Bill C-31.

The most sensible solution is to repeal all of the new voter documentation rules that were introduced by Bill C-31.

By the way, I filed a petition in the B.C. Supreme Court seeking that the court do that, but I would suggest that Parliament undertake it itself.

Alternatively, Parliament should provide for a declaration and a prescribed form, which would be available in all polling places, rural and urban, for voters to attest who they are. That would be a far better proof of entitlement to vote than the production of a utility bill or a driver's licence.

It is gratifying to see that Parliament has recognized that Bill C-31 was off target and is taking steps to resolve at least part of the problem. I hope you will complete that job and ensure that every Canadian citizen has an opportunity to exercise their democratic rights in the next election.

Thank you.

● (1150)

The Chair: Thank you, Mr. Quail.

Finally, please, Mr. Mollard.

Mr. Murray Mollard (Executive Director, B.C. Civil Liberties Association): Thank you.

My name is Murray Mollard. I'm a lawyer and the executive director of the B.C. Civil Liberties Association in Vancouver.

We don't have very much time, and I'm going to keep my remarks very short. I have had the opportunity of appearing before a variety of committees in the time I've worked at the B.C. Civil Liberties Association, which is over 12 or 13 years now, and I've never had such short notice to be called as a witness as on this bill.

I am very concerned that this bill appears to be a very quick job, whereby Parliament is attempting to rectify a problem that was created by Bill C-31. We testified over a year ago, and we've been asked to testify again. I think the things we're wanting to say today, along with some of the other witnesses, are really about problems that we identified with Bill C-31 in the first place. There are various groups of voters who wish to vote and would like to vote but aren't going to be able to effectively vote because of the combination of Bill C-31...which really hasn't been rectified by Bill C-18.

I think for you as a parliamentary committee concerned with the issue of voting, the big question or the big concern we have heard with respect to the amendments to the Canada Elections Act is that there's a real concern about fraud. We still have to see any real evidence as to whether this fraud is a real problem or not, and certainly that is going to be an issue for us.

The Chair: Excuse me, Mr. Mollard, please, I'm going to cut you off there.

I have to admit, Mr. Angus, that the patience of the chair is wearing thin. It appears to me that we have witnesses here who are quite content—and with all due respect to the witnesses, we certainly value the opinions you've expressed. In fact, I've heard them before. These are repeat performances of previous testimonies at this committee, and they're respected; they're appreciated by the committee. But at great expense to the taxpayers we have witnesses here who are debating another issue and—

Mr. Charlie Angus: A point of order, Mr. Chair. You certainly did hear this before, but you certainly didn't listen, did you? That's why we're back here now trying to rush this through.

The Chair: That's not a point of order; that's debate.

Could we have the microphone of the member shut off, please?

With all due respect to the witnesses, the issue turns out that we appreciate your being prepared for this committee. However, to help the committee do its work, we ask for testimony on specific subjects. Those subjects change from time to time as legislation comes before us, is passed, is modified, and so on. At that time we will invite you back again to help us make decisions on those.

We're not here today to solve the problems of the past. That bill was passed. We're here to talk about this verification of rural addresses.

I appreciate the witnesses' opening statements. We do have some time for questions. We'll open it for questions, but I will warn members that we're trying to get Bill C-18 through. We'll have all kinds of time for all these other issues. Let's not use every opportunity to run an agenda. Let's stick with Bill C-18. We'll be back on that agenda.

The first round of questions is seven minutes long. Are there any members who wish to speak to it?

Mr. Angus, seven minutes, please.

Mr. Charlie Angus: Thank you.

Well, I find this a fascinating example of how dysfunctional this committee and this Parliament has been. Bill C-31 was a flawed bill; it was an embarrassing bill. This government has had to bring it back twice now to fix it. So C-18 is not simply a rural issue; it is a bill to address residential addresses.

We find we had this committee try to get this bill through without even asking any witnesses. They didn't want any recommendations as to why they had blown the bill so badly in the first place. So now we see this morning we have three parties that aren't even interested in asking any questions. I find this amazing, given the fact that one million rural voters were disenfranchised by this bill. Now we hear that 700,000 urban voters might not be able to vote, but that doesn't seem to have been an issue for anybody around this table.

I would like to say, for the record, that what I found in the pettiness and the myopic partisanship of this committee really speaks to what has happened with the voting bill. Bill C-31 was set up as a problem looking for a solution, a solution looking for a problem. Bill C-18 is an attempt to fix the mistakes that were made.

The other day, just to show you the extent of myopic views that we have on this committee, they wanted unanimous consent to get Bill C-18 through without any witnesses, without any discussion. I said we have to do due diligence. As legislators, our job is to do due diligence.

At the time, my good friend Mr. Lukiwski thanked me for not putting it through because he said it would give his party the opportunity to run 10% attack ads in Saskatchewan against the NDP. For what, I'm not sure. I suppose it's because we're doing our job.

So I'd like to begin my questioning.

Mr. Quail, you say that 700,000 urban residents will potentially not be able to vote because of this bill. Could you elaborate on that, because you are saying this is different from the one million voters whom this government has already booted out the door with their mistake?

• (1155)

Mr. James (Jim) Quail: Yes. This bill, C-18, and actually I thought I was addressing it in my comments, deals with fixing one of the problems that was created by Bill C-31, and that is the rural voters. That's a very serious problem, and as I said, it's good to see that Parliament is doing something to fix that bit. It's like a coat full of tatters and there's one big patch being put on it.

This does nothing, though, for the people whose problem is not that their address isn't a civic address; it doesn't deal with the problem of people who don't have an address. It doesn't deal with the problem of people who don't have documentation. I'm assuming that Parliament introduced this bill in order to fix the problems created by Bill C-31, and my advice to the committee is it fixes a part of the problem, but there's still a lot of work to do.

If the real concern is that there be adequate identification of voters, there's a simple solution that doesn't require 700,000 people. A whole host of circumstances are going to disenfranchise people: people who are homeless, seniors who no longer have driver's licences or other necessary identification, people who have moved recently and their identification doesn't square with their address.

We filed a very large body of evidence with our petition to the court, and I commend that to anybody who wants to study it in detail. There's a big problem still left behind in spite of this bill.

Mr. Charlie Angus: Thank you for that.

The question now is.... I understand there is a legal challenge that is being brought forward against this bill. What are the bases of this challenge? Are we going to have to come before this committee next year with this same bunch and have them try to stick another bandage on the septic wound they've created?

Mr. James (Jim) Quail: Parliament has very limited constitutional authority to legislate in relation to voting. The Supreme Court of Canada has made it clear that section 3 of the Charter of Rights is one of the most absolute sections there is. It's immune from the notwithstanding clause, and unlike, say, freedom of speech, which you weigh against rights of other people, it has no countervailing rights. It's an absolute right, and there's a strict requirement for Parliament to justify anything that creates an obstacle to anybody voting.

I've read the report this committee filed in Parliament in June 2006, when the committee acknowledged it has no notion of the scale of voter fraud, if any. This is the material we're going to be bringing before the court, and I would suggest rather than the matter simply going ahead in one province, that Parliament fix the problem coast to coast.

Mr. Charlie Angus: In your experience, do you believe there is enough legal precedence for your legal action to be brought forward? That would be the first part of the question.

The second part of the question is this. Given the testimony of Bill C-31, where these issues were clearly laid out, where witnesses and certainly members of the New Democratic Party laid out for the government what they would be facing, do you believe the simple lack of due diligence on the government's part is part of the reason they're following the same mistaken road once again?

Mr. James (Jim) Quail: It's certainly my view that we have a very powerful case. A decision by the Supreme Court of Canada in 2002 required the government to permit federal prisoners to vote, and we have documented the case. One of our petitioners in this matter was in and out of trouble in his previous life. He managed to straighten out his life. If he were still in trouble and not out of it and were still doing time in a penitentiary, he would be able to vote. He's homeless now in the downtown eastside, and his right to vote is in jeopardy.

I don't want to comment on the politics of motivation of the government. But in a legal context, this comes down to section 1 of the charter, where the government bears all the onus to show that anything it does that interferes with the right to vote is demonstrably justified, including the fact that the mechanism it puts together is proportionate to the problem. We have a mechanism that has affected 1.7 million people, and I hope for one million of them it will be resolved with this bill.

That's to address what? What is the problem? The report to the Commons by this committee said it really had no information about the scope of the problem. So talk about killing a gnat with an atom bomb. That's the way this is going to be presented to the court, and in my submission we have a very powerful argument to bring to the court.

• (1200)

Mr. Charlie Angus: Thank you.

I'd like to ask Mr. Boyko—

The Chair: Your time is up, Mr. Angus, on that round.

Mr. Charlie Angus: I still have questions and I don't see anybody else bothering to step up, so I'd like to ask a few questions, if that's—

The Chair: You might want to allow us to run from this end. And again, I want to caution you on relevance. It seems to me we're trying a case here on Bill C-31. I have concerns about *sub judice* convention.

The next round is five minutes.

Mr. Proulx.

[Translation]

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

Contrary to what my colleague, Mr. Angus, has said, it is not that the other parties are not interested. We gave Mr. Angus the opportunity to explain to us what the witnesses wanted to tell us. So I have a question for all the witnesses.

The first clause of Bill C-18 reads as follows: 1. Section 143 of the Canada Elections Act is amended by adding the following after subsection (3):

If I may, Mr. Chairman, I will read the following clause in English because I want it to be understood.

[English]

So section 3.1 reads as follows:

If the address contained in the piece or pieces of identification provided under subsection (2) or paragraph (3)(a) does not prove the elector's residence but is consistent with information related to the elector that appears on the list of electors, the elector's residence is deemed to have been proven.

