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

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**EVIDENCE**

**Wednesday, April 2, 2014**

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**Chair**

**Mr. Joe Preston**



## Standing Committee on Procedure and House Affairs

Wednesday, April 2, 2014

•(1900)

[English]

**The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)):** Committee, it's great to have you all here tonight.

This is the 26th meeting of the procedure and House affairs committee on our study of Bill C-23.

We have three witnesses tonight. We have Raji Mangat, counsel from the British Columbia Civil Liberties Association; Leilani Farha, executive director of Canada Without Poverty; and from the Canadian Civil Liberties Association, Cara Zwibel, and I've been her tour guide earlier today.

We're all set tonight and we've decided that for opening statements we will start with Ms. Farha.

Ms. Farha, you have five minutes or less, please.

**Ms. Leilani Farha (Executive Director, Canada Without Poverty):** Thank you.

Thank you for the opportunity to appear before you this evening.

I find it somewhat ironic that just over 50 years ago aboriginal peoples were granted the right to vote in Canada, and here we are just a short while later struggling to defend their rights. This has been a huge reminder of how fragile democracy is and how vigilant we have to be to protect it.

I am Leilani Farha, the executive director of Canada Without Poverty.

CWP, whose board of directors is composed of people living in poverty from every province and territory, is deeply concerned with the impact of the fair elections act on the right of poor people to vote in Canada. In particular we are concerned that the bill bans Elections Canada from promoting the right to vote, and we're concerned about the elimination of vouch voting without a suitable alternative. I'll address each of these in turn.

The ban on Elections Canada from promoting the vote is simply illogical. It is illogical in the face of the lowest voter turnout in our history, suggesting a near complete loss of faith in the democratic process by a huge percentage of Canadians. As well, it is illogical in light of the fact that poor people are experiencing unprecedented social and political exclusion. Surely it is precisely now, in the moment of this democratic deficit, that Parliament should be pouring resources into efforts to promote the vote. Elections Canada must be allowed to continue to do its work to foster democracy.

With respect to vouch voting, CWP is concerned that its elimination without a suitable alternative will disenfranchise tens of thousands of low-income voters and violate their section 3 charter rights. Vouch voting is used particularly by those who are poor, homeless, or otherwise marginalized. Though the government seems to find it incredible that over 100,000 people in Canada don't have adequate ID for voting purposes, it's a reality.

Let me give you one example from my work. Imagine a woman living in a situation of domestic violence. In the midst of a particularly brutal incident she manages to escape to safety by fleeing to a friend's house. She leaves behind all of her belongings, including her wallet, thinking only about saving her life. She has no photo ID, no proof of residence. She has nothing but the clothes she is wearing. Eliminating vouch voting is not going to provide this woman with voter-appropriate identification. Eliminating vouch voting will do only one thing. It will prevent her from exercising her right to vote.

What troubles CWP about all of this is that the government has yet to articulate an understanding of how important the right to vote is, particularly for those who are socially and politically excluded. Perhaps they don't know.

Imagine being the woman I just described. She has absolutely nothing. Ensuring that she has the right to vote allows her to be more than just her circumstances. It allows her to engage her nation and it restores something to her. As the South African constitutional court said so simply, "The vote of each and every citizen is a badge of dignity and of personhood." Why wouldn't the government want to ensure the right to vote for this woman? Isn't that what democracy requires?

CWP is offended that Minister Poilievre wants us to imagine that allowing this woman to vote might compromise the electoral system. The minister has invented the myth of fraud by conflating fraud with vouching irregularities. I remind this committee that no evidence of fraud has been found with vouch voting, only administrative errors.

•(1905)

In conclusion, CWP recommends that the government just pause for a moment and reflect on the fact that it is about to deprive tens of thousands of disadvantaged Canadians of their democratic citizenship and their constitutionally protected right to vote.

CWP recommends that Bill C-23 be rejected in its entirety. If the bill continues to stand, however, we recommend at a minimum the following: first, the provisions narrowing Elections Canada's mandate with respect to promoting voting be removed from Bill C-23; and second, and this has two parts, maintain vouching and fix it so it functions more effectively, or adopt a new system for in-person identification that treats voters with dignity and respect.

Thank you.

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

Ms. Mangat.

**Ms. Raji Mangat (Counsel, British Columbia Civil Liberties Association):** Thank you, Mr. Chair, and members of the committee.

The B.C. Civil Liberties Association is a national, non-partisan, non-profit organization based in Vancouver. My statement will focus on the BCCLA's main concern with this bill, the removal of vouching.

A constitutional challenge to the voter ID laws that came into force in 2007 is currently before the courts. The Henry case has been heard by the B.C. Supreme Court and the B.C. Court of Appeal. Both courts found that the voter ID laws are on their face a violation of the right to vote protected by section 3 of the charter. Both courts ultimately upheld the voter ID laws, finding that they were justifiable. On Monday an application for leave to appeal to the Supreme Court of Canada was filed in this Henry case.

