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# **Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Thursday, October 18, 2012**

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**Chair**

**Mr. Joe Preston**



## Standing Committee on Procedure and House Affairs

Thursday, October 18, 2012

• (1100)

[English]

**The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)):** We are here on the order of reference of Tuesday, October 2, Bill C-21, An Act to amend the Canada Elections Act.

We have Minister Uppal with us today. Thank you for coming today, Minister. I understand you have an hour for us today.

Our meeting is only scheduled until noon. The chair has to leave very quickly after that, so if something were to come up, the vice-chair could always fill in.

Mr. Lukiwski, you want to mention something.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Yes, and hopefully Marc can hear this as well. Rather than go in camera for other business, on Tuesday Monsieur Mayrand is going to be here. Whenever he comes it seems a heck of a lot of media show up as well, so I'm thinking that since this is a fairly small room, perhaps it would be wise to try to get a larger room in the same building, if possible, maybe one of the televised rooms, for Mr. Mayrand's two-hour appearance, if everyone agrees.

**The Chair:** I'm seeing everyone nodding.

I agree because it can be a bit of a circus in a small room if we try to put more than two media in here.

Yes, Mr. Reid.

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** Mr. Chair, this is more a message for our clerk than for you, but if it's at all possible, it would be desirable to have that room in this building as opposed to the televised room down the road, which plays havoc with—

**The Chair:** —people having to get out of here in time to go to different events right after one o'clock.

**Mr. Scott Reid:** That's right.

**The Chair:** I do understand. We will do our best. I've been told I'll have to flex my muscles, but we'll work it out. Favours are owed. We will see if we can get a room in this building and we'll see who we're bumping.

Minister, it's great to have you here this morning. I know you have an opening statement. If you'd like to go ahead, we're happy to have you for the hour you've given us this morning.

**Hon. Tim Uppal (Minister of State (Democratic Reform)):** I'm happy to be here and I thank you, Mr. Chairman and colleagues, for

inviting me to speak today to Bill C-21, the Political Loans Accountability Act.

I am joined by Matthew Lynch, an official from the Privy Council who will help with technical questions if needed.

As you know, this bill proposes to amend the Canada Elections Act to establish stronger rules and better transparency requirements for political loans. The establishment of high and consistent standards of transparency and accountability in our electoral system is an underlying objective of our government's larger democratic reform agenda.

This bill, as with our other efforts, seeks to increase the confidence Canadians have in the integrity of our political process. For Canadians to have that confidence, our government believes that voters must be the primary actors in the electoral process. That is why the Federal Accountability Act completely banned political contributions by corporations, unions, and associations.

Furthermore, we believe that voters must be able to participate in the electoral process on an equal playing field. Neither voters nor candidates should have privileged access to the political system solely because of their financial resources or wealthy contacts. That is why the Federal Accountability Act reduced the yearly contribution limits for individuals. That limit now stands at \$1,200 per year for each category.

These principles of transparency and accountability, the primary role of citizens, and equality are the motivations behind this bill.

Bill C-21 is necessary because the regulation of political loans has not been updated to reflect the other recent changes to the rules for political contributions. Currently there are no limits on loans that corporations, unions, or wealthy individuals can grant to political entities. Right now the deck is already stacked against potential candidates who might not have connections to wealthy donors or significant wealth themselves or within their circle of family and friends. That unfairness is made worse by other loopholes that exist.

In the worst cases, loans can potentially be abused as a form of disguised contributions over and above the limits on donations that we have set. At the very least, the regulations and reporting of loans is inconsistent. The lack of limits on amounts loaned is entirely out of sync with the rest of our donation rules, and the rules on who can and cannot donate money to politicians don't apply to loans at all.

What's worse, the current rules don't provide for genuine deadlines for repayment or for genuine consequences to politicians who break the rules.

This situation needs to be fixed.

Ordinary Canadians are expected to pay back their loans under strict rules and timelines. The same should be expected of politicians.

The political loans accountability act is designed to fix these problems by making the regulation of loans consistent with the rest of our political financing and contribution system.

I'll provide a brief overview of the bill's provisions, which would apply to all political entities—parties, associations, candidates, and nomination and leadership contestants.

With respect to transparency, the bill would establish a uniform and transparent reporting regime for the terms and conditions of all loans to political entities and require the Chief Electoral Officer to publish reports on loans.

These changes would achieve greater transparency by ensuring that all political entities are subject to consistent reporting standards and that the lending practices of financial institutions to different parties and candidates are visible for all to see.

With respect to accountability, the rules for the treatment of unpaid loans would be tightened to ensure candidates could not walk away from them.

Bill C-21 would accomplish this by making electoral district associations responsible for unpaid loans taken out by their candidates. If there is no association, then the party would be responsible for unpaid loans.

Ultimately, electoral district associations and their members endorse these candidates, as do the parties and party leaders themselves. Loans that remain unpaid by those candidates need to be dealt with. We believe this mechanism would provide for the most logical, transparent, and accountable solution to that problem.

With respect to the principle that voters should be the primary influence in an election, Bill C-21 aligns the loans regime with that of the rest of our political financing regime by prohibiting corporations, unions, and associations from making political loans.

Bill C-21 would only allow financial institutions and other political entities to make loans beyond the current annual contribution limit of \$1,200.

I'll also add that loans made by financial institutions, and there are literally hundreds of eligible institutions covered by this bill, must be made at fair market rates of interest.

●(1105)

Turning to the principle of equality, under Bill C-21 total loans, loan guarantees, and contributions by individuals cannot exceed the annual contribution limit for individuals. With Bill C-21, wealthy individuals would not be able to bankroll their campaigns by making large loans to themselves, or by taking large loans from friends or family. This places all candidates, including women and minorities, on an equal playing field.