Correct me if I'm wrong, ladies and gentlemen, witnesses, but my understanding of Bill C-18 is that we are looking strictly at the situation whereby somebody who is already appearing on the list of electors has a problem voting because their pieces of identification do not necessarily correspond to what's on the electors list.

So you may be talking about people who are not on the electors list who would want to be on the electors list. But that's not the point of Bill C-18. I think you're knocking on the wrong door. I think Bill C-18 is strictly with regard to, and again I quote, the phrase "related to the elector that appears on the list of electors".

So you would you please tell me how you can manage talking and wishing for something else?

Thank you, Mr. Chairman.

Mr. James (Jim) Quail: If I might speak to that, just to be a little more precise, what the amendment deals with is the following scenario. Here's a typical situation: someone lives in a rural area and there isn't a street address; the municipal authority hasn't given them a number on the street they live on, but they have their postal address, say P.O. Box 18, at some post office. They get all their mail and official documents there, so their tax assessment, for example, has that address. That, under Bill C-31, would not have complied; they would not have identification for the purpose of voting.

What this says is if the address information—post office box, whatever—on the voters list coincides with the document you bring in to identify yourself, you are deemed to have complied. So the thing it fixes is—as you say, if people are on the voters list who have identification that indicates a post office box, or, as I said, general delivery or some other designation other than a civic address, they are deemed to have ID that has a civic address. And you're correct, that's all it fixes, and that's why I'm saying it does an incomplete job of fixing the problem.

Mr. Marcel Proulx: That gentleman just agreed with my point: Bill C-18 is strictly for one situation, and that's the only thing we are looking at under Bill C-18.

Thank you.

The Chair: Thank you, Mr. Proulx.

Again, I will try to keep members on track. I know, as simple as this bill is, it can sometimes get a bit complicated in that it is similar to other issues we're dealing with over time.

We still have this round to go. Any other speakers?

Mr. Angus, five minutes, please.

• (1205)

Mr. Charlie Angus: Thank you.

Mr. Boyko, I was interested in your perspective. We had a lot of conversation here about how we all want to encourage young people to vote. Everybody's patting themselves on the back about how much they love students and can't understand why students won't vote.

It seems to me that Bill C-18 speaks specifically to the problems students have in voting. The scenario that's being put forward is simply rural addresses. However, many people are not on the voters list, or should be on the voters list, so the question is of being able to vouch because you're not found there with proper presentation. You are saying that tens of thousands of students are not going to be able to vote. Do you believe this issue of vouching in any way, having one person appear to vouch, will address that issue?

Mr. Ian Boyko: I think that's a good question, and that's the way we're looking at it.

I hope the committee is not looking at this through a straw. This is a very specific amendment, yes, but for us it's very hard to talk about improving the proof of residence without talking about vouching procedures. This amendment will do nothing for students who move away to go to school, most of whose identification is probably at their parents' address but they want to vote in the city in which they are attending school. There's nothing in this amendment that will improve that situation. They won't have sufficient proof of residence. And things get worse if you're in a university residence, where previously residence dons would be able to vouch for everybody on their floor. As a proof of residence, that's no longer possible.

But I think you're right. I've seen virtually no evidence, either this fall or last spring, that voter fraud is something that's being properly dealt with.

Mr. Charlie Angus: Thank you.

I guess the issue then—

The Chair: Mr. Angus, we really need to stick to the relevance of this bill.

Mr. Charlie Angus: I am sticking to the relevance.

The Chair: In my opinion, you're not, and I wish to differ. We have had discussions in this committee.

Mr. Charlie Angus: Mr. Chair, we have been trying to make this bill move, but if I'm continually being told the question of vouching and declarations is not in this bill, I would have to say, Mr. Chair, that I'm very—

The Chair: I'm going to allow you some leeway. I know, Mr. Angus, that you haven't been to all these committee meetings when

we have discussed a multitude of other options. This is Bill C-16...or Bill C-18.

Mr. Charlie Angus: No, it's Bill C-18, Mr. Chair, and I have been sitting in on Bill C-18 through the entire...so if you want to pat me on the head as a little child, that's fine.

The Chair: It should be a little easier to stay relevant, then.

Mr. Charlie Angus: Well, yes.

Mr. Boyko, we will go back. I'm sorry I have a hostile chair here.

The issue of vouching, which is being touted as the fix for the million who were identified but doesn't speak to the 700,000 urban people.... You're speaking of students. Will the issue of vouching work, or would a simple situation, whereby we have a statutory declaration or the students' ability to swear an oath to say where they live, allow students to become enfranchised? Do you believe that would work?

Mr. Ian Boyko: I believe that could work. I can't answer that question definitively, because I don't think Parliament has undertaken a thorough study of the best way to minimize voter fraud and enfranchise those with transient addresses. I don't have all the solutions, but I see no evidence that Parliament has undertaken sufficient study to examine all the options.

Mr. Charlie Angus: Madame Bradford, I'd like to ask you about vouching. That's being touted as the solution for people who, for whatever reason, do not appear on the voters list and slip through the cracks. Will the issue of vouching suffice? Do we need to go to a simpler amendment, in the case where someone does not meet the necessary requirement but is willing to swear an oath? Would that address concerns about Bill C-18?

Ms. Tina Bradford: If one looks at the requirements of the vouching process, the person who's vouching must be on the voters list and in the same polling division as the person they are vouching for. That means you need to find someone who lives in the same hotel or shelter as you who is somehow magically on the voters list and in your polling division. They must live very close to you. In practicality, in my experience, the vouching system for people who live in poverty and have difficulty obtaining identification is impossible. In all of the elections in which I've been involved, I've only been able to use that vouching system once. With respect, it's a ridiculous system and provides nothing for people who are trying to vote.

• (1210)

Mr. Charlie Angus: Thank you.

Do you believe, from your experience, there were widespread cases of voter fraud with the system that existed? This is what we're trying to fix.

Ms. Tina Bradford: In all of my time volunteering in polling stations and on the street, I have never once experienced any form of voter fraud. I have experienced situations where people, who are sometimes voting for the first time in their lives and really want to vote, are often turned away. Most of the people I deal with are more concerned about finding their next meal; they're not going from polling station to polling station trying to fabricate identification in order to vote numerous times. I don't know where this information is coming from, to be quite honest.

The Chair: Thank you.

Mr. Angus, you're well over six minutes.

Mr. Charlie Angus: We want openness on this, Mr. Chair.

The Chair: Let's be even more open.

Are there any more questions about Bill C-18 for our witnesses?

Mr. Angus, I will offer you the mike, but I'm going to hold you to relevance.

Mr. Charlie Angus: Thank you.

My final question is for Mr. Quail.

You mentioned in your presentation that because this bill is not addressing the issues, 700,000 voters will be affected. Nobody around this table has challenged you on that. Are you sure of those numbers? It would be a staggering indictment of this committee if it has not done due diligence and 700,000 Canadian voters are unable to vote in the next election.

Mr. James (Jim) Quail: Yes. My source for that number is Jean-Pierre Kingsley, the former Chief Electoral Officer of Canada, who is a highly respected expert on electoral affairs and has an enormous knowledge of the electoral system in Canada. He provided a report after every election, as you know, and testified before this committee. So I feel confident that I'm on very solid ground when I rely on what Mr. Kingsley has said.

Mr. Charlie Angus: Thank you.

When do you expect this case to go to court? Do you have any timelines based on other court challenges?

The Chair: Thank you very much, Mr. Angus. I don't see what that has to do with Bill C-18. You can talk to me about that after. If it has relevance, I'll put you in touch....

Mr. Charlie Angus: Can I just say "point of order", Mr. Chair?

The Chair: You can say it.

Mr. Charlie Angus: We have two band-aids on the septic wound already.

The Chair: That's also a point of debate.

Mr. Charlie Angus: I'm just wondering if we'll be coming back a year from now to fix what you guys pulled today.

The Chair: Thank you, Mr. Angus. That was incredibly relevant.

Mr. Charlie Angus: Thank you.

The Chair: Colleagues, are there any further questions for the witnesses?

Witnesses, first of all, let me apologize to you. It appears you were not told specifically enough, and my apologies on behalf of all members of the committee. In future we will make sure that witnesses who are invited are briefed better about the relevance of the issue before us.

We look forward to hearing from you again in the future when we deal with other aspects of the subject matter. But we certainly appreciate the information you have given to us, or attempted to give to us, on Bill C-18.

At this point, seeing no further questions from the members, I will thank you again, with the compliments of the committee. We appreciate your coming back again. You're dismissed.

Colleagues, we now have the option to move to clause-by-clause, which I believe is what the committee adopted as the first point, if that's the will of the committee. Do I see nods?

Okay. I will give members a few moments to get their bills out.

- _____ (Pause) _____
-
- (1215)

The Chair: Colleagues, let's resume our meeting.

Pursuant to the order of reference of Friday, November 16, 2007, the committee will now move to clause-by-clause consideration of Bill C-18, An Act to amend the Canada Elections Act (verification of residence).

In front of you, colleagues, you should have a copy of the bill as well as amendments that were in fact handed in. We will go through this in the usual fashion.

(Clause 1 agreed to)

(On clause 2)

The Chair: We have one amendment to clause 2, by the NDP.

I'll ask Mr. Angus to introduce the amendment as a motion. Then I'll rule on whether it's out of order or not.

Mr. Charlie Angus: Thank you, Mr. Chair. I look forward to your ruling.

With this bill, we are, as I said, looking at a quick-fix band-aid for one part of the problems that have been identified. Certainly it doesn't address them all.