The BCCLA believes that these voter ID laws are an unjustifiable violation of the charter. They seek to address a single speculative concern, voter impersonation at the polls, at far too great a cost: the disenfranchisement of Canada's most vulnerable and marginalized citizens. Removing vouching further makes these voter ID laws unconstitutional and ripe for a charter challenge. In his defence of voter ID laws in the Henry case, the Attorney General of Canada argued that vouching is a fail-safe in the legislation, because it allows eligible electors, without the requisite types of ID, to cast a ballot.

Much has been made about the 39 forms of ID acceptable to prove voter eligibility. I ask this committee to look critically at that list of IDs. While these forms of ID may indeed be largely available to a majority of suburban voters, these are not viable forms of ID for many Canadians, including many of the people on whose behalf the BCCLA acts. A homeless citizen on the Downtown Eastside of Vancouver, for instance, does not have a pension plan statement. He or she does not have utility bills, or vehicle ownership insurance, or a residential lease, or an income tax assessment. It strains credulity to believe that these 39 forms of ID are an answer to the disenfranchisement that will result from this bill.

Before 2007 statutory declarations were permitted as a form of eligible identification. Hundreds of voters on the Downtown Eastside swore statutory declarations establishing their right to vote. Demand for statutory declarations was actually on the increase. Amendments in 2007 eliminated those statutory declarations and put in place the limited voting system that we have now and that is at risk.

Of the prescribed forms of secondary ID, perhaps one, a letter from a shelter or a soup kitchen, may be within reach for some of these people, but all too many of our citizens are unsheltered. Theft of identity documentation is a huge problem among homeless populations in urban cities. Getting and keeping current documentation is expensive and difficult for those with no fixed address. Where such identity documentation does exist, it will very rarely prove the individual's current address, as is required by the law.

Everyone agrees that we need to encourage and increase voter turnout, and everyone also seems to agree that we need to reduce irregularities in the voting process. The disagreement comes when we turn to how to do this. The proposed measures to reduce irregularities will disproportionately and materially impact many of our most vulnerable and marginalized citizens. This bill seeks to reduce irregularities by effectively disenfranchising those voters.

In a free and democratic society, the right to vote cannot be sacrificed at the altar of administrative convenience. Moreover, the underlying premise that if we get rid of vouching we will get rid of irregularities and therefore remove fraud is wholly mistaken. At best voter ID laws can only ever get at the risk of one form of fraud: in-person voter impersonation at the polling station. Irregularities in how the polls operate, even serious irregularities, are not proof positive of voter fraud. All other options for reducing irregularities must be considered before we take one large step backwards to disenfranchise voters.

This bill takes as its starting point an impoverished view of the integrity of Canadian citizens in exercising their most fundamental political right. The bill presumes voter impersonation fraud where there is no evidence of that happening. It subverts the underlying purpose of the legislation, which is to foster the exercise of the franchise. It will do little to enhance public confidence. Instead, it will effectively nullify the political participation of the most marginalized and vulnerable in our society.

● (1910)

In the BCCLA's view, that is the real threat to the integrity of our political system.

Thank you.

**The Chair:** You're welcome.

Ms. Zwibel, you're next. You have five minutes or less.

**Ms. Cara Zwibel (Director, Fundamental Freedoms Program, Canadian Civil Liberties Association):** Thank you, Mr. Chair and members of the committee, for inviting me to speak to you today on behalf of the Canadian Civil Liberties Association.

The CCLA is a national non-profit, non-partisan, non-governmental organization that promotes respect for and observance of fundamental human rights and civil liberties. This year marks the CCLA's 50th anniversary defending the rights and freedoms of Canadians. It's in this capacity, as a defender of core rights, including the fundamental right to vote, that I am here to express our very serious concerns about certain aspects of Bill C-23.

I know that my time is short, so for the purposes of my opening statement I want to focus on those aspects of the bill that will have the most direct and immediate impact on the electorate, and in particular may erode the fundamental right to vote. CCLA has submitted a written brief to the committee that outlines a number of our concerns in more detail.

With this audience, I don't think I have to go on about the importance of the right to vote and how crucial it is to our democracy. The right to vote is protected in our charter, and it is excluded from those rights subject to the notwithstanding clause. As our chief justice has held, "In a democracy such as ours, the power of lawmakers flows from the voting citizens, and lawmakers act as the citizens' proxies."

With all due respect, it would substantially delegitimize our system if, in your role as proxies of the people, some of whom helped to elect you, you in turn denied some of them their constitutionally guaranteed right to vote.

CCLA's biggest concern about Bill C-23 is the proposal to do away with vouching and to preclude use of the voter information card as a form of identification. We know that over 100,000 Canadians established their identity by vouching in the last election. There are very strong reasons to believe that these individuals will be disenfranchised if Bill C-23 passes as it currently stands.

I appreciate that people in this room may have trouble understanding why vouching may be necessary. For many of us, myself included, having basic identification is something we take for granted. However, those people who don't have the ID necessary to vote are often from marginalized groups. In general, these are not people who will be testifying before this committee. In fact, I did have to show identification to get into this building.

Those people stood up and chose to participate in the last election. They chose to express their democratic will. Many of the people who rely on vouching are students, seniors, aboriginal persons. Many live in rural and remote communities. Please do not ignore those people, and please don't erect barriers to their ability to vote. It's a fundamental precept of our system that every vote counts. If the changes made in this bill disenfranchise a single person, in our submission that is one too many.