I would also like to note that this bill incorporates recommendations made by chief electoral officers and previous input by this committee.

The bill is substantively the same as Bill C-29, which was passed by the House of Commons in the 39th Parliament but died on the order paper in the Senate. Several amendments were made by this committee and are included in this bill. Those changes include: a three-year period after which unpaid loans become deemed contributions, which this committee increased from the originally proposed 18 months; requiring the Chief Electoral Officer to hear representations from an association, party, or lender before making a determination about a deemed contribution; and providing that the amount of any loan given or guaranteed and that is subsequently paid back within the same calendar year is returned to the lender's annual contribution limit for that year.

Bill C-21 also makes a change to the contribution limits for leadership contestants. Currently, contribution limits for leadership contestants are set on a per-contest basis. Under the bill, the contribution limits for leadership contestants would be set on an annual basis, similar to the contribution limits for other political entities. I would also note that the bill would not apply to loans that were entered into prior to the coming into force of the bill. For clarity, the change from per-contest to annual donation limits to leadership contestants would apply to leadership contestants who continue to be contestants because of their outstanding unpaid loans or claims, subject to any conditions imposed on them by the rules, courts, or the Chief Electoral Officer.

The coming-into-force provision states that the bill will come into force six months after royal assent. This is consistent with the coming-into-force provisions of other electoral laws and is designed to give Elections Canada sufficient time to implement the changes.

Our government believes that Bill C-21 is essential to preserving and enhancing the trust of Canadians in the integrity of their political institutions. We believe that politicians have a responsibility to manage their funds prudently and to make sure that they are borrowing and spending within the means of their campaigns. Regular Canadians must manage their own household budgets, and it is incumbent on politicians to do the same.

I hope you will support this bill. I would be pleased to answer your questions.

●(1110)

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

I wanted to also point out that Mr. Lynch is with you today.

We will go to a seven-minute round to start, with Mr. Lukiwski, and then four-minute rounds after that.

**Mr. Tom Lukiwski:** Thank you, Minister, for being here today.

I would like you to expand on a few things. The presentation was excellent, but perhaps we could get a little more detail about some of the elements you covered in your opening statements, particularly on loans. Currently, as you pointed out, there are really no rules in place governing loans that can be made to a leadership contestant. For example, a friend, relative or a business associate can lend money in almost any amount to a leadership contestant, but there are no real rules in place on what that loan is, how much, if there are any limits on the loan, what the repayment schedule is, what the interest rate is, if there is one.

I'd like you to expand on that in terms of transparency. You said this bill would level the playing field and be a more transparent effort to try to get that type of situation where loans are made, so the public would be able to understand more completely the type of financial transactions that are being conducted between individuals and a leadership contestant.

Could you explain why this bill addresses the concerns that you've heard?

**Hon. Tim Uppal:** Yes, absolutely. The current situation is that if you have wealthy friends or family or are well connected with corporations or unions, as a leadership contestant or candidate you can borrow money from these people and essentially have a major advantage over anyone else. This bill addresses that situation.

As for transparency, reporting on the loans of Canadians and knowing exactly what the term limits are, what the rate is, who is guaranteeing the loan, is obviously very important. It helps Canadians have trust in the whole system.

Under the requirements in this bill, reporting on the loans would include a statement of the terms and conditions of each loan, the amount of the loan, the interest rate, the lender's name and address, the dates and amounts of repayment of principal and payment of interest. If there's a guarantor, the guarantor's name and address and the amount guaranteed would be included. In the case of candidates and nomination contestants, the unpaid principal remaining at the end of each calendar year would be included. All these things would be reported to the public and Canadians would know who gave the loan and the amount of the loan that was given. It really adds to the transparency of it all.

As for loans themselves, individuals can still make a loan up to the donation limit. Currently that's \$1,200. For anything over and above that, only financial institutions can give loans, and there are literally hundreds of registered financial institutions that can provide those loans.

**Mr. Tom Lukiwski:** Are you saying that if someone wanted to take out a loan, they would be obligated or forced under this bill to go to a financial institution, that they would not be able to go to a friend or a relative to lend them, say, \$20,000, \$30,000, \$40,000 at friendly terms?

**Hon. Tim Uppal:** Not for those high amounts. Again, you could get a loan for the maximum contribution amount. You could go to a friend and get a loan for \$1,200. You could go to a few friends and get a few different loans to the maximum of \$1,200. The idea is that if that loan was not repaid, it would be defaulted and turned into a contribution, so it would still be within that limit.

Beyond that, if you require a larger loan, you can approach literally hundreds of financial institutions in this country that can provide that loan to you to help you to provide, I would say, seed money for a campaign. The idea of getting a loan is to have enough money to get your campaign started and then raise money to pay that loan off.

I think it's incumbent upon politicians to also have an understanding of what their campaign plan is, what their budget for that campaign will be, and to be not only able to get that loan but to be

able to repay it as well. We expect Canadians to manage their budgets and I think we should expect it of politicians as well.

• (1115)

**Mr. Tom Lukiwski:** You also talked in your opening statement about fairness. On the surface it's readily apparent where the fairness element comes in, but you referred to it, perhaps, as being a little easier for ordinary Canadians who wanted to get involved in the political process. This bill would help them accomplish that. Can you expand on that? Why would it be fairer for people who, perhaps, haven't been involved in the political process before? Why would this bill make it easier for them to break into politics?