The issue will come down to having one voucher who happens to be present at the polling station. My colleague Mr. Lukiwski gave the example of a rural couple who comes in. They have just moved in, and the neighbour knows them. Well, he could vouch for one and not the other.

So the issue of vouching is simply impractical. It will not address issues that the students raised.

Of course, I know you felt this was irrelevant to the issue, but it certainly is very relevant.

The amendment is looking to simply say the following:

(b) provides as proof of his or her identity and residence a sworn statement in the prescribed form, which shall be made available at all polling places and may be administered by the local deputy returning officer.

So that issue of the impracticality of the vouching element is taken out.

Mr. Chair, I think it is incumbent upon us—we are here to make legislation—to recognize that a camel was a horse that was made by a committee. We have certainly seen the camel with nine humps with this bill.

I'm looking for something that's practical, that's actually applicable in the field. What we've seen—especially as I've seen recently in Ontario, with the Ontario elections—is that people were not allowed to vote who had lived in their residences all their lives. This is simple and practical and will actually work in the field.

The Chair: Thank you, Mr. Angus.

I am ruling the amendment in order. Therefore we'll open it for debate.

If there is no debate on the amendment to clause 2, we can call the question.

• (1220)

Mr. Charlie Angus: Can we have a recorded vote?

The Chair: Yes.

(Amendment negatived: nays 10, yeas 1)

(Clause 2 agreed to)

(On clause 3)

The Chair: Colleagues, clause 3 also has an amendment handed in. You should have that in front of you.

I will ask Mr. Angus to put that motion forward, please.

Mr. Charlie Angus: Thank you, Mr. Chair.

Certainly I will continue on this issue, that we are dealing with this quick-fix band-aid. We didn't even actually want to hear witnesses, and when we did hear the witnesses, we told them they didn't understand what they were talking about, although they were speaking to the issue of vouching, and that the fundamental flaw with this bill is that it's not practical in the field, that it will not work, and that it will still continue to disenfranchise people.

I'm looking to amend clause 3 by replacing lines 26 to 42 on page 2 with the following:

(b) provides as proof of his or her identity and residence a sworn declaration in a prescribed form, which is present at all polling places and may be administered by the local deputy returning officer.

The Chair: Thank you.

I rule that the amendment is in order.

Is there any debate on the amendment?

There is no debate. I'll call the question.

Mr. Angus asks for a recorded vote.

(Amendment negatived: nays 10; yeas 1)

(Clause 3 agreed to)

(On clause 4)

The Chair: Colleagues, it's the same thing with clause 4. We have an amendment to clause 4. You should have it in front of you. It is amendment NDP-3, and I will ask Mr. Angus to table the motion.

Mr. Charlie Angus: Thank you, Mr. Chair.

Continuing on, I believe it is incumbent upon us as legislators to bring forward laws that actually work and that are not simply quick fixes because everybody's rushing out to get elected in February. We

have identified numerous problems with this bill, just as we identified problems with Bill C-31. We have to refer back to Bill C-31 strictly because this is the latest band-aid for a bill that was embarrassingly botched, and it appears our committee hasn't learned from that mistake and is going to continue on.

I must state that the issue of vouching is a problem. It has been identified as a problem. It isn't practical, so I move that clause 4 be amended by replacing the lines 20 to 36 on page 3 with the following:

(b) provides as proof of his or her identity and residence a sworn declaration in a prescribed form, which is present at all polling places and may be administered by the local deputy returning officer.

The Chair: Thank you, Mr. Angus. Is there debate on the amendment to clause 4?

I'll call the question then.

Mr. Charlie Angus: May we please have a recorded vote?

The Chair: Thank you, Mr. Angus.

(Amendment negatived: nays 10; yeas 1)

(Clauses 4 and 5 agreed to)

• (1225)

The Chair: Thank you.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill carry?

Some hon. members: Agreed.

An hon. member: On division.

The Chair: Shall I report the bill to the House?

Some hon. members: Agreed.

The Chair: We don't need to reprint the bill, since it wasn't amended.

Thank you, colleagues. We will take up reporting that to the House at our earliest convenience.

I must thank.... I'm sorry; go ahead, Mr. Lukiwski.

Mr. Tom Lukiwski: Can you indulge me just for a moment, Mr. Chair, to provide some clarity to the committee?

As I mentioned earlier, our intention today is to ask for unanimous consent in the House to report this bill back to the House as of today. That would allow debate on this bill to begin on Thursday, with any luck. If the debate collapses on this one Thursday, we can vote on this bill on Thursday and send it directly to the Senate.

If we do not receive unanimous consent to report this bill back to the House today, the consequence will be that this bill will not come into effect until, at the earliest, sometime next year—probably in February.

The Chair: Thank you. I have just been told by our clerks and analysts that we can be ready to report this bill to the House today.

Thank you for that, colleagues, and thank you very much for your consideration today.

We now have the opportunity to move to our final bit of business today.

Madame Picard and Mr. Paquette, please have a seat. We will move on to our business.

Thank you very much. Colleagues, our final business for this meeting is concerning the private members' business on Bill C-482. I will open the floor for comments.

I'm not sure if a decision has been made about who will speak first, but I'll open the floor.

Madame Picard, please make your opening statement to the committee.

[Translation]

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

We have come here before you today to demonstrate that Bill C-482, an Act to amend the Official Languages Act (Charter of the French Language) and to make consequential amendments to other acts, of which I am the sponsor, does not in any way violate the Canadian Constitution and that it should therefore be deemed to be votable by this committee.

I provided a written argument to this effect this morning to the committee chair. However, before dealing with the constitutional issue, I would first like us briefly to review the provisions in this bill.

To begin with, it proposes four amendments to the Official Languages Act, aimed basically at specifying that French is the official language of Quebec and that the federal government must not obstruct the application of the Charter of the French Language in Quebec.

The bill amends the Canada Labour Code to make any federal work, undertaking or business carrying on activities in Quebec subject to the requirements of the Charter of the French Language.

Finally, it amends the Canada Business Corporations Act by requiring that the name of a corporation that carries on business in Quebec shall be in a form that meets the requirements of the Charter of the French Language.

I will now give the floor to my colleague, Pierre Paquette, the Bloc Québécois House Leader, who will speak to you about the constitutional issue.

[English]

The Chair: On a point of order, Mr. Proulx.

[Translation]

Mr. Marcel Proulx: Mr. Chairman, I would like to raise a procedural question. Since Ms. Picard is here before us this morning, I presume that her bill was refused by the subcommittee.

Would it not be usual practice for the committee to have the benefit of the subcommittee's report explaining to us, first, that Ms. Picard's bill had been rejected as being non-votable? Would we not normally expect to receive a report from the subcommittee

explaining why the bill was deemed to be non-votable? In other words, I get the feeling that I am listening to Ms. Picard without knowing exactly why.

• (1230)

[English]

The Chair: The report was tabled by Mr. Preston at a previous meeting. The report is available to all members. We will get you a copy if you don't have it. My apologies.

I suppose some consideration has to be given to the fact that the committee met in camera, so some of those reasons might not be available to you.

Mr. Proulx, are you satisfied that we'll get you what we can get? That report was tabled, absolutely.

Mr. Marcel Proulx: Absolutely.

I apologize if I was sleeping at the switch, but none of us Liberals received a copy of that report. We haven't seen that report.

The Chair: We'll make sure you get a copy of the report.

How about we read it into the record? Then I want to hear from Mr. Guimond.

[Translation]

Mr. Michel Bédard (Committee Researcher): While we are waiting for the copies of the report to be distributed, I will read it out loud to you.

The Subcommittee on Private Members' Affairs has the honour to present its

FIRST REPORT

Pursuant to Standing Order 92(1)(a), the Subcommittee has agreed that Bill C-482, an Act to amend the Official Languages Act (Charter of the French Language) and to make consequential amendments to other Acts, should be designated as non-votable, on the basis that it contravenes the criterion that bills and motions must not clearly violate the Constitution Acts 1867 to 1982, including the Canadian Charter of Rights and Freedoms.

[English]

The Chair: Merci.

I'm going to take a second here. I want to hear from Mr. Guimond.

Mr. Guimond, please.

[Translation]

Mr. Michel Guimond: I would also remind my colleague, Mr. Proulx, that our witnesses are appearing pursuant to Standing Order 92(2). The notice of meeting was explicit: the sponsor of the bill has the right to appear in order to appeal the decision.

Mr. Marcel Proulx: I understand.

Mr. Michel Guimond: Very well. Thank you.

[English]

The Chair: I agree. Absolutely.

I think we're back on track here.

Mr. Paquette, please continue.

[Translation]

Mr. Pierre Paquette (Joliette, BQ): Thank you, Mr. Chairman.

Thank you, colleagues.

As stated clearly in the letter provided by my colleague, Pauline Picard, who has appeared before the committee, Bill C-482 is in full compliance with the Canadian Constitution. Indeed, the Bloc Québécois took great pains to ensure that it did not violate the Constitution. That is why the bill's scope is limited. Pauline Picard mentioned that earlier.

The constitutional rules applying to linguistic matters are identical for private businesses under Quebec and federal jurisdiction. In Quebec, the Charter of the French Language applies to private businesses under Quebec's jurisdiction, and its provisions are fully in compliance with the Constitution.

All that our bill seeks to do is to incorporate, by reference—which is a common procedure—the provisions of the Charter of the French Language into federal legislation so that the provisions apply on Quebec territory. Legislation that is constitutional when it applies to Quebec does not become unconstitutional when it is incorporated into federal law. In fact, incorporation by reference is frequent in federal legislation.

For example, although the Supreme Court decided in 1966 that the Quebec Minimum Wage Act could not be applied to businesses under federal jurisdiction—like all provincial legislation, incidentally—the Canada Labour Code currently incorporates by reference the provisions of provincial legislation to set the minimum wage for employees under federal jurisdiction.