We appreciate that the basic purpose of the proposed change is to address concerns about voter fraud. I have to repeat what you have by now heard likely many times before, from a number of witnesses who have appeared before the committee, including those sitting next to me. There is clear evidence that vouching has resulted in administrative problems and irregularities, but there is no evidence that it has resulted in fraud. There is no evidence that individuals who were not eligible to vote were permitted to do so as a result of vouching. In fact, the evidence that we do have is to the contrary.

The appropriate response to a concern that something may be broken in the administration of our electoral system is to take steps to fix it. A response that results in disenfranchising eligible voters is simple indefensible. In our view, this is a problem from a public policy perspective as well as a legal constitutional perspective.

The safeguards that are built up around vouching—for example, the need for record keeping, the fact that one person can only vouch for one other person—are procedural safeguards. In a recent Supreme Court of Canada case, the court made the very important point that these procedural safeguards are not ends in themselves. They are provisions that help to ensure that only those who have a right to vote may do so, but they are part of the Canada Elections Act, and the broad purpose of that act is to enfranchise all persons entitled to vote. It's to facilitate the right to vote.

Furthermore, the court remarked that they apply a stringent justification standard when considering laws or actions that result in a denial of voting rights. In the absence of any evidence that vouching has resulted in allowing ineligible persons to vote, it is hard to see how this stringent standard could be met. The CCLA believes these provisions of the bill will disenfranchise voters, may cost taxpayers money in protracted litigation, and may ultimately, if tested, be found wanting from a constitutional perspective.

● (1915)

I'm just going to briefly mention a few of CCLA's other concerns with this bill, the details of which are laid out in our written submission.

First, we urge the committee to remove the proposed changes to section 18 of the Canada Elections Act, which place significant restrictions on the role of the Chief Electoral Officer. This provision undermines the important role that the CEO currently plays. If there are concerns that basic information is not being communicated, that should be addressed, but not at the expense of other important public education and outreach done by the Chief Electoral Officer.

Second, we are concerned about provisions that shroud in secrecy investigations into allegations of fraud or other electoral improprieties. We certainly recognize the importance of upholding the presumption of innocence and the need to respect privacy, but the current bill doesn't strike the right balance between these interests and the need for transparency and the public's right to know.

Finally, we're concerned about provisions in the bill that attempt to draw a distinction between fundraising activity and advertising, and that exclude some of the expenses associated with fundraising from the quantification of election expenses. A bright-line distinction between advertising and fundraising is simply not possible. In excluding fundraising costs from the calculation of expenses there's both the potential for unlimited spending and a lack of transparency with respect to what is spent.

The same applies to the provision that would exclude from election expenses the value of services provided to a party to solicit funds from those who have made prior contributions of \$20 or more in the last five years.

To conclude, CCLA strongly urges this committee to reconsider and remove those provisions that I have discussed.

I welcome the chance to answer any questions, and thank the committee again for this opportunity to appear.

• (1920)

**The Chair:** Thank you all for your opening statements. They were fantastic.

We'll go to a seven-minute round, starting with Mr. Reid.

**Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC):** Thank you, Mr. Chair. I very much appreciate it.

I appreciate all of you coming here today. Thank you.

I'm wondering if we could go back. This is not the first change that has been proposed to Canada's vouching laws. The Canada Elections Act as it now exists was amended by Parliament, if my memory serves—that's what I was running back and forth to talk to the analysts about—in 2006 or 2007, possibly 2008, but in time for the 2008 election. We were able to confirm that. So the 40th general election, which led to the Parliament prior to this one, as well as the 2011 election, were conducted under rules in which vouching was more restricted than it had previously been.

I'm sure you already know it but just so everybody here has context, the restrictions that were placed into section 143 of the Canada Elections Act specified: that no elector shall vouch for more than one other person; that an elector who has been vouched for cannot vouch for somebody else—so-called serial vouching—and finally, that you have to live in the same polling district as the person for whom you're vouching. Those restrictions were put in place.

First, do each of you support the changes that were made then? Second, if you had the opportunity, a free hand in this matter, would you reinstate the status quo ante prior to the set of changes to section 143 that took place two Parliaments ago?

**The Chair:** Can anyone answer, Mr. Reid?

**Ms. Cara Zwibel:** Chair, I'm happy to start.

I would say that the fundamental premise underlying this is that we assume that any restrictions that are placed on the right or the opportunity to vote should have a reason behind it. There should be evidence to demonstrate that this is necessary.

To the best of my knowledge at least, the provisions in Bill C-23 aren't correcting a problem. There's an administrative problem with how things are recorded when people vouch, but there's not a problem in terms of ineligible voters being allowed to vote or at least there's no evidence of that problem. So I would say that with other changes that have been made in the past that are more restrictive, I'd have to look at the evidence that existed there, but I would say that no, we wouldn't have supported those changes either. I can't speak to what the CCLA did or didn't do at that time. I wasn't with the organization at that time.

We're talking about people's right to exercise their democratic will, so we should be correcting a problem if we're placing more restrictive parameters on their ability to do that.