**Hon. Tim Uppal:** What this bill really does is it takes the advantage away from those who themselves may be wealthy, who may have wealthy family or friends, or who are very well connected with corporations or unions and they may be able to borrow money. The average person may not have those connections, or not have that wealth in order to get involved in the political process. It takes the advantage away from some people and it creates a level playing field.

When you have a level playing field, that really helps, especially for Canadians right across the country, women and minorities, who are thinking of getting into politics. What they're asking for is a level playing field. This bill would go a long way to ensuring they have a level playing field in that regard.

**Mr. Tom Lukiwski:** There's one thing I want to be clear on. We've had a lot of discussions at least at the committee level about some of the unpaid existing debt by former Liberal leadership contestants from the 2006 leadership campaign. This bill wouldn't be retroactive in any sense would it? Would any loans that were taken out, say, in the 2006 campaign that are still outstanding be guided by the old rules? These provisions would come into effect when royal assent is given, is that correct?

**Hon. Tim Uppal:** Yes. The bill itself is not retroactive. That is correct. Six months after the bill received royal assent, the bill would go into effect, but it would apply to existing debts. An existing debt means that leadership contest, even though it may have started in 2006, continues today, six years later, because the debts have not been paid off.

**The Chair:** Thank you.

Madam Latendresse.

[Translation]

**Ms. Alexandrine Latendresse (Louis-Saint-Laurent, NDP):** Thank you for your presentation, Minister.

As you know, we are in agreement with the substance of the bill. We do, however, have a few small questions regarding certain possible amendments.

I would like to begin with the following question: could you explain why it took so long for the bill to go through second reading and be referred to the committee, when you knew that you had the support of the official opposition and that you have the majority?

[English]

**Hon. Tim Uppal:** Actually, once we had the support of the opposition parties, which I appreciate, I believe the bill came to committee quite quickly. The opposition parties cooperated in bringing the bill to a vote. It was voted on and I believe every party supported it. Here it is today and I'm pleased we're discussing it. In the previous Parliament, we had support from the NDP on the previous version of this bill.

[Translation]

**Ms. Alexandrine Latendresse:** Very well.

We completely agree with the idea of restricting general financing options, as you explained, to enable everyone to start off on an equal footing.

However, we must realize that in some places in the country, people do not necessarily have access to many people who can guarantee a \$1,200 loan. In this case, could we give some thought to the individual guaranteeing his or her own loan? Indeed, at times it is very difficult to find dozens or hundreds of people prepared to guarantee \$1,200.

Would it be possible for someone to personally guarantee his or her own loan?

[English]

**Hon. Tim Uppal:** The concern with that would be that if you were to guarantee or provide yourself a loan, and if that loan was not repaid, it would essentially turn into a donation. That donation would be over and above the donation limit currently set at \$1200. If that loan is at the donation limit amount, it's deemed a donation at some point after default and essentially that takes care of it. If it's over that amount, then you deem it a donation and then they have over-contributed. Also, some people may not be able to provide themselves a line of credit, \$20,000 or \$30,000, or whatever amount you may say. This really levels the playing field to a point where everybody has equal access. In your scenario, you would have to assume that the person has the money to provide for themselves. Even if you're guaranteeing something, you have to guarantee it on something, and some people may not have that ability. This is really about taking that advantage away from wealthy individuals.

• (1120)

[Translation]

**Ms. Alexandrine Latendresse:** That is true, but in some respects, this is about balance. Indeed, some individuals may be in Toronto where, for example, there are a lot more people who can make \$1,200 donations than there are in a very remote, scarcely-populated region. So for this type of situation, people are not on an equal footing. If someone could guarantee his or her own loan, why not allow it?

[English]

**Hon. Tim Uppal:** Right across the country, there are literally hundreds of financial institutions. They're not just the banks. They're insurers, credit unions, and others that can provide these loans and are going to be equally accessible to everyone right across the country.

I would find it difficult to say that somebody in Toronto has wealthier friends than someone in another province or another city. That's generally not true.

[Translation]

**Ms. Alexandrine Latendresse:** It is more about access. Thank you for your answer.

This brings me to my other question. By putting responsibility for political loans in the hands of the banks and financial institutions alone, are we not running a risk that the banks may decide to favour those candidates who have policies they like?

[English]

**Hon. Tim Uppal:** First of all, this bill itself treats all parties, candidates, all political entities, equally. Everybody is on a level playing field.

With respect to the banks in Canada, as I said, there are literally hundreds of them right across the country that can provide this service. Banks are competitive. Banks are highly regulated. We have some of the best regulated banks in the world, and financial institutions.

Further to that, the transparency rules would go a long way to ensure that Canadians know exactly who provided a loan, by which financial institution, who guaranteed it, and what the amount was, and to make sure that it was an interest rate at fair market value.

All of this would be very transparent and very public.

[Translation]

**Ms. Alexandrine Latendresse:** We know that it is currently more difficult for a woman or someone from a first nation to secure a loan from a financial institution. This is an acknowledged statistical fact.

We want to try to help people and get more women, youth and first nations people into politics, but by stipulating that only financial institutions can make loans, are we not running a risk? Are we not running a risk of putting women and the first nations at a disadvantage?

[English]

**Hon. Tim Uppal:** When it comes to women or minorities getting into politics—which is important, and we need to do that—the real disadvantage is in giving a huge advantage to those who may be wealthy themselves, or may have wealthy family and friends, or may be well connected with any corporations or unions. Giving them the advantage is a disadvantage to others.

Creating that level playing field is exactly what will help the situation.

**The Chair:** Thank you.

Monsieur Garneau, seven minutes.