The pretext that has been used, in particular by the members of the Conservative Party of Canada, is completely specious. It is an unsubtle tactic to prevent the House from voting on a bill that some people in Canada might be uncomfortable with.

The fact is that in November 2006, a year ago, all parties in this House formally recognized the Quebec nation. Either that recognition was sincere and meaningful, or it was a pointless, empty gesture. If you acknowledge the existence of Quebec as a nation, you also recognize that for the French, the common public language is French and the language of work is French. In Quebec, everyone is in agreement on this: the National Assembly and all the parties, including the Liberal Party of Quebec and the Action démocratique du Québec.

The Supreme Court of Canada has recognized that Quebec was justified in adopting legislative measures to protect the French language. The Prime Minister, who is the leader of the Conservative Party, said the same thing in his speech last Friday in Rivière-du-Loup. I would invite all members, but particularly those from the Conservative Party, to listen carefully to what their leader, the Prime Minister, stated:

[My] Conservative government practises a federalism of openness that respects Quebec's historical, cultural and linguistic distinctiveness and gives it the flexibility and autonomy it needs to maintain its francophone identity [...]

The “flexibility and autonomy... [...] to maintain its francophone identity” is what the Conservative leader said and what our bill is about, quite simply.

Does the Prime Minister say things just to deceive Quebeckers, or is he sincere? Either the members of this committee have to walk the talk in keeping with their recognition of the Quebec nation and the Prime Minister's statements and therefore make C-482 a votable bill,

or Bill C-482 will not be votable and Quebeckers will have to conclude that recognition of our nation by the NDP, the Liberal Party of Canada and the Conservative Party of Canada was just an empty gesture.

If the committee members do not allow a debate and vote on our Bill C-482, Quebeckers will see clearly that the behaviour of the Conservative Party of Canada toward Quebec can be summed up in a word: hypocrisy.

Thank you, Mr. Chairman.

● (1235)

[*English*]

The Chair: Merci, Monsieur Paquette.

Colleagues, we should probably stick with our usual round of questioning, if we can do that, if that's acceptable for everybody.

We'll start with a seven-minute round then. Up first would be Madame Robillard and then Monsieur Guimond.

Madame Robillard.

[*Translation*]

Hon. Lucienne Robillard (Westmount—Ville-Marie, Lib.): Mr. Chairman, if I am not mistaken, the first report from our subcommittee which deals with private members' bills, rejects this bill because it violates the Constitution, as well as the Canadian Charter of Rights and Freedoms.

I am setting aside the political arguments from my colleague Mr. Paquette and I am listening to the legal arguments which were quoted both by Ms. Picard and by Mr. Paquette. I feel that we are engaging in a debate over legal interpretation. I am trying to follow this.

Can we find out, Mr. Chairman, whether a lawyer told the committee that this was contrary to the Constitution and to the Charter? Did the members get any advice? I do not think that I am violating the in camera conditions if I ask whether a lawyer gave an opinion on this issue.

[*English*]

The Chair: Thank you very much, Madame Robillard.

I think all members know the rules behind in camera meetings, and we just caution them. They can certainly talk about what they feel they can talk about. I'll be listening for some of that information and rule it out, but I think we can ask the questions, and members will be free to answer them as they feel.

I will remind members, though, that we are not in camera right now; we are in public.

Does that answer your question?

Mr. Marcel Proulx: Should we be?

The Chair: Well, we can ask the committee if they want to go... If there's a motion to move in camera, I'm willing to entertain any motions.

Is that a formal motion? No. Okay.

Besides, I'm sorry, Monsieur Proulx did not have the floor, so I shouldn't be listening with both ears.

Madame Robillard, you still have time for your questions.

[*Translation*]

Hon. Lucienne Robillard: Does this mean that nobody can answer my question?

[*English*]

The Chair: I'm not sure what the specifics of the questions would be, but I would caution members that the meeting was in camera. I'm going to allow Madame Picard—

[*Translation*]

Hon. Lucienne Robillard: Mr. Chairman, I am asking whether the subcommittee was advised by a lawyer regarding the constitutionality of this bill.

As it stands, I do not know how I will make my decision today. We have heard some very good legal arguments. I have excluded and rejected the political arguments. I do not know who will clarify the legal arguments for my so that I can make a decision.

Could we get an opinion from an expert on the Canadian Constitution?

[*English*]

The Chair: I think that's allowable.

I see Mr. Paquette is wanting to answer the question, Madame Picard.

I was obviously not in the meeting, so I can't answer the question for you, Madame Robillard. But I'll allow the members, with the caution that the meeting was in camera.

• (1240)

[*Translation*]

Mr. Pierre Paquette: Yes, all right. I want to inform all the committee members and Ms. Robillard of the arguments contain in the letter tabled by Ms. Picard.

We found several provisions in federal legislation that deal with language. For instance, the 1867 Constitutional Act deals with it under section 133, but that deals with the Parliament of Canada, the chambers of the Quebec legislature and the drafting of courts documents. It says nothing at all about private business, or about federal jurisdiction over private business.

Therefore, this cannot apply to Bill C-482.

Hon. Lucienne Robillard: I am sorry, I read the entire letter tabled by Ms. Picard.

Mr. Pierre Paquette: Very well, all right.

Hon. Lucienne Robillard: I am reading the arguments.

Mr. Pierre Paquette: We did not find anything.

Hon. Lucienne Robillard: To enable me to judge whether your legal arguments are well founded...

Mr. Pierre Paquette: A kind of counter...

Hon. Lucienne Robillard: I think that , as a member of Parliament, if I had sat on the subcommittee which had to decide

whether or not the bill was votable, and if I were not a constitutional expert, I would have needed some clarification...

Mr. Pierre Paquette: That is natural.

Hon. Lucienne Robillard: —to tell me that it was not constitutional.

Did the subcommittee have advice from a constitutional expert in deciding that the bill should be non-votable? That is my question.

Mr. Pierre Paquette: Perhaps the committee chair can help us with this?

Hon. Lucienne Robillard: I do not want to know the opinion of the members; I simply want to know if someone, an expert, examined the question.

[*English*]

The Chair: Mr. Lemieux or Mr. Preston, did you want to make a comment?

Mr. Joe Preston (Elgin—Middlesex—London, CPC): I'll do my best without trying to break the confidentiality of an in camera meeting. The researchers and clerks of the committee gave advice to the all-party panel of the subcommittee, and from that, one of the four reasons for non-votability was picked and a vote was taken, and that's where we end up here today.

The Chair: Madame Picard, you do have more time. No? We'll have time for another round, I'm guessing.

Monsieur Guimond, please.

[*Translation*]

Mr. Michel Guimond: Thank you, Mr. Chairman.

My colleague, Ms. Robillard, has asked a very relevant question.

If I remember correctly—it has been a few years now since I have been a member of the Subcommittee on Private Members' Business—there are four criteria used to decide on “votability”. I do not know if that is the correct term.

However, there is a problem regarding constitutionality, isn't there, Ms. Picard?

Ms. Pauline Picard: That's right.

Mr. Michel Guimond: Very well.

I have a question now for you, Mr. Paquette.

Ms. Robillard is quite correct. With all due respect for the members of the subcommittee, it seems to me that they acted arbitrarily and erred in their interpretation as to the bill's “votability”, by invoking various constitutional instruments, that is, the two charters, the 1867 and 1982 Constitution Act and the charter.

Obviously, given the arguments in Ms. Picard's letter—and I would like to hear what you have to say on that, Mr. Paquette, since you started to speak of it earlier—there is nothing in the two Constitution acts or the charter that prevents this bill from being votable.

Is that right?

Mr. Pierre Paquette: Yes.

We examined the various pieces of legislation and the federal charters. We found nothing that made it possible to... Obviously, there is a political debate—that has to be acknowledged—about whether it is desirable to have businesses under federal jurisdiction made subject to the Charter of the French language in Quebec, in order to promote the common language of our nation. We did not find anything.

As I have already mentioned, the 1867 Constitution Act refers only to the Parliament of Canada, the Quebec legislature and the courts.

Subsection 16(1) of the Canadian Charter of Rights and Freedoms states:

16.(1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada.

It does not talk about businesses under federal jurisdiction and subject to the Canada Labour Code. As I mentioned, there are precedents already. For example, where the minimum wage is concerned, the Canada Labour Code applies the minimum wage legislation in each province and there is no uniform federal minimum wage.

I would like to call the attention of the members of the committee to clause 13 of Bill C-15, An Act respecting the exploitation of the Donkin coal block and employment in or in connection with the operation of a mine that is wholly or partly at the Donkin coal block, and to make a consequential amendment to the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act. The clause deals with regulatory powers, and subsection 13(3) states:

13.(3) The regulations referred to in subsections (1) and (2) may incorporate by reference in whole or in part any Act of the province or instruments made under such an Act, as amended from time to time, with any adaptation that the Governor in Council considers necessary.

This approach was used again recently. So nothing technically would prevent us from including provisions in the Official Languages Act and the Canada Labour Code to have the Charter of the French language, Bill 101, apply to businesses under federal jurisdiction in Quebec.

We are not talking about federal institutions. You know that the language of work in federal institutions is governed by the Public Service Staff Relation Act. That is a completely different matter. When we are talking about federal departments and agencies, it is a different matter.

In our opinion, there needs to be a political debate. That may be what side tracked some members of the committee. They came to hasty conclusions rather than dealing strictly with the form of the motion regarding the bill's "votability". That debate should take place.

We will see how the debate goes. But it would be quite contradictory if the committee were to decide that Bill C-482 was not votable for reasons that do not hold water.