**Ms. Raji Mangat:** My understanding of how things were before those amendments came into force in 2007 is that, while you may

have been asked to provide identification at the poll, you were not required to do so unless the individual at the polling station, the official, had any concern about whether you were the person you said you were, when they looked down the list of electors.

So in many instances, if you had been living in that polling division for some time and had voted there before, you would likely have the correct information on the list of electors. Prior to 2007, you would go and say, "I'm Raji Mangat, I live in this polling division, and here's my name on this list; you see it", and they would check it off and give you a ballot. If they had doubt that I was the Raji Mangat who I said I was, they could ask me to provide something to identify myself.

My understanding is that, when those amendments came into force, that's when it was obligatory to provide identification. Up until that point, you may have been asked for it—and common sense would dictate that people would keep it on hand in case they were asked for it—but you didn't have to.

• (1925)

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

Ms. Farha, could you answer very briefly? We've actually used up almost all my time, and I wanted to get to the point of it. But please let me know.

**Ms. Leilani Farha:** Sure, just very briefly, I actually did a historical search within my own organization, which has a 43-year history in this country, to see if we had weighed in on the reforms that were happening in 2007. We didn't and I was wondering why. Of course, we were being defunded, in fact, at that time.

But we did weigh in in the 1990s. What I noticed there was that our position today, and it would have been our position in 2007, was to ask who is using vouching and we found that it is the most marginalized communities, and we are concerned that those marginalized communities are facilitated in the voting process. So we would stand up and speak against a system that was going to prohibit people from voting.

**Mr. Scott Reid:** The only reason I asked that question—and thank you all for giving me quite full answers; you're very knowledgeable about that history—is that, first of all, a broader change occurred in the past and it wasn't quite the *cause célèbre* that it seems to have become now. That kind of mystifies me. I don't blame you for that; I just point this out.

But the second thing I want to point out is that vouching is actually a very imperfect solution. If you take a look at the Supreme Court case in *Wrzesnewskij v. Opitz*, we find a population group for whom there is no vouching permitted under current rules. The court had to deal with that whole process. One of the things that has mystified me is that nobody—given all the talk there has been about people who are going to be disenfranchised by this—has said that vouching should be reintroduced for people living in these care facilities, despite the fact that is the clearest case where there could be no fraud occurring. So I find that this is serving more as a proxy for people's general frustration with other issues than it is a substantive issue. I don't mean to cast aspersions on anybody here, but it seems to me that has been the emotional calculus that is going on.

I must say that in the case of the example that was given out, the single woman who has to leave her home, there's a fundamental issue that vouching would not resolve anyway. Her residence is almost certainly in the poll where her abusive ex-husband is, and therefore, she would need him to vouch or someone in that area to vouch for her in order to go and vote. Although I sympathize with her plight, I think her problem is not really resolved by vouching. It's resolved by, perhaps, something else. Vouching itself is really not the solution to that, particularly if she lives in a place, an apartment building for example, where the only person she knows in that area is her husband. Do you see what I'm getting at?

**The Chair:** Thank you.

We'll go for a seven-minute round to Mr. Scott. Are you starting off?

**Mr. Craig Scott (Toronto—Danforth, NDP):** Thank you, Mr. Chair. I'm going to take five and give two to my colleague.

**The Chair:** I'll pay attention and give you some sort of signal.

**Mr. Craig Scott:** Great.

Yes, I wouldn't mind following up on what Mr. Reid has said at some point. Whether or not the individuals' residence stays where they're fleeing from or where they've moved to, I would have thought it would be where they've moved to—but anyway.

I have a question for each one of our witnesses. I appreciate that you're here, and I want to start with Leilani Farha. You mention in your submissions a passage from the South African constitutional court where it stated that the right to vote is “a badge of dignity and personhood”. You later used your own expression that it's important, in thinking about the right to vote of people who are more disadvantaged, to think about them as being more than just their circumstances. There's a perspective here that, somehow, if you're marginalized in society the right to vote is some kind of almost a privilege or side right versus an intricate and important right, if not more important to people in those circumstance. So I appreciated that.

You ended by saying that an in-person identification system, at minimum, would be needed if vouching were to be lost. Do you have any sense of what that would look like, if it actually put those dignity interests of people at the front of the design of this system? What would that look like?

**Ms. Leilani Farha:** Thanks for the question.

Let's be clear; I'm the executive director of an anti-poverty organization. I am not someone who spends her time looking at how to build good electoral systems. That being said, I think it's kind of obvious. If you're trying to protect the dignity interests of people and you think about their circumstances—people are combatting pretty adverse circumstances who might otherwise avail themselves of vouch voting. If they've made it to the point where they're ready and able to vote, you come up with a system that's simple, straightforward, and easy to execute for everyone—not only for the person who's going to vote but also for the people receiving the person who's going to vote.

I tried to do a bit of exploration before coming here. Others of you have seen in the media the references to what's done in Australia, a country where I lived for a couple of years up in Queensland. They

have a very simple, very straightforward way of dealing with it. I'll read to you a quote, “To vote in Queensland, all an Australian needs to do is stroll into a polling booth,”—and I imagine some of them would be barefoot—“state that they do not have proper identification, and sign a declaration confirming their identity, which is later checked against the electoral roll.”