[Translation]

**Mr. Marc Garneau (Westmount—Ville-Marie, Lib.):** Thank you, Mr. Chair.

[English]

Thank you, Minister, for being here.

I'm glad we're going through this bill. I want to bring up one point, though, and that is the fact that banks and lending institutions are there to make money. They are always concerned, first and foremost, with a person's income or credit rating. I agree with the intent of this bill, but let's look at it in terms of discrimination.

Let's say a woman decides to run. She has been out of the workforce for some time. Her credit rating or her income level perhaps is not ideal in terms of taking out a loan. There is nothing at this point to prevent the bank—or she may go to a range of institutions—from saying that they're sorry but they don't believe she's an acceptable risk. Of course, that wouldn't appear anywhere. It would just be the fact that the person could not get a loan, and in some cases may not be able to run as a result.

It could be a 19-year-old or a 20-year-old; we have a few 21-year-old members of Parliament. They have not had a chance to build up a huge credit rating.

Is there a way we can make sure that the worthy candidate chosen in a particular riding would have the same possibility as would somebody else, or is this basically saying that it's tough luck if they can't get a loan and it's nobody's fault?

• (1125)

**Hon. Tim Uppal:** First of all, I agree with you that banks are in the business of not only making money but also lending. That is where they make their money. They would, in this case, receive interest from the loan as well, so they would make money from it. There are hundreds of options to approach right across the country.

What we have seen in Ontario, which has similar provisions in the sense of getting a loan from a bank, restricting it to financial institutions, is that they have made those decisions based on your rebate. As federal politicians, when we run, we receive a rebate if we get 10% of the vote.

As you said, if a viable candidate is going to receive 10% of the vote—which is well below viable; to be a viable candidate the person would likely receive more—the candidate can guarantee his or her rebate over to the bank. The bank can make that assessment based on the rebate, not based on the person's personal wealth, personal credit, or other personal situations. This would be based on the rebate they would receive.

**Mr. Marc Garneau:** Okay. In this case, the bank may have to make a value judgment as to whether that person is capable of getting that 10%, and therefore having that as collateral, if you like.

**Hon. Tim Uppal:** Correct.

**Mr. Marc Garneau:** Okay.

My second question is technical in nature. Let's say I'm a candidate and I'm either elected or not elected.

**An hon. member:** I think it's an announcement.

**Mr. Marc Garneau:** No, no, thank you very much. I'm talking about something else.

Let's say either elected or not elected, it takes three years before it becomes a contribution. Just to be 100% clear, can somebody donate \$1,200 to me every calendar year until that three years, as opposed to one time only from each person?

**Hon. Tim Uppal:** Correct. This would change that.

I have one quick point regarding the banks basing their assessment on the rebate. That's up to the bank, but that's how it's been done in Ontario. That's how some of them have received that. They get to choose that.

**Mr. Marc Garneau:** Okay.

My final question is this. Do we have a sense from banks and other institutions as to how they feel about this? Are they comfortable with this, or have they signified they're uncomfortable with having this role thrust upon them? There will be lights on them. Obviously, elections are fairly visible events. Are they comfortable with it?

**Hon. Tim Uppal:** Currently, banks do provide political loans across the country. In Ontario where similar laws exist, it has been working well.

**The Chair:** Thank you.

A four-minute round, starting with Ms. Rempel. We're happy to have you here today.

**Ms. Michelle Rempel (Calgary Centre-North, CPC):** Thank you, Mr. Chair. It's great to be at this committee for the first time.

In your speech, Minister, you made a statement. You said, "Neither voters nor candidates should have privileged access to the political system solely because of their financial resources or wealthy contacts."

This speaks to me very profoundly because all of us around this table often get asked why we run. For me, one of the honest answers I usually give is because I can. I'm the youngest member of our caucus. I'm a young woman and there are many parts of the world where women don't have the legal ability to run. Moreover, when you look at other political systems, their financing laws are a major barrier to entry for women.

It is particularly timely to be discussing this when you look at what's happening in the American election, the amount of money that is spent on campaigns, on advertising, on these enormous campaigns, literally millions of dollars. I can tell you right now if I had to participate in that political system, I would not be an elected representative simply because of my age and my family's wealth status, etc.

I think that statement is really profound because we know that financing can be a barrier to entry for women.

When you look at financing as a barrier to entry, some of the determinants are that many women choose to have caregiver roles or choose to take other positions where it often becomes difficult to build the network of contacts that is needed to finance a campaign.

Specifically, in my experience where I sought a nomination for the party, where traditionally there is a good base of support for the party I represent, nomination financing is an issue as well.

I wanted to ask you some questions along that line. You spoke about having that level playing field, about ensuring that women have access. I think, first of all, the Canadian political system, our financing rules, the \$1,200 contribution baskets that we have in place remove that barrier to a large degree. I certainly have experienced that in trying to raise funds to finance my own campaigns.

This provision is a great addition. If you do have access to wealthy contacts across the country in different areas, if you do have that pre-established network, it does give you a leg up. I think this provision removes that. Would you characterize that as correct? Perhaps you could talk about your own situation as well and how you would see that changing.

• (1130)

**Hon. Tim Uppal:** You're absolutely correct and this is something I've heard when speaking to people right across the country of how levelling the playing field really would help the situation.

You mentioned nominations. Already we have caps on how much you could spend in a nomination. It's 20% of your overall cap. In most parts of the country that's between about \$8,000 or \$9,000 up to about \$15,000. That already generally levels the playing field. Further, for somebody who can fund their whole nomination themselves because they have a lot of money, it takes that advantage away. It levels the playing field not only for young people, but also for women.