•(1245)

Mr. Michel Guimond: Especially since I know, Mr. Paquette, that you do not have legal training in interpreting legislation...

Mr. Pierre Paquette: But my father did.

Mr. Michel Guimond: Yes, but such knowledge is not necessarily handed down. It is not like royal blood. It is not transmitted from generation to generation.

Mr. Pierre Paquette: Oh, really?

Mr. Michel Guimond: I know that you are trained as an economist.

However, here is something that will help the members of the committee in their interpretation task: given that the legislator does not speak for no reason, if a bill or a constitutional instrument does not prevent or prohibit something from being done, the corollary is that that thing is permitted.

If there is nothing in the legislation that prevents this application and this recognition of the French fact in Quebec... There is nothing in the Constitution that says that this is prohibited, right?

Mr. Pierre Paquette: That is right.

Moreover, under subsection 16(3) of the Constitution Act, 1982, which deals with the advancement of the equality of status for English and French, the proposed bill will promote the advancement of French in Quebec. It must be recognized that French is somewhat vulnerable in North America. This is the case in Quebec, but it is probably more so in other regions of Canada.

But this bill, if it were to be passed, would give an added impetus to efforts to promote French and the advancement of the status of French and English across Canada.

I will conclude with a reminder to committee members that Statistics Canada released some troubling numbers last week. I am not saying that they were completely discouraging or disastrous. The fact is that the rate is still at 75% for immigrants to Quebec who choose to use French at home, despite the existing provisions.

So some impetus is needed. And the Larose Commission at the beginning of this decade suggested exactly what the Bloc Québécois is proposing with Ms. Picard's bill.

Mr. Michel Guimond: One cannot deny the political point.

A majority in Parliament passed a motion recognizing the Quebec nation and at the first opportunity to craft legislation that would codify that recognition, we are being told that it does not comply with the Constitution?

Would that mean that a motion passed by a majority in Parliament would be meaningless? In other words, it has been put somewhere in limbo, between heaven and hell, and there is nowhere for it to land.

What is your bill asking for? It is asking that this recognition be concretely codified, am I right?

[English]

The Chair: Perhaps we could get that answer on the next round.

If I could just ask for clarification, Mr. Paquette, you mentioned a section of the 1882 Constitution. I didn't catch what section. Was it 92(10)?

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): It was 1982.

The Chair: It was 1982. Do you recall the subsection you mentioned in the 1982 act? Was it 92(10)? My apologies.

[Translation]

Mr. Pierre Paquette: It was subsections 16(1) and 16(3).

•(1250)

[English]

The Chair: Thank you.

My apologies also to Mr. Reid. I should have gone to Mr. Reid before that.

Mr. Scott Reid: I have the sections there if you want them.

The Chair: Thank you very much. I have them now.

Mr. Reid, you're next, and then Monsieur Godin.

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

[Translation]

I would like to thank our witnesses.

I have considerable respect for the committee members. They are of good faith and they are intelligent. This bill is based on good intentions. However, unfortunately it is unconstitutional because it involves transferring authority from one order of government to another. It is unconstitutional under our Constitution. There is a very clear case that explains why.

[English]

I'm afraid I have to switch to English now. You have my apologies for that.

I'm going to read from a Supreme Court decision from 1950, which makes it clear that the kind of delegation of power that's proposed here is unconstitutional. I should mention that I have this text in front of me in English only, which is the reason for doing this in English.

This is known as the Nova Scotia interdelegation case rendered by the Supreme Court of Canada on the October 3, 1950. The Nova Scotia government had attempted to delegate certain legislative powers to the federal government, something that is contemplated in reverse in this bill.

This bill says—I'll just start with Madame Picard's bill—in a number of places that the Commissioner of Official Languages

shall carry out...duties...in a manner that does not obstruct the...Charter of the French Language.

and this shall be done in conformity with or meeting the requirements of the charter of the French language. It imposes a requirement.

Now let me read what the Supreme Court said in its decision in 1950:

The Parliament of Canada and the Legislatures of the several Provinces are sovereign within their sphere defined by The British North America Act but none of them has the unlimited capacity of an individual. They can exercise only the legislative powers respectively given to them by sections 91 and 92 of the Act, and these powers must be found in either of these sections.

I'm going to skip a little bit because there's quite a bit of additional text.

It is part of [the] protection [granted to us] that Parliament can legislate [only] on the subject matters referred to it by section 91 and that each Province can legislate exclusively on the subject matters referred to it by section 92. The country is entitled to insist that legislation adopted under section 91 should be passed exclusively by the Parliament of Canada in the same way as the people of each Province are entitled to insist that legislation concerning the matters enumerated in section 92 should come exclusively from their respective Legislatures. In each case, the members elected to Parliament or to the Legislatures are the only ones entrusted with the power and the duty to legislate concerning the subjects exclusively distributed by the constitution Act to each of them.

No power of delegation is expressed either in section 91 or in section 92 nor, indeed, is there to be found the power of accepting delegation from one body to the other; and I [—this being the Chief Justice—] have no doubt that if it had been the intention to give such powers it would have been expressed in clear and unequivocal language. Under the scheme of the British North America Act there were to be, in the words of Lord Atkin and the Labour Convention Reference...“watertight compartments which are an essential part of the original structure”.

That ends the quote.

So what was said here is that one government cannot give legislative power, the ability to set law, to another. This is what has been done in this act. I note that Monsieur Paquette had made a reference to Bill C-15, which refers to provincial regulations and gives a regulatory capacity to accept provincial regulations in the Canada Labour Code.

I have to draw his attention to the fact that this is permissive language. It permits the minister to look to the provincial legislation and take that as advice. It doesn't bind him, and thus it's essentially a note of encouragement, which is very different from that practice, which was forbidden in the case from 1950, and which I cited.

I'm afraid the language used in Madame Picard's bill is not permissive. It imposes an obligation. For that reason, I believe this bill would in fact be an unconstitutional delegation of federal power to a provincial legislature.

•(1255)

The Chair: There's still a little time on your watch, or Mr. Paquette can use the time to respond. It's up to you, Mr. Reid.

Mr. Paquette.

[Translation]

Mr. Pierre Paquette: First, I would like to point out that the ruling my colleague referred to involves taxation.

We are referring to language of work and labour relations, and I should point out that there are precedents. This does not involve the delegation of powers. We are asking the federal government to amend its federal legislation in order to incorporate parts of other legislation. In this case, it would involve the language of work in Quebec. It has been done in the past. No powers have been delegated to Quebec.

This involves the federal government who, on its own initiative, would make a decision that would amount to recognizing the fact that Quebec constitutes a nation within the Canadian political landscape. Given that the French language remains vulnerable within North America, it would decide to include in its own legislation, whether that be the Official Languages Act or the Canada Labour Code, provisions that would ensure that the Charte de la langue française applies to businesses under federal jurisdiction, for language of work.

I would like to recall that in 1966, the Supreme Court ruled that matters such as hours of work, salary levels, working conditions, and other matters, are essential parts the administration of any commercial and industrial business, and that, when the businesses in question are federal businesses under federal jurisdiction, these matters fall under the exclusive jurisdiction of the federal government.

This principle was confirmed and extended later on. This did not prevent the federal government from deciding, on its own initiative, to use the referral I mentioned earlier and to amend its own Canada Labour Code. Section 178(1), and I will wrap up with this, Mr. Chairman, reads as follows:

178. (1) Except as otherwise provided by or under this Division, an employer shall pay to each employee a wage at a rate:

(a) not less than the minimum hourly rate fixed, from time to time, by or under an Act of the legislature of the province where the employee is usually employed [...]

It is the federal parliament and not the Government of Quebec or the provinces that decided that this provision could be included in federal legislation. It probably did this because it was easier administratively. The same applies to Bill C-15. We are referring to regulation, not even to legislation. This is taking place within a legislative framework, of course, but it is the regulations that, as I mentioned, provide for provincial legislation being allowed to be presented and adapted within a bill. There are many precedents for this.

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

Mr. Godin, you have the floor.

Mr. Yvon Godin (Acadie—Bathurst, NDP): Thank you, Mr. Chair. I would like to thank our witnesses.

Mr. Chairman, to begin, I would like to make a comment. We all know that the committee must decide whether or not this bill is votable. We were in camera, but this is a separate thing. If we are to make a decision...

[*English*]

The Chair: As a point of clarification by the chair, we're not in camera at this point.

Mr. Yvon Godin: That's not what I said.

The Chair: Okay, my apologies.

Please continue.

[*Translation*]

Mr. Yvon Godin: It was in camera. That does not prevent our committee from making decisions. I believe that before coming to a final decision, we should invite experts to whom we can address questions, so that we are certain of making the right decision. We want our appeal system to work well, and it is not because something was said in camera that we should be prevented from getting to the heart of the matter.

That being said, I would like to ask Mr. Paquette if he does not see the difference between the issue of minimum wage and the issue of having two official languages in this country.

Let's talk about minimum wage. There has been no change in Quebec to eliminate minimum wage. Nor has there been any change

providing that only Quebec has the obligation to comply with the requirements of minimum wage in that province. I believe the federal government has reviewed the matter. The government issued an order saying that it would respect the minimum wage in each province. We are talking about the bare minimum. If it wants to pay \$20 an hour, it can do so, but we are talking about a minimum. The federal government will respect the minimum wage of the province. You cannot have both. That means that in Quebec, minimum wage prevails. At the federal level, it will be the minimum wage of Quebec, in New Brunswick, it will be the minimum wage of New Brunswick. I believe this was decided in 1996. The federal government never said that it would eliminate the minimum wage in Quebec or New Brunswick, or that it would allow the provinces to do so.