That seems pretty neat, tidy, straightforward, and simple. There's something very dignified about it. You arrive in your polling station, you say who you are, you swear an oath—it might be a legal oath of some sort—and you move forward with your vote.

• (1930)

**Mr. Craig Scott:** I think that also gives a flavour of whether that could transfer here, where we don't necessarily have the kind of enumeration they now have in Australia. We'd have to look into it.

Cara Zwibel, I want to ask you about your concerns around the fundraising exceptions to campaign expenses. What do you see in those exceptions? What do they look like? Why are you concerned about them?

**Ms. Cara Zwibel:** I'm concerned because the bill tries to draw a distinction that expenses incurred for fundraising purposes are not counted as election expenses. My understanding is that means they're not generally going to be clearly reportable. I think that for a bill that's been touted as being about getting money out of politics—for a government that's talked a lot about the need for transparency and accountability—something that tries to draw this distinction and that removes these expenses from what will be visible in the course of reviewing expenses and election returns is problematic. It's hard to imagine how a candidate or a party would solicit funds without also soliciting votes. There's a fundamental flaw in the idea that those things can necessarily be separated.

With respect to the other provision, about excluding expenses for contacting individuals who have made prior contributions of \$20 or more in the last five years—part of our concern there is that it gives an advantage to more established parties, it gives an advantage to older parties, and it puts newer parties at a disadvantage. Part of the idea behind both sides of our electoral equation, in what parties and candidates are allowed to do and what voters are allowed to do, is that there's meant to be a level playing field, and I think that provision undermines that.

**The Chair:** Thank you.

I'm sorry, Mr. Scott, I didn't stop it at five minutes.

Mr. Christopherson, take the next minute-and-a-half.

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

Thank you very much for your presentations; they're really excellent. I especially appreciate the real-world examples of who's going to be denied by virtue of eliminating vouching. The government, after scouring the planet, I'm sure scraped up one person who agrees with them, and virtually every other expert around the world disagrees with them, but we persevere.

One of the other things they're removing is the role of the Chief Electoral Officer in educating Canadians. Given the population we're talking about, how damaging could that be, to just limit him to tombstone information, in terms of where and what time you vote, and that's it?

Could you give us your thoughts, please?

**Ms. Raji Mangat:** Sure, I'll take a stab at that.

I mentioned only one of our concerns because of the short time period, but clause 7 of the bill, which is the one you're talking about, which will amend section 18 by limiting the information that the Chief Electoral Officer can share with the public, we think this is very problematic as well. We see no reason why the types of information that the bill includes—the where, when, and how of voting—couldn't be added to enhance what the Chief Electoral Officer is already permitted to do, or why we would want to have a distinction drawn. The promotion of political participation and joining in our democracy, the value of voting, which goes beyond going to the polling station and being told what you need to do—why would we want to limit that? We think that would have a very negative impact on the populations that the BCCLA works with.

These are people who historically have a lower voter turnout, and who we would like to see engage in more political participation. For most of these people their right to vote is probably the most fundamental and only way in which they can actively engage in our political system. So removing that power, we think, will be very damaging to democracy.

● (1935)

**The Chair:** Thank you.

Mr. Simms, you have seven minutes, please.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-  
sor, Lib.):** Thank you, and thank you to our guests for coming in.

I'm going to start with Ms. Mangat. You said something earlier about the charter and the right to vote. I just want to take out two quotes here from the Supreme Court decision when it comes to Etobicoke Centre. I think this bolsters your case because I think it's very poignant:

If elections can be easily annulled on the basis of administrative errors, public confidence in the finality and legitimacy of election results will be eroded.

Also, from section 8, the judgment says they:

...found that the word "irregularity", an undefined term in the Act, should be given a broad interpretation....

Would you agree that this no longer has a broad interpretation, at least from the analysis of doing this bill, and it has just been quashed outright? That is a disservice, going back to what you said, to section 3 of the charter.

**Ms. Raji Mangat:** Yes, I think that the way that irregularity or serious irregularity has become conflated with fraud is a problem. If you look at all of the evidence that has been put forward and look at all of the studies that have been done—and this goes back even to 2007 when the voter identification laws were made mandatory—there was no evidence at that point. There has remained no evidence that there is any kind of isolated incidents—forget wide-scale—of people pretending to be somebody else at a polling station, which is

what voter ID can only get at. That's one very limited way in which someone could defraud—

**Mr. Scott Simms:** Sorry to interrupt, so the fixes in 2007, in your opinion, did not even fix the symptoms that they prescribed back then.

**Ms. Raji Mangat:** I don't think I answered Mr. Reid's question properly, but the BCCLA was opposed to those voter identification rules when they came into force. In fact there is a charter challenge that has gone through at least two courts in B.C. and an application was just made this week for leave to appeal to the Supreme Court of Canada.