Myself, I often comment that it's quite rare in any country for the son of an immigrant who drove a cab, who worked in the coal mines to end up being a member of Parliament, but the opportunities were given. This bill would go farther to help in that situation as well.

**The Chair:** You have 10 seconds.

**Ms. Michelle Rempel:** Maybe you could expand upon some of the comments that were made with regard to the banks being able to participate in this process adequately.

**The Chair:** I hope the minister will get the chance to answer that under someone else's time.

Mr. Scott, you're next, for four minutes.

**Mr. Craig Scott (Toronto—Danforth, NDP):** Thank you, Mr. Chair.

Thank you, Minister, for coming.

I have two questions to ask in my four minutes. The first is to return to the clarification that Mr. Lukiwski received on retroactivity, which is with respect to the period of leadership loans. The new system is that you can have somebody donate on a yearly basis and not just on a per-event basis.

Did I understand correctly that the interpretation is that the new Bill C-21 provisions would allow past leadership candidates to actually pay off old loans under this new arrangement? If so, is it clearly in the new provisions?

**Hon. Tim Uppal:** I'll let Matthew get into the technical wording of that.

**Mr. Matthew Lynch (Director, Democratic Reform, Privy Council Office):** The bill comes into force six months after royal assent. Generally speaking, the provisions governing loans are not

retroactive but, with the change to the contribution limits for leadership contestants, would apply to anybody who continues to be a leadership contestant upon coming into force.

**Mr. Craig Scott:** No, I understand. That was the answer before, but how clear is that and where are we getting that? The only retroactivity clause is 34 of Bill C-21 and it is not at all clear that is the result. I am wondering if more clarity is needed or if I haven't found it in the provisions.

**Mr. Matthew Lynch:** The contribution limit in proposed section 405 would be applied once the act comes into force. It would no longer be a per-contest limit but an annual limit.

• (1135)

**Mr. Craig Scott:** Okay, I think we might have to come back to this in clause-by-clause. I'm not convinced it is at all clear.

On deemed contributions, proposed section 405.6, the rule is that unpaid loans after three years are deemed contributions. That includes loans from financial institutions, and, by definition, financial institutions can lend more than \$1,200.

What are the consequences of this? What does it mean to say a financial institution has made a contribution after the loan is deemed unpaid? Companies can't contribute. I don't really see in the provisions what the consequence of having a financial institution deemed as a contributor is. Perhaps it is somewhere and I haven't read it carefully enough.

**Hon. Tim Uppal:** It is a process for that loan to be then written off by the financial institution, but I'll let Matt comment.

**Mr. Matthew Lynch:** Yes, the deemed contributions would actually be fairly rare. There are a certain number of circumstances that avoid unpaid debt being a deemed contribution. Notably, a financial institution can write off the debt as being unpayable, and in that case it wouldn't be a deemed contribution.

If that wasn't the case and it is a deemed contribution, in theory it would be potentially an offence, and a determination would have to be made whether it was a wilful contravention of the contribution limits or not.

**Mr. Craig Scott:** Okay, thank you.

**Hon. Tim Uppal:** Further to that, even if it is going to be written off, the Chief Electoral Officer would have to be in some type of agreement for it to be considered to be written off.

If you don't mind, perhaps I could ask a question. You talked about clarification on the previous part, per annum, annual to per contest. Is that something you agree with but just want to make sure it's clear in the bill? Is that what your question is?

**Mr. Craig Scott:** At the moment I have no particular position on it, but I think I'm in agreement. I just don't think it's clear.

Do I have one minute?

**The Chair:** You have about 20 seconds.



**Mr. Craig Scott:** On the exceptions, and maybe you could come to this in answering another question, one of those exceptions is the “subject of a binding agreement to pay”. I'm wondering if that's an ability for new loan agreements to constantly be made and kicked forward forever into the future. I really don't understand the difference between that and a loan.

**The Chair:** Thank you.

Mr. Albrecht, you have four minutes. We'll see if we can get some of these unanswered questions answered during your time.

**Mr. Harold Albrecht (Kitchener—Conestoga, CPC):** Thank you, Mr. Chair.

I want to go back to the same issue. I'm not a lawyer, so I'm as confused as the rest of us around the table. Clause 34 clearly says: Loans made before the coming into force of this Act continue to be subject to the Canada Elections Act as it read immediately before the coming into force of this Act.

In the book we were given, on page 105, it explains clause 34. It clearly says:

The Bill provides that the new rules on loans only apply to loans that were made after the coming into force of the Bill. For any loan that predates the coming into force of the Bill, the provisions of the Canada Elections Act that existed immediately before the coming into force of the Bill continue to apply.

Yet in your statement, Minister, you indicated that the annual donation limits—I understand what you're saying there—apply to leadership contestants who continue to be contestants. Your statement refers to leadership contests or contestants. The bill refers to loans.

We are muddying the waters on those two terms. How can someone who had a loan five years ago, even though they continued to be a contestant, have that loan that was taken out five years ago be exempt from the bill when it clearly talks about loans and not contestants?

**Hon. Tim Uppal:** Here's the thing, though. If you were a leadership contestant six years ago and you continue to have a loan that is unpaid, you are still a leadership contestant. That leadership race does not end until that loan is paid off. I think that's the technical difference there.

**The Chair:** I think that's the technical piece we need to get our heads around.

**Mr. Harold Albrecht:** Mr. Chair, with all due respect, I think for the average person reading this, that's going to have to be spelled out in the bill much more clearly than it currently is. I find it very confusing to suggest that someone who had a loan back in 2006 and still has \$100,000 to pay on it can now suddenly be retroactively subsumed under this new bill and start to collect \$1,200 per year from—

**Hon. Tim Uppal:** Yes, the bill itself is not retroactive, but that clause, to be able to pay it per year, would apply to any existing debts. Those debts currently exist, and you're still a leadership contestant while those debts exist because you haven't closed your bank accounts and all that to close that chapter.