In this case, I am not yet ready to speak to the constitutionality of the bill, but the following argument could be made. We could argue that in Quebec alone, anglophones would not be protected by the Canadian Charter of Rights and Freedoms. In Quebec, an employer could say that the language of work is exclusively French. Not only would citizens be deprived of this protection, but so would employers and everyone else.

Like me, do you believe that there is a difference between these two? Thank you.

• (1300)

Mr. Pierre Paquette: In my opinion, the only difference is that language is much more significant.

You are getting to the very heart of the problem, which I am also prepared to address. Essentially, with respect to language of work, we want to give the 8% of workers who fall under federal jurisdiction the same right as other wage earners, that is to say, the 92% of workers who have the right to work in French. It is not an obligation incumbent upon individuals.

However, companies would have the obligation of allowing people to work in French, which takes nothing away from the anglophone minority, which as you know, is a group that already enjoys a certain number of rights and privileges under the French language charter.

Absolutely nothing is being taken away.

Mr. Yvon Godin: Are you telling me then, that under your bill, if I were an anglophone in Quebec, and I decided to speak English rather than French, an employer could force me to speak French under the French language charter?

Mr. Pierre Paquette: No, not at all. This legislation would give you, Mr. Godin, the right to ask your employer to speak French.

In fact, the French language charter includes a provision that does not allow linguistic reasons to be used as grounds for dismissal. You cannot be fired because you cannot speak French. This is already set out in the charter. The rights of the anglophone minority are protected by the charter, and will be protected by the proposed amendments.

Mr. Yvon Godin: Mr. Chairman, if the bill said that the French language is the official language of Quebec...

Mr. Pierre Paquette: That is already the case.

Mr. Yvon Godin: It would be the official language of Quebec.

Mr. Pierre Paquette: It is for the National Assembly.

Voices: Oh, oh!

Mr. Yvon Godin: Pardon me, Mr. Chairman, I do not need members of this committee to give me a boost. This is wrong. I am asking the witness questions, and everybody wants to get involved. I would like to be able to ask my questions myself. I think I am old enough to do so.

So this is already the case.

Under Quebec legislation, for a person living in Quebec, and we are not talking about private companies that fall under federal jurisdiction—does Bill 101 not...

Mr. Pierre Paquette: Yes.

Mr. Yvon Godin: If I were an anglophone living in Quebec, you are telling me that I could request to speak in French only.

Mr. Pierre Paquette: Yes.

Mr. Yvon Godin: But what would happen if I wanted to speak only in English?

Mr. Pierre Paquette: You could.

Mr. Yvon Godin: I could speak only in English?

Mr. Pierre Paquette: Yes.

Mr. Yvon Godin: My language of work would therefore be English.

Mr. Pierre Paquette: What we are talking about are language rights in connection with collective and individual rights. The employer has the obligation to allow you to work in French. This obligation is spelled out in Bill 101.

Mr. Yvon Godin: Does the employer have the obligation to allow me to work in English?

Mr. Pierre Paquette: The employer cannot force you to speak French and cannot fire you because you do not speak French. This is already provided for.

Mr. Chairman, once again, we are getting down to the crux of the debate. This is precisely the debate that I wanted to have to enlighten all members of the House and convey information on Quebec's linguistic reality, and talk about legislation that protects and promotes the French language. I want everyone to be clear on why we need these laws. I want everyone to understand why 92% of workers are already protected by such provisions and that the exception—the remaining 8%—are protected by other provisions.

Mr. Yvon Godin: The idea of holding a debate in the House causes few problems for me. Whether or not to vote on it is an entirely different issue.

•(1305)

Mr. Pierre Paquette: We are in total agreement.

Mr. Yvon Godin: That is another issue. It has nothing to do with the nation of Quebec; perhaps it concerns me, Yvon Godin, a mere Acadian who comes from some little corner outside Quebec. Perhaps this may be prejudicial to all francophones in this country, like those living in Alberta, or British Columbia.

Our cousins in Quebec must support us in this respect. I want all Canadians to agree on this, when it comes to linguistic matters, especially at work, concerning provincial and federal jurisdiction. We have always heard the Bloc Québécois defend itself by saying that this is a matter under Quebec jurisdiction; but this time it concerns federal jurisdiction.

Mr. Pierre Paquette: That is exactly why the federal government must legislate on these provisions.

[*English*]

The Chair: Thank you.

Colleagues, we have about 20 to 25 minutes left in the meeting. We don't have any more questioners on my list. Are there any other questions of our colleagues to witnesses?

Do you have one more, Mr. Godin?

Mr. Yvon Godin: It's not a question, Chair.

[*Translation*]

I believe we need to have more information from those who are knowledgeable about the Constitution.

With respect to the debate, I do not want to hide behind the Constitution, not at all. I am not against having a debate in the House of Commons so we can make our arguments and put the question to a vote. We will live with the consequences. I have no intention of hiding behind the Constitution, it is not about that.

In the interest of enlightening the committee, I suggest that we invite witnesses to delve further into this question.

[*English*]

The Chair: Let me hear some other comments.

It's my thinking right now that if we vote this through, that's when you're going to get your debate in the House. The question is whether we're voting on the report or not, but that's where I think we are.

Monsieur Guimond, I saw your hand next, and then Madame Robillard.

[*Translation*]

Mr. Michel Guimond: Mr. Chairman, your last comment is very relevant.

Firstly, with all due respect to Mr. Godin, I need to make the following remark. He says that he wants more information and that he is ready to have a debate. The best way of having a debate is to make the bill votable so that the House of Commons will set aside two hours of debate on this subject, followed by a vote. That is the best way. The best way to avoid debate is to kill the bill right away.

In terms of calling experts before us, I would like to point out to members that we are governed by the Standing Orders of the House of Commons. The Standing Orders make up our bedtime reading, they help us manage our work. Everything we do in committee and in the House emanates from the Standing Orders. I am sorry, but Standing Order 92(2) reads "Within five sitting days of the deposit of the report [...], the sponsor of an item that is the object of the report shall have the opportunity to appear [...] and appeal the ruling. The last part is my own addition.

If the committee made its decision, within the five days, then Ms. Picard, the witness, has appeared before us.

Mr. Godin is suggesting that we hear from a battery of experts to tell us whether or not this bill is votable. I am sorry, with all due respect to Mr. Godin, a member I greatly appreciate, but he is misinterpreting the Standing Orders. This is not provided for in the Standing Orders. We are here to produce results and make a decision.

Is Ms. Picard's bill votable or not? That is the only decision we have to make today.

[*English*]

The Chair: Thank you. That's the perfect summary.

We're going to go to Madame Robillard, and then Monsieur Godin and Mr. Lukiwski.

Madame Robillard, s'il vous plaît.

[*Translation*]

Hon. Lucienne Robillard: Mr. Chairman, with all due respect to my colleague Mr. Guimond, I think that today we must decide whether or not we are going to reject the subcommittee's decision, because of the appeal by our two colleagues. The subcommittee has pointed out that it is unconstitutional—I forget the specific wording of the report.

Mr. Chairman, before deciding whether or not it is votable, would it be possible to get an opinion from the law clerk of the House? Would this challenge, under the Standing Orders, all of the deadlines faced by our colleagues in the Bloc Québécois? If we were to ask for the opinion of the law clerk of the House, would we be able to get it by Thursday and decide on Thursday morning? Is that feasible?

Mr. Michel Guimond: No, because we would not respect the deadline.

[*English*]

The Chair: To answer the question, to make sure, there are two ways to go, and the first one is always that the committee is the master of its own domain, if that's what you want to do.

My thinking as chair, however, is that if we vote this through to the House, that's when you would have your opinions. The vote now is on the votability of the report. So as Monsieur Guimond succinctly pointed out, we're voting that for this private member's bill, we're either accepting the report of the subcommittee that this is in violation of the Constitution and therefore is deemed not votable, or we don't vote in the report of the subcommittee, which makes the private member's bill deemed votable. That's where we're at—end of story.

If it goes back to the House because we voted it through, that's when your debates will begin; that's when the committees will study it; that's when the witnesses will happen. That's my understanding.

If it does not go through, Madame Picard has one more process of appeal, and I think Madame Picard knows full well the process of getting five members with the majority of the official opposition.

So that's where I see we're going.

I'm going to continue with my list, with Monsieur Godin, Mr. Lukiwski, and Monsieur Proulx.

• (1310)

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, with all due respect to my colleague Michel Guimond, I think he is seeing things that are not in the Standing Orders.

I find it difficult to imagine that our committee would be subject to the five-day rule. The Standing Orders state that the person sponsoring a bill has five days in which to appear before the committee. That does not prevent us from studying the bill now, to decide whether or not it is constitutional.

We are not seeing the whole picture. If that is the conclusion we draw, that means that the committee could make decisions without been aware of the facts. I do not want to get into that discussion, with all the respect I have for Mr. Guimond. I know that he is pleading his case. When that suits him, he pleads in his own way. I respect that. He is a lawyer who knows everything. I respect that.

However, Mr. Chairman, it seems to me—

[*English*]

The Chair: There's a point of order.

[*Translation*]

Mr. Michel Guimond: A point of order.

We do not need to go down to the level of personal insults! I never said that because I am a lawyer, I know everything and I cannot be wrong! I ask Mr. Godin to withdraw his comments!

Mr. Yvon Godin: Mr. Chairman, I apologize. Mr. Guimond does not know everything about everything. I withdraw my comments.

Mr. Chairman, if we read the Standing Orders, they allow the person who tabled the bill to come and address the committee. I would like a decision on this point. Does that prevent us from studying the decision?