In both of those cases, in the lower court and at the B.C. Court of Appeal, the voter identification laws were found to be prima facie, on the face of it, a violation of section 3. Where the rubber hit the road, so to speak, was in the section 1 analysis. The justification of those laws, where the government bears the onus of showing why these laws are necessary, was where both courts upheld the laws. But in our view, we felt that there was too much deference paid to the government there, considering that, as Cara had mentioned earlier, there had been no evidence of what we were trying to fix. Back in 2007 we highlighted this problem. We see now in 2014 that even vouching, which the Attorney General himself said was a safeguard, is now being removed or it's proposed to be removed.

So we're seeing this sort of chipping away happening and we're very concerned that it's going to keep going.

**Mr. Scott Simms:** This must be alarming to you because this is now the hammer that's going to kill the mosquito, in this particular bill.

What I want to get also before I run out of time, Ms. Farha, is that when we asked the Minister about situations where people are in shelters and seniors' residences...obviously that excludes your expertise. But when you're dealing with shelters in major urban centres, and I think somebody said that this primarily relies on people in suburbs who have one of the 39 IDs, a lot of this stuff, such as the basic health card, does not have an address on it, which is so necessary. But the minister talks about attestations.

Can you comment on the usage of attestations in order for people to vote or do anything for that matter?

**Ms. Leilani Farha:** Yes. I think when you're talking about attestations, you're talking about when someone's in a shelter, or they are using a food service of some sort, a food bank, and then they go to an authority within that and seek an attestation.

● (1940)

**Mr. Scott Simms:** What about low-cost housing?

**Ms. Leilani Farha:** Yes, or in low-cost housing....

It's very difficult for low-income people who are in those circumstances to go and ask for an attestation. There's a humiliation involved in that. There is often a lack of desire to speak to your landlord to receive an attestation, or to speak to the supervisor of a mission, etc. Sometimes, too, if you're looking at the homeless population, you're on the streets for a couple of weeks, you're in a shelter for a couple of nights, you're crashing there, and you don't know the people running the place. You're not going to ask for an attestation.



As I said, there's a humiliation there. There's an awkwardness and lack of human relationship there that's going to lend itself to that.

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

How much time is left?

**The Chair:** You have two minutes, almost.

**Mr. Scott Simms:** Good.

To the CCLA, there's something you said earlier about wanting from a constitutional perspective. Were you just focusing in on the vouching issue alone?

**Ms. Cara Zwibel:** Yes. I think the vouching issue is what presents the clearest problem from a constitutional perspective.

**Mr. Scott Simms:** Sorry to interrupt again.

Can you give me examples across this country where in some provinces—others may want to weigh in on this too—they must have felt the need to fix vouching, or to say they are worried about the potential of fraud even though we don't see a lot of evidence?

Have they put forward a substitution that you think is a reasonable way of doing this? I believe in the substituting system; I don't believe in getting rid of it.

Go ahead.

**Ms. Cara Zwibel:** I don't know if I can answer that question. I don't know that I'm knowledgeable enough about the different provincial acts to know what they've dealt with.

I've been watching these committee hearings, and I know there have been some witnesses who have suggested other possibilities. I know some of the committee members have asked questions about other options, and I certainly think it's worth exploring some of those options. I'm all for adding different options into the current elections act to facilitate the right to vote, but I would say that those things should be done in addition to what's already there.

Until we know that something is working, we should not remove vouching as an option. We don't want to disenfranchise people in hope that what we have replaced it with will fix it. If there's an attempt to fix the problem, let's fix it and make sure it's working before we remove anything.

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

Mr. MacKenzie, you have four minutes, please.

**Mr. Dave MacKenzie (Oxford, CPC):** Thank you, Chair. I'd like to share my time with Mr. Richards.

**The Chair:** If indeed you have some left, I will give it to him. If not, he will wait for another round—

**Mr. Dave MacKenzie:** Thank you.

I appreciate the witnesses being here. You speak from the heart and with emotion.

But I have heard these same numbers come up from other witnesses, and it seems that everybody has a number of 100,000 people who are going to be disenfranchised. Where would that number come from?

**Ms. Cara Zwibel:** I think that number comes from the Chief Electoral Officer attesting to how many times the vouching procedure was used in the last election.

**Mr. Dave MacKenzie:** If I told you they had opened so many bags, and they made that presumption going forward, how would you know who those 100,000 people were? You seem to feel they are all marginal people, or the vast majority are.

Do you have any records or any indication that those were the people who needed to be vouched for?

**Ms. Cara Zwibel:** I suppose my assumption is, if you had a piece of identification, you would prefer to use that than to rely on someone else to vouch....

**Mr. Dave MacKenzie:** Right. If I said to you that I was at a polling station, and a business person and his wife who I knew showed up without their ID because they didn't think they had to bring it, and they required someone to vouch for them.... They weren't marginalized people.

I don't think we know who the people are. I don't think there's any record of it. I'm not being challenging, but I don't think there's any record to know who the people are who are vouched for.

**Ms. Raji Mangat:** I think nobody on the panel is saying the individuals who would require vouching are only going to be marginalized people, or only vulnerable people. I don't think any one of us is saying that. And as for—

• (1945)

**Mr. Dave MacKenzie:** I think that's what we're hearing. It's this constant number of 100,000 people who are marginalized that are going to be—

**Ms. Raji Mangat:** I think what we're saying is that we know for a fact that those people are the most likely to not be in the circumstances of that businessman and his wife who could go home, get their ID, and come back.