**Mr. Harold Albrecht:** We could argue, how can you be a contestant if the contest is over?

**Hon. Tim Uppal:** You still owe money.

•(1140)

**The Chair:** This would be a question we could ask of the Chief Electoral Officer next week also, the rules on when a contest is over and when it is not.

Is there anything else, Mr. Albrecht?

**Mr. Harold Albrecht:** No, that's fine.

**The Chair:** Okay, great.

I have a Conservative spot that's not taken. Mr. Armstrong, sorry.

**Mr. Scott Armstrong (Cumberland—Colchester—Musquodoboit Valley, CPC):** This is the first time I've known of a contest that's not over once the winner's declared. It's like having the World Series go on for 10, 15, 20 years after the final pitch has been thrown.

**The Chair:** This is a way for the Leafs to win the Stanley Cup.

**Mr. Scott Reid:** In 1968.

**Mr. Scott Armstrong:** That said, I do think you're on the right track. I was joking. I think this is fair and I think it solves a problem that most Canadians would have seen as probably unfair.

Moving forward though, there's an expectation that individuals who take out these loans are going to be responsible, they're going to meet their requirements, and they're going to pay them back eventually, with the new rules. There are going to be times when you have rogue candidates, or you're going to have people who just don't pay them back, and don't follow through on their responsibilities. We know there's going to be some punitive action taken toward them by the financial institutions or whoever they owe money to.

What responsibility do the parties and the electoral district associations, EDAs, have when these situations arise where candidates are not responsible?

**Hon. Tim Uppal:** If that debt is unpaid, if the candidate walks away.... A candidate ceases to be a candidate after the election. The EDA continues and so does the party. The EDA, the electoral district association, the riding association, would take on that debt and have reporting requirements to pay back the loan with interest, if it's to a financial institution. If for some reason the riding association ceases to exist, it would go on to the party, and all those responsibilities would be moved on to the party as well.

As for a riding association, most parties go through some type of nomination process, some type of agreement on the candidate, so there's some buy-in from the riding association. Further, the leader of the party would also sign the candidate's nomination papers. Therefore, there's agreement that the person is the candidate, there's a certain amount of trust in the person, and the person will be carrying the party's flag in the election. There's definitely a buy-in from all levels for that candidate.

**Mr. Scott Armstrong:** The EDA would have some responsibility as soon as it certifies the candidate. The central party would become responsible at the time when the leader signs the nomination papers. Is that accurate?

**Hon. Tim Uppal:** You're correct. Yes, because then the person is their candidate.

**Mr. Scott Armstrong:** For nomination contests within EDAs, what if you had a rogue candidate who borrowed a bunch of money and then lost the nomination? I'm assuming the EDA and the party would not be responsible for that candidate because the person was never certified and never had his or her papers signed.

**Hon. Tim Uppal:** You're correct. They would not be responsible.

**Mr. Scott Armstrong:** In that situation I guess it would be up to the financial institutions, if the person did get a loan from a financial institution, to chase down the responsible individual. No action would be taken against either the party or the EDA. My concern would be, if this happens repeatedly—and I don't think it will happen all the time, but it could happen with many small parties, depending on the political situation within the country—could something like that make the financial institutions a little gun-shy to give out loans? Is there any concern about that?

**Hon. Tim Uppal:** First of all, for a nomination contest, there are already limits on how much you are to spend. We're already looking at maybe \$10,000 or \$15,000 for a nomination contest. The amounts are already much lower than what we've heard of in other leadership races. The amounts are lower. For those smaller amounts, you can still borrow money or get guarantors from family and friends up to the donation limit, which is currently \$1,200. You could essentially find seven or eight friends and fund that nomination race. If you do go to a financial institution, that debt would not go to the EDA or the party. It would be incumbent on that person.

**The Chair:** Thank you. Your time is up, Mr. Armstrong.

Mr. Martin.

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

I appreciate the opportunity to participate in this. As some of you may remember, we tried to introduce this very thing into the Federal Accountability Act in 2006. We've been aware of this for years. We fully agree that nobody should be able to buy an election in this country, but previous attempts at election financing reform have left loopholes big enough to drive a truck through. Some may remember a massive truck in one specific circumstance in Mississauga—Streetsville.

As I understand it, one of the things that we raised in 2006 is that banks aren't really excited about this kind of small loan, especially when it can be so complicated. You might have 20 guarantors for one \$25,000 loan. There's a great amount of paperwork. There is no money in this type of nickel-and-dime business for financial institutions. Should there not be a public duty component? If we give the chartered banks the lucrative privileges of cheque cashing and credit cards, should there not be an obligation for them to support our electoral system by being, within reason, obliged to participate in this type of service for elections?

• (1145)

**Hon. Tim Uppal:** I don't really think it'd be a great thing to tell banks how to run their business. This transaction will make them money. You're talking about the chartered banks and the larger banks, but there are actually hundreds of financial institutions that can provide these loans, and all candidates will have equal access to them. That's the important part.

**Mr. Pat Martin:** Equal access, I agree is—

**Hon. Tim Uppal:** Equal access means you'll be able to go to a bank and if it doesn't work out there, you can walk across the street and go to an insurer or somewhere else.