I feel this is a false debate. The committee meets, and it would not even have the opportunity to know whether or not it is acceptable! Mr. Chairman, you yourself said that the committee was master of its own destiny. I believe the committee has this power.

The Standing Orders do not provide for the decision being made within five days. The Standing Orders indicate that the challenge to the decision must be presented. That is what the Standing Orders say; this does not prevent us from doing the work that must be done.

I can guarantee you, Mr. Chairman, that I have no intention of presenting a string of experts in order to delay the process. However, Mr. Paquette has quite legitimately given the names of experts and has referred to legal decisions that were handed down in Quebec. With all of this new information, it is normal that the committee should be able to question these people, or other people.

I reject Mr. Guimond's argument, with all due respect, and I say that the committee has this power. We are not here merely to say yes or no, and to do so without information. We have the power to go out and get the information ourselves, because the subcommittee sat in camera. We cannot know what it based its decision on. We have the right to do what must be done in order to make an enlightened decision, otherwise our decision will be made blindly.

It is not enough to accept that the debate should happen in the House of Commons. We have the right to have it within the committee when we make a decision. If we listen to Mr. Guimond, we will prevent the committee from having a debate and making an enlightened decision. I think that that goes against the Standing Orders.

Thank you, Mr. Chairman.

[*English*]

The Chair: Let me just offer a bit of guidance.

The fact remains that Madame Picard has the opportunity to present herself before this committee within five days. I don't read in the Standing Orders that the committee has to make a decision within five days. However, having said that, the committee can do whatever it pleases: we are the masters of our own destiny.

It seems to me this is a report from the subcommittee, whom we trusted to review this issue and to come back with a recommendation. Our role is actually a yes or a no; we accept the report of the subcommittee or we don't. If we pass this through to the House, then obviously the House will proceed with it in the normal fashion of any legislation, which would be to bring it forward to committee, to hear witnesses, to debate it and study it. The process is there.

I see what Mr. Godin is saying, that we need to discuss this decision. It's a matter of us either turning down the report from the subcommittee or not.

Be very quick, please. I have other speakers.

• (1315)

Mr. Yvon Godin: What I want to argue, and it's with no disrespect to you, is that if you do that and we go against the report now, it means that we have agreed it's not automatically constitutional, because we're accepting the argument of the in camera subcommittee. If we don't accept the report of the subcommittee, then it means we're not accepting it as constitutional. I say that if we are to make a decision, we have the right to study it before deciding whether it's constitutional or not.

The Chair: Let's have further debate on that point, because it's a good point.

Mr. Lukiwski, Mr. Proulx, and Monsieur Guimond.

Mr. Tom Lukiwski: Thank you, Chair.

I'm going to support the position that both you and Monsieur Guimond have been taking, in the sense that our only role as a committee is to vote upon whether we accept the report or not. While I appreciate Mr. Godin's position, that he wants more information—frankly, I wouldn't mind getting more information myself—the fact is that we have established a subcommittee to deal with the votability issues of all private members' bills.

I'm not saying we automatically rubber stamp the decision by the subcommittee. However, we did give them the responsibility to fully examine all the issues concerning votability. The subcommittee came back with their report. It was an in camera session, so we're not privy to the conversations that took place. But I'm confident that the members took their jobs very seriously and came to a decision that this bill, because of constitutional concerns, was not votable.

If we start bringing forward witnesses, as Monsieur Godin is suggesting, in other words going through the same process the subcommittee went through when they made their determination, what good is a subcommittee? Why don't we have the process come to the full committee to do a full examination every time?

I appreciate Monsieur Godin's position, and I have some sympathy for it. I'm unaware of the constitutional argument. Whether it's constitutional, as Mr. Paquette would suggest, or, as the subcommittee suggests, it's not constitutional, we have a process in place. We had a subcommittee. They were charged with the responsibility of examining all those issues, and they made a report. I, for one, feel we have to respect that. Therefore, I would suggest that we only deal with whether to accept the report or not.

Monsieur Godin is quite right. If we accept the report, this bill dies; it goes no further. Perhaps that's a bit unfair, but that's the process we have to live with.

The Chair: Thank you, Mr. Lukiwski.

Indeed this committee has been here before, with other private members' bills that were deemed non-votable for one of the five reasons. Although the background for picking which of the five reasons was not provided to the committee, we've been here before. We've made these decisions based on the report. That's where I'm leaning right now, but I do want to hear more.

Mr. Proulx, Monsieur Guimond, and then Mr. Godin, please.

[*Translation*]

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

Without wanting to insult the interpreters, I am going to express myself in English Mr. Chairman, so that we can follow each other word for word.

[*English*]

My understanding, Mr. Chair, of the rules and regulations is that there are criteria that must be respected for an item to be made votable. The subcommittee decides on these criteria; therefore, the subcommittee being a subcommittee of this committee, my understanding is that we are also to make our decision according to these five criteria.

As a member, Madame Picard has the option of coming in front of this committee to make her points, to explain to us why she feels her private member's bill should be made votable. On the other hand, we have a situation where members of the subcommittee, because of the in camera situation at the subcommittee, cannot tell us, aside from their report saying we have found this or we have found that... But we do not benefit from whatever advice, whatever legal advice or whatever, they've had in regard to the respect or non-respect of these criteria.

Therefore, I have difficulty accepting, as Mr. Lukiwski is saying, that we either accept or reject, in the sense that the way Mr. Lukiwski is putting it is it's believe or not believe.

I think we have the opportunity as a committee to hear opinions. Mr. Godin was asking for the opinion of the legal clerk of the House, and I think this would be elementary in the sense that this is the minimum or maybe the maximum that we can ask. But if we are to reject or accept a report from a subcommittee without knowing, without having advice from an expert on the particular point of the criteria that the subcommittee tells us was not respected, we might as well flip a coin.

I think Mr. Godin is on the right track in asking the legal clerk of the House of Commons to tell us his opinion as far as it being acceptable or not, versus the Constitution. Then if we decide to make it votable, fine, it'll go to the House. If it's accepted in the House, it'll go through the committee proceedings, and we'll know more about it.

But the basis of all of this is for us to decide along these same five criteria if it should be votable or not. I don't feel that with the report we got from the subcommittee, and the lack of comments or the lack of advice, we can make the proper decision. Thank you.

• (1320)

The Chair: On a point of clarification, Mr. Lukiwski.

Mr. Tom Lukiwski: As I said, I have sympathy for Monsieur Godin's position and Monsieur Proulx's position. From a procedural standpoint, I'm wondering, if we were to follow what Monsieur Godin is suggesting, Monsieur Proulx is suggesting, and we want to hear from a witness or the law clerk, would we then, procedurally, have to make a motion?

Right now all we can do is vote up or down the report. To do what I think both Monsieur Proulx and Monsieur Godin are suggesting, would that, from a procedural standpoint, mean that we have to entertain a motion and vote on a motion to bring in witnesses?

The Chair: The answer is a quick yes. The committee has to have a motion to move forward with any action. I'm hearing a few things. I'd rather not make a ruling. I'd rather hear a motion.

Hang on. We are going to go by our list here.

Monsieur Guimond, a comment please, and then Mr. Godin.

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: I'm going to try and explain this calmly and quietly.

First of all, I would like to inform the members of the committee that these provisions are new and date back to the spring of 2003. I was a member at that time of the Subcommittee on Private Members' Business and on the Standing Committee on Procedure and House Affairs, where we passed these new provisions.

Next, the situation we are currently experiencing has occurred twice since the spring of 2003. In both cases, the Standing Committee on Procedure and House Affairs made a decision immediately.

There is another aspect that the members of the committee should consider. Did we ask ourselves why the Standing Orders indicate "Within five sitting days [...]?" Why five sitting days and not 30? Why there is no reference to time? Did we ask ourselves why those five sitting days are provided for? Did you ask yourself that?

The reason why it sets out five sitting days is in order to avoid the member losing their right to have their business in the order of precedence.

If there was not that deadline, or if the Standing Committee on Procedure accepted what Mr. Godin said, we could get bogged down in the study in order to make the member lose her right. I assure you that if we accept that, we will table a list of 30 constitutional experts, others will also have a list of 30, and this member of Parliament will lose her right, Mr. Chairman.

That is why it states "within five sitting days", and that is why in the other two cases, the committee made a decision on the spot. If we delay the exercise of her privilege, other business will come up on the order of precedence and hers will be bumped down the list. Why should this member's business be at the bottom of the list? Five sitting days serve to define the timeline.

That is why, Mr. Chairman, I ask you and I ask my colleagues, whose good faith I do not doubt, not to begin hearing from either the law clerk of the House nor from experts, because we will be depriving the member from Drummond of her right to be heard.

Let us make a decision, let us act as was done in the two previous cases since the spring of 2003.

• (1325)

[*English*]

The Chair: We'll go to Monsieur Godin.

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, I was elected as an MP not to become a robot, but to make my own decisions and to vote in a well-informed way.

We are hearing about a new standing order. Mr. Guimond says that he was there from the beginning. Mr. Chairman, I was there at the beginning of this entire process, and my memory is just as good as Mr. Guimond's.

Regarding the five days, I agree with Mr. Guimond that the objective is to hear the witness immediately. However, this does not take away the committee's right to make a reasonable study. Mr. Guimond spoke right away about hearing 30 experts. I do not want that. There are some important elements in the arguments advanced by Ms. Picard and Mr. Paquette.

Mr. Chairman, I do not want to create a precedent whereby something that was done by the subcommittee in camera must be automatically accepted. If our committee did this, it would mean that there should be a standing order whereby decisions made by committees in camera must automatically be accepted. Under those conditions, we would not even have to discuss what we are discussing now.