**Mr. Dave MacKenzie:** I appreciate that, but we don't know if those people also come to the polls to vote and end up being vouched for. That's my point. We don't know who those people are.

**Ms. Raji Mangat:** Right, and we're not going to know how many people are going to not vote, and how many people are going to be deterred from voting if this goes through as is.

**Mr. Dave MacKenzie:** Okay.

My next question is: do you know how many provinces, territories, and municipalities allow vouching? Have you challenged those that don't?

**Ms. Cara Zwibel:** I don't know. I'm aware that there are some provinces that don't allow vouching, but I'd have to look at what they do allow. Until recently you didn't have to show identification at all in order to vote federally, so it's only useful to say that there are other systems where they don't allow vouching if we look at what else is allowed.

I appreciate that you said we're speaking from the heart, because I suppose what's frustrating is trying to understand where this concern is coming from. What are we trying to solve? Is there a very real concern that many people are heading to the polls and hoping they can upset the whole system by pretending that they're someone they're not? I have to say that maybe I'm a pragmatist, but I don't think that would be a very effective way to challenge the system.

**Voices:** Oh, oh!

**Ms. Cara Zwibel:** When we look at the ways that we're using to ensure the integrity of our voting system, we have to see if the integrity is really at risk in the first place. I haven't seen any evidence that it is.

**Ms. Raji Mangat:** Yes, absolutely. I can say that in British Columbia the electoral officer there recently added prescription bottles as another form of identification that people could use. As Cara said—

**Mr. Dave MacKenzie:** There's no vouching?

**Ms. Raji Mangat:** Yes. There is no vouching, but they are looking at what else they can put in place.

What this bill is doing is taking something out. I don't see what the bill is proposing to put in place.

**Ms. Leilani Farha:** May I answer?

**The Chair:** Sure. A quick answer, please, as Mr. MacKenzie's time is up.

Mr. Richards is next up.

**Ms. Leilani Farha:** First of all, I would say that I'm actually speaking from my heart and my head.

Second of all, I want you to note that there was a federal report from the 2008 election reporting that 500,000 people indicated that they did not vote because of lack of identification as a barrier. That is 500,000.

So when you start taking this together, you realize that this issue of identification is a big one, and it is a barrier. I actually am not so upset to know that a businessman and his wife—

**A voice:** [*Inaudible—Editor*]

**The Chair:** Mr. MacKenzie, your time is up.

**Ms. Leilani Farha:** No, of course, but just because you saw a businessman.... I work with homeless people and poor people, and I know that they use vouch voting. I know that they use vouch voting—

**Mr. Dave MacKenzie:** I'm not doubting you.

**The Chair:** Thank you.

Madam Latendresse, please, you have four minutes.

Mr. MacKenzie had a couple of seconds extra, so I may be kind.

[*Translation*]

**Ms. Alexandrine Latendresse (Louis-Saint-Laurent, NDP):** That's very kind, Mr. Chair.

Since we have two people here who work with the most disadvantaged in our society, the homeless, I'd like to pick up on

something. The minister constantly refers to the 39 pieces of identification that can be used for voting purposes. What he doesn't explain, however, is the fact that you need two pieces of identification to vote, one of which has to show your address. He says that soup kitchens or shelters can provide a homeless person with a letter, but the person will still have just one piece of identification, one that doesn't list an address. Basically, if someone doesn't have a piece of identification showing their address, they cannot vote. They could have a health card and not necessarily be able to vote, even with a letter from a shelter.

The idea that a homeless person simply has to get a letter is problematic for another reason. To my mind, those who run homeless shelters have to invest a great deal of energy and resources to accomplish a myriad of tasks, so they don't necessarily have time to prepare a letter for someone so they can go and vote. I, for one, would much prefer that those in charge of shelters focus their energy on helping the homeless.

That really bothers me. I know you are quite familiar with the situation. The government says there isn't a problem, claiming that all these people have to do is get a letter, but the fact of the matter is it's a real problem. I'd like to hear your thoughts on the subject.

• (1950)

[*English*]

**Ms. Leilani Farha:** You said it yourself. It's not that easy, and I certainly wouldn't disagree. Homeless shelters, soup kitchens, and missions are extremely busy places, seeing hundreds of people. The idea that you can just waltz in and get an attestation letter, as I said earlier, is quite ridiculous.

What worries me in this, and it goes back to Mr. Reid's hypothetical. Even if the woman I described could not have someone vouch for her, I would like to know what Mr. Reid thinks the solution is then. She's not going to end up with ID. She doesn't have ID as a result of this, and if the bill goes through, she doesn't have anyone to vouch for her. So, then what? She just doesn't get to vote. That is the logical conclusion to Mr. Reid's questioning.

I think you raise very important points. What I like to say in my experience of working with poor people and people who are homeless is that people's lives are messy, and a tidy little list doesn't always work for people whose lives are messy.