**Mr. Pat Martin:** Yes, but some people are going to wind up at Money Mart. This is exactly the kind of business that the chartered banks, at least, have been walking away from. Look at the amount of paperwork associated with checking out 20 signatories to one \$20,000 loan and doing the due diligence associated with that. I don't think there is any profit for the banks at 2% or 4% interest on that kind of an operation.

**Hon. Tim Uppal:** The system currently exists in Ontario. They base those loans on the rebate the candidate would receive if he received 10% of the vote.

**Mr. Pat Martin:** But the best surety, which used to exist, is the per-vote subsidy, the public \$1.75 per-vote subsidy. Your government is eliminating that.

**Hon. Tim Uppal:** Which would go to the party and not the candidate. That would only have gone to the party.

**Mr. Pat Martin:** Well, the candidate is associated with the party. It's his riding association that's really—

**Hon. Tim Uppal:** The riding association did not receive that money either; only the party did.

**Mr. Pat Martin:** It depends on your party.

**The Chair:** Thank you.

Mr. Williamson.

**Mr. John Williamson (New Brunswick Southwest, CPC):** Thank you, Chairman.

Mr. Armstrong asked many of the questions that I was going to ask, but I have a few others that are more detail oriented.

In your speech you said that if the amount of any loan given or guarantee is subsequently paid back within the same calendar year, it is returned to the lender's annual contribution limit for that year.

To confirm and clarify, right now there are three contribution possibilities for donors: the EDA, the national party, and the leadership contestants. That's not changing, is it?

**Hon. Tim Uppal:** This bill would not change that situation. It was a recommendation by this committee that if somebody was to guarantee a loan for the contribution limit—\$1,200 as it currently is set—and sometime during the campaign that guarantee or loan was repaid or taken back, then that person could donate.

**Mr. John Williamson:** But to another leadership contestant.

**Hon. Tim Uppal:** Sure.

**Mr. John Williamson:** Okay. You're not merging the national donation and the leadership donation.

**Hon. Tim Uppal:** This does not change that.

**Mr. John Williamson:** Okay, good.

I want to pick up on what Mr. Martin was saying because I think I see where he's going.

If we were to really be blunt, this bill is meant to deal with leadership loans, by and large. Currently, provisions are in place for EDAs, for campaigns, for candidates at local election campaigns to work either with their EDAs or with financial institutions to borrow funds. If you're looking for an answer, the proof is that we haven't seen big problems with the repayment of those loans at the local level with Elections Canada that I'm aware of.

• (1150)

**Hon. Tim Uppal:** Part of this bill is much stronger transparency rules as well. That would make it much more evident exactly what those loans were, what the interest rate was, if any, who was providing those loans, and when they were paid back.

One thing I will mention is what will continue to happen is that a candidate's EDA can still lend money. An EDA can borrow money from the party. That will continue.

**Mr. John Williamson:** Right.

**Hon. Tim Uppal:** It doesn't change that.

**Mr. John Williamson:** That seems to be an adequate solution. Without a big guarantee, the signatories that Mr. Martin raised, banks aren't going to be lending candidates money freely unless there are those provisions. I do think the interparty lending makes up for that, and that doesn't exist for those in a leadership contest.

**Hon. Tim Uppal:** There is interparty lending but also the rebate. If a candidate was to sign over the rebate for a certain amount—and there are many ways to verify that or to check the worthiness of a candidate, which apparently happens in Ontario—then the bank has something to hold on to there.

**Mr. John Williamson:** Fair enough.

I have maybe a tougher question. What was the genesis behind this bill? By that I mean, how much was it a frustration, from your perspective, over Elections Canada's either inability or unwillingness to deal with these large leadership loans that were just sitting out there? There didn't seem to be much action happening and certainly no sanction.

**The Chair:** Thank you, Mr. Williamson. Hopefully, that can be answered under Mr. Gill's time.

Mr. Gill, it's your turn, for four minutes.

**Mr. Parm Gill (Brampton—Springdale, CPC):** Thank you, Mr. Chair. I also want to thank the Minister for taking the time to be here with us today to answer some of the questions the committee has.

I'm trying to wrap my head around this and make sure that I understand this correctly. If a candidate goes to a financial institution for a loan, I'm sure the financial institution's going to want some sort of guarantee as to how it is going to be repaid. You mentioned that some of the ways may be by putting up the refund that you may get after the election, and so on. Can a candidate personally guarantee that loan for that total amount?

**Hon. Tim Uppal:** You can, up to the donation limit. Today, that's set at \$1,200. You can guarantee it to \$1,200.

**Mr. Parm Gill:** Assuming that the candidate hasn't necessarily made that \$1,200 contribution. Am I right?

**Hon. Tim Uppal:** That's correct.

**Mr. Parm Gill:** Okay.

**Hon. Tim Uppal:** You can either contribute or make the guarantee.

**Mr. Parm Gill:** Or make the guarantee. You're saying that, hypothetically, you can get 20 different people to guarantee whatever, say a \$20,000 loan to the bank.

**Hon. Tim Uppal:** You can do—

**Mr. Parm Gill:** Assuming they haven't already made their contribution.

**Hon. Tim Uppal:** Correct. You can do that. The bank can base it, as they do in Ontario, on the rebate, or you can go out and raise funds and not have to borrow as much.

**Mr. Parm Gill:** Is there an exemption under any circumstances where the EDA or the federal party can guarantee a loan of more than \$1,200?

**Hon. Tim Uppal:** They can provide that loan, and they can guarantee it.

**Mr. Parm Gill:** They can guarantee it, or they can provide that loan.

**Hon. Tim Uppal:** Yes.

**Mr. Parm Gill:** Let's say person A becomes a candidate. The election is called and the candidate goes to a financial institution, gets a loan for \$20,000, hypothetically, and signs up for that rebate we're talking about from Elections Canada after the election. Shortly after that, the candidate is disqualified by the party for whatever reason. All of a sudden you have a new candidate running in the same election. How would you address that?