Our committee is dealing with these issues because we are able, publicly and in accordance with the Standing Orders, which I respect and which we are enforcing, to ensure that Ms. Picard's issue does not have to wait for 30 days and that Ms. Picard can make her statements to the committee and that witnesses can appear on Thursday so that we can make a well-informed decision.

I am afraid of proceeding in the way that is being suggested. If we decide that it is enough for us to simply say yes or no, I think that we would fail to carry out our responsibilities as MPs and legislators. We must be able to make our own decisions rather than adopting those made by others. This is the reason why there are two entities. When the subcommittee deals with issues in camera, it must inform the committee of its decision. The committee, as in the case at hand, is entitled to study such a decision and to make a reasonable effort to protect Ms. Picard's rights.

Mr. Lukiwski says that if a committee has been formed, it must be respected. As far as I am concerned, I think that we are violating Ms. Picard's rights. Her arguments make sense, and we want to go further and find out whether they are supported by legislators and experts in general. In those conditions, I, as an MP, would make a well-informed decision.

Mr. Michel Guimond is saying that he wants to take this privilege away from me, because he is trying to invoke a Standing Order about a five-day limit, for Ms. Picard's appearance before the committee, so that we have no other choice than to make a decision.

The decision is not the issue. She can choose to appear within five days to appeal the decision before the committee. In the Standing Orders, nothing says that the committee must make a decision within five days; it says that the person can appeal the decision within five days.

I simply want our representatives, the clerk or the House, to tell us whether the Standing Orders prevent us from studying this case. I want to understand this Standing Order. Does the period of five days mean, in the Standing Orders, that the decision must be made within five days or that Ms. Picard can make her statements within five days?

Mr. Guimond's argument implies that a committee could make anti-constitutional decisions in camera, without leaving us any chance to... According to Mr. Lukiwski, we should support the committee that sat in camera, but as far as I am concerned, as an MP, I do not want to put myself in that kind of position, Mr. Chairman.

•(1330)

[English]

The Chair: Colleagues, just out of respect for everybody's time, we did vote to extend the meeting to 1:30 p.m. I'm at the will of the committee. However, this has been a full discussion, and I think we have a couple of options before us. It doesn't sound to me like we're ready for the vote. I'm not convinced that the Standing Orders say we have to make a decision within five days. I am convinced that Madame Picard has the right to appear before the committee within five days; the committee makes a decision, and that decision is reported to the House forthwith.

I'm just looking for the indulgence of the committee as to where we should go from here. We have the option of continuing this

discussion on Thursday. We can defer it, and I'll make a decision by asking the experts where we should go.

Are you going to put the question?

Mr. Michel Guimond: Call the question. We want to vote.

The Chair: Order, please.

Go ahead, Mr. Reid.

[Translation]

Mr. Scott Reid: Mr. Guimond does not have the power to call a division, because there is someone, me...

[English]

The Chair: There are more people who want to debate this issue. I can't do that.

Are there any other comments?

What I'm going to recommend for the committee, with your indulgence, is that we have two options. I'm looking for direction. I can take this upon myself and defer my decision until some point, or we can choose to put this as the first thing on the agenda on Thursday. Those are the two options that I think are reasonable. I'm not looking for a big, long debate here. I'm looking for some direction from members.

We'll have Mr. Reid and then Mr. Proulx.

Mr. Scott Reid: Mr. Chair, I think it would be appropriate to put it back on the order paper for Thursday.

However, there is another matter that I think also ought to be on the order paper on Thursday. I would suggest that it not be dealt with prior to this. It is, of course, Bill C-6, which deals with the veiled voting issue. It's a piece of legislation. We have had privileging pieces of legislation to deal with. If we were to put it on the order paper on Thursday, then we could complete it, vote on it, and send it back to the House where it could be dealt with.

We could also arrange to have witnesses in if necessary. We just did that today. Certainly, the option exists to do that.

I was wondering if you could see if there is support for that from this group.

The Chair: Thank you.

I am starting to hear some divisions within.

I'm going to hear from Mr. Proulx, very quickly, please. I haven't heard from Mr. Proulx very often.

Mr. Guimond, I'll give you an option, too, but let's keep it short.

Mr. Marcel Proulx: I apologize for my shyness, Mr. Chair.

Mr. Chair, I hate to say this, but I think Mr. Guimond has made an excellent point. I'm jokingly saying that I hate to say this, but I think he's made an excellent point as to why the five-day limit was put in the rules. It is so we can make a decision, and a member does not lose his or her turn on the list. Therefore, I think we have to make a decision now.

With regard to Mr. Reid, I don't think we can go to that piece of legislation, because if you recall, we still have a motion on the table by Ms. Redman with regard to the ins and outs.

My suggestion, Mr. Chair, is that we take a vote now—we've had about an hour's discussion, and I wish we would solve this problem now—to assist or shut down the rights of the member.

Thank you.

The Chair: We'll have Mr. Guimond and then Mr. Godin.

[*Translation*]

Mr. Michel Guimond: In short, Mr. Chairman, we have discussed it sufficiently and we are ready to make a well-informed decision.

I would just like to conclude by adding a brief argument that I forgot to raise earlier. If we accept to hear witnesses, we no longer need a Subcommittee on Private Members' Business. It has done a marvellous job and we, of the Standing Committee on Procedure and House Affairs, are here to accept or reject its recommendations.

If we heard witnesses, and especially the law clerk of the House, we would no longer need the subcommittee. All the important issues regarding bills would be debated here, at the steering committee. This argues against the very existence of the Subcommittee on Private Members' Business.

Mr. Chairman, I request that we call a division right away.

•(1335)

[*English*]

The Chair: Merci.

Go very quickly, Mr. Godin.

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, I move a motion, whereby witnesses shall appear here on Thursday morning; the list be distributed before 6 p.m.; and that at the end of Thursday's meeting, within the two hours allotted to the meeting, we call a division and get this done once and for all.

This would respond to Mr. Guimond's concern about the five days. We would call in the witnesses and, within less than two hours, we would call a division.

This is what I move.

[*English*]

The Chair: Thank you very much.

I have concerns about putting a motion on the floor when we are still debating another motion, which is that the report by the subcommittee be concurred in.

Colleagues, I think the answer here is that I will defer my decision and consult with people and let the team know. Within 24 hours, hopefully, I'll have made that decision. We still have the five days. Madame Picard has met the rules within the five-day structure. As well, with respect to Monsieur Guimond's concern and to Mr. Lukiwski, five days is actually Thursday. So if I can make a decision by tomorrow, I invite members of the committee to write or submit to me.

Monsieur Guimond.

[*Translation*]

Mr. Michel Guimond: I have a point of order, Mr. Chairman.

The Standing Orders say that:

[*English*]

“within five sitting days”. We are inside the “within five sitting days”.

[*Translation*]

Mr. Chairman, with all due respect, do not try to get around this by putting it off until tomorrow in order to have consultations.

Let us make our decision right now. We are within the time limit. It does not say when the five days are over, or at the expiration of five days, but within five days.

How do we know that this afternoon there will not be a new order of precedence, so that Ms. Picard's case is relegated to the bottom of the list?

We must protect her rights right now. We have to make a decision right now. Let us do that right now.

An hon. member: We are not ready, Mr. Chairman.

Mr. Michel Guimond: You are never ready anyway.

[*English*]

The Chair: Thank you.

Very briefly, Mr. Godin.

[*Translation*]

Mr. Yvon Godin: Mr. Chairman, let me repeat, regarding the five days, that it gives us the opportunity to study the issue in five days.

I agree with you: it is good for you to consult with experts to find out whether the five days are only meant to allow for a challenge from the witness, or whether they are a part of...

Because I think that we will be committing a monumental error if we vote in the way that Mr. Guimond suggested. This is my opinion. I do not want to pretend that I am right, but I think that we would be making a tremendous mistake.

We need an opportunity to reflect and to have parliamentary experts and legislators advise us on whether we are right or not.

[*English*]

The Chair: I think I'm going to close the discussion out of respect for members. I appreciate and have heard all members. I will make a decision within 24 hours—

Mr. Louis Plamondon (Bas-Richelieu—Nicolet—Bécancour, BQ): Mr. Chairman, it's not your decision.

The Chair: —on whether or not—

Mr. Louis Plamondon: It's the decision of the committee; it's not your decision.

The Chair: Order, please.

Mr. Louis Plamondon: We have to vote. You have two motions. We will vote on the motion of Mr. Godin. After, we will vote on the motion asking to vote today. That's all. You do not have to reflect. We will make the reflection together. It's not your role.

The Chair: There's still debate on the original motion, and I can't cut off debate on the motion. We're past the time—

An hon. member: It's up to you to debate.

The Chair: Well, then, let's get unanimous consent or a majority to continue the debate.

[*Translation*]

Mr. Michel Guimond: No, there is still a debate going on, Mr. Chairman. We must carry on the debate, you cannot decide to adjourn.

Let those who want to obstruct the proceedings take the blame. As far as we are concerned, we are ready to vote right away, but we will carry on with the debate.

The time indicated by a notice of meeting is merely an indication. We are having a debate, there is a motion before us, you cannot adjourn.

You can ask Mr. Szabo what I said to him, the other day, at the Standing Committee on Access to Information, Privacy and Ethics, when he wanted to stop the deliberations. He understood the very same argument.

You must respect the Standing Orders, Mr. Chairman. Let us continue. If anyone else wants to speak, let them go ahead, we have nothing further to say.

Let us call a division.

[*English*]

The Chair: Ladies and gentlemen, I respect everybody's opinion, and there are times when we do have other responsibilities to attend to, and I can hear the other side of that argument as we speak.

This meeting is adjourned.

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