**Mr. Matthew Lynch:** I guess a candidate is a candidate when their nomination is confirmed by the returning officer, so I'm not sure that situation could apply in that case.

• (1155)

**Hon. Tim Uppal:** If there are odd situations, I'm sure the Chief Electoral Officer can look at them on a case-by-case basis, but at the end of the day the EDA essentially will be responsible for that loan because it was still guaranteed by the EDA. Also, if the EDA is not responsible for it, or if they default on it, it would go to the party. But when that person was a candidate, the EDA was responsible for that candidate and therefore for the loan as well.

**Mr. Parm Gill:** Okay. What would be the consequences of—let's say hypothetically—a candidate who gets a loan from more than one institution by guaranteeing that same refund?

**Hon. Tim Uppal:** It would be illegal, I would say. You would essentially be lying when you made that application—

**Mr. Parm Gill:** Right, but—

**Hon. Tim Uppal:**—so that would be a bigger problem of fraud, I would say.

**A voice:** It's fraudulent.

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

Mr. Scott, to finish off, you have four minutes.

**Mr. Craig Scott:** Thanks so much.

If I could, I'll quickly return to where we ended on the last question, which is the exception for "subject to binding agreement" of a party.

Mr. Lynch, is that effectively just a new version of the same loan?

**Mr. Matthew Lynch:** It's actually a loan agreement and it's a provision that already exists in the act. It's just being carried forward.

**Mr. Craig Scott:** Right. Okay. I understand that you've said you don't really foresee—although it's not written in as such—that a financial institution would ever get to the point of being deemed to be the contributor, because it could invoke at least one of those exceptions. I'm wondering if financial institutions are going to be all that happy if they know that the final outcome is that they could be committing an offence under the act, which technically you've told us they could be.

**Mr. Matthew Lynch:** Yes, I mean, the fact that financial institutions can write off debt, provided that it's properly done, then it wouldn't become a deemed contribution.

**Mr. Craig Scott:** Okay.

On the question of the recommendations from the Chief Electoral Officer in 2007, are there any in particular we should know about that were not followed as part of this bill, Minister?

**Hon. Tim Uppal:** We have a long list of ones that were followed.

**Mr. Craig Scott:** No, a list of any that were not. I think in general you followed them, but....

**Hon. Tim Uppal:** I think in general they were followed, especially the overall concern of having some consistency. The biggest concern was making sure there's consistency. That was all followed, and bringing some clarity to the overall loans regime was all followed. I may not have the details.

**Mr. Matthew Lynch:** The government's bill is very much based on the Chief Electoral Officer's 2007 report with respect to loans. There were a couple of variations. One is that the CEO suggested that perhaps consideration could be given to allowing candidates to give themselves a start-up loan. His report was silent on the role of guarantees.

There were other provisions and issues raised in his report in addition to loans. We've sent you the report.

**Mr. Craig Scott:** Yes. The start-up loan I think is the one that just came to my mind. Thank you.

Mr. Chair, how much time do I have?

**The Chair:** One minute.

**Mr. Craig Scott:** There's the question of ceilings on leadership contests. I understand that the philosophy now is that the parties themselves determine—

**A voice:** Yes.

**Mr. Craig Scott:** —the amount that leadership candidates can spend. Is there not a role in this framework to set a limit on how much can be borrowed with respect to some of the same interests that you've presented about access to the process? If at the very top

of a party there are fewer people who would ever have a shot because of how difficult it is to raise money, should there not be some kind of attention to leadership campaigns in that way?

**Hon. Tim Uppal:** I believe the parties are setting up a limit of how much you can spend.

**Mr. Craig Scott:** Yes.

**Hon. Tim Uppal:** Essentially, it starts in the sense of how much you can spend. Somebody who was getting into the race would already have a pretty good idea of how much they can raise, how much they need to borrow to get that started, how much they can raise, and how to be able to pay that off. I believe that's a responsibility that should be on the party and the contestant.

Again, as I said, we expect Canadians to manage their own budgets and their debts, and we should expect it of politicians as well.

• (1200)

**Mr. Craig Scott:** Could I make one quick comment?

**The Chair:** Make it quickly.

**Mr. Craig Scott:** It's simply that the fact that rebates can be calculated in by banks is a valid point, but I wonder about the banks actually being able to guess this. In my own riding we expected a very vibrant party, the Green Party, to get 10%, and it didn't, and a party we would have expected to get well over 10% didn't. I'm just worried that banks will not really be in a position to think in those terms.

**Hon. Tim Uppal:** I will say, coming from a banking background myself, that banks regularly give unsecured lines of credit based on somebody's job. They may lose their job tomorrow, and they'll still have to make that assessment.

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

Thank you, Mr. Minister.

Thank you, Mr. Lynch.

It's great. We did exactly in an hour what our list said we were to do, and everybody had a chance for comment and it worked. Way to go.

**Mr. Scott Reid:** Everyone did with one exception.

**The Chair:** We had an extra member on that side of the table today who did get to comment, so I'm counting you as her.

**Voices:** Oh, oh!

**Mr. Scott Reid:** I think that was meant as a compliment.

**The Chair:** I think it was.

Thank you, all. It appears that we will be meeting in room 237-C for Tuesday's meeting with the Chief Electoral Officer. Watch your emails to verify that. We now have the bigger room and more time with the Chief Electoral Officer. We can ask him many of the same questions you asked today.

The meeting is adjourned.







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