**Ms. Raji Mangat:** I would add one thing to the point about attestations. I think a lot of people often miss that the signature on the attestation has to match up to a list of signatures that are at the polling station. It's not simply that you can ask anybody in the homeless shelter or in the soup kitchen. You have to make sure that person's signature is a verified signature in the collection of the polling officials, so that if you go there with that attestation letter, they can match it against that signature and say this is a valid letter from this union, gospel mission, soup kitchen, or what have you.

[*Translation*]

**Ms. Alexandrine Latendresse:** What's more, a homeless person who doesn't have another piece of identification could very well go through all those steps and obtain a valid attestation letter, and still not be able to vote, because they don't have an address. It's a big problem.

[English]

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

We'll go to Mr. Richards for four minutes.

**Mr. Blake Richards (Wild Rose, CPC):** Chair, I'm going to share the very beginning of my time with Mr. Reid.

[Inaudible—Editor]...far more generous than Mr. MacKenzie was in returning that time to me.

**The Chair:** Yes, apparently.

**Mr. Scott Reid:** Anything that Mr. MacKenzie can do, I can do in half the time.

Ms. Farha, I want to get back to the hypothetical example of the woman who's left her abusive husband. In one sense, her problem is the same as anybody who has recently moved. She's at a different address. All her ID is saying something else other than where she is.

But the second problem she has is the one that I struggle with. I hadn't thought of this example until you gave it. She actually does have a place that she's residing; it's the shelter. Those shelters frequently have confidential locations in order to protect a woman from the spouse who is potentially threatening her. In theory, she could get an attestation and vote, but that creates a separate problem for her. This is actually a vexing problem, and I don't think that vouching solves it. I'm not sure what solves it, but it's a problem that's worth thinking about.

That was all I wanted to contribute, and I hope that's okay.

**The Chair:** You've taken a minute and some of his time, but Mr. Richards has two and a bit minutes left.

Go ahead.

**Mr. Blake Richards:** Thank you very much.

I have a couple of things that I wanted to comment on, but I'll skip right to the questions. I think it is on much the same topic.

I want to use that example. A couple of you, I think Ms. Farha and Ms. Zwibel, used the example we're discussing of a woman who has fled from violence in the home and is in a women's shelter. What I'd like to ask centres on that.

Ms. Farha, I think you had indicated you work directly—and I'm not sure, maybe, Ms. Zwibel, you might as well—with women who are in those situations. I'm assuming that the shelter does more for women in those situations than simply provide a roof over their heads. They must do some work to try to help them repair their lives and get themselves back on their feet again. Can you tell me a little about what kinds of things they do to help in those situations?

• (1955)

**Ms. Leilani Farha:** In actual fact, in my scenario the woman did not flee to a shelter. She fled to a friend's house, and that is an important distinction. I didn't say whether the woman had children or not, but when a woman with a child who's experiencing violence leaves the home, often she will not go to a shelter. If she has two children, and one is a boy and one is a girl, she certainly will not go to a shelter because she basically may not be accepted. There are complications.

I gave the example of moving in with a friend, or you can imagine a sister or whatever, because doubling up and tripling up and overcrowding in housing is very common in this country. It's an example that we see very much up north as well.

I choose not to answer your question because I don't see its relevance to what I was talking about.

**Mr. Blake Richards:** There is relevance. If you choose not to answer, maybe somebody else would care to help provide the details of what a women's shelter would do for someone fleeing in that situation in order to help them get back up on their feet? Is there someone who would care to answer the question?

**Ms. Cara Zwibel:** The Canadian Civil Liberties Association doesn't have experience with that population.

**Mr. Blake Richards:** I ask the question, because I'm assuming that in many cases they would try to help them pick up the pieces. The first thing they're going to do, because you do require ID for so many things, is probably going to be to help them to try to get some form of identification and help them try to obtain a bank account of some type. Therefore, suddenly, they will have the ID required. They would have a bank account, and a bank statement is one of those things.

These are just a couple of examples. There are many examples. If you look at the list of 39 pieces of ID that would allow them to... Once they begin that process of picking up the pieces, that would be amongst the first things they would do to put themselves in that situation, which would then of course allow them the ability to vote as well.

**The Chair:** Thank you, Mr. Richards. I thank our witnesses. You've been great tonight.

As Mr. MacKenzie said—I'll steal his line—you spoke from the heart and the head, and thank you very much for coming tonight.

We will suspend just for a couple of minutes while we change panels.

• (1955)

(Pause)

• (2000)

**The Chair:** We'll call ourselves back to order and start our second hour for tonight.

We have James Quail, a lawyer.

Mr. Quail, can you hear me?

**Mr. James Quail (Lawyer, As an Individual):** Yes I can.

**The Chair:** Super. Thank you. We can hear you fine too.

I love the picture in the background.

**Mr. James Quail:** Great. It's a lovely day here in Vancouver.

**The Chair:** Oh, sure, now you're going to start being mean to us.

Ms. Tamara Lenard.

**Prof. Patti Tamara Lenard (Research Associate, Canadian Centre for Policy Alternatives):** It's Professor Patti Tamara Lenard.

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

You're here too.

**Prof. Patti Tamara Lenard:** I am here.

**The Chair:** You will be our two guests for this hour.

Mr. Quail, if you have an opening statement of five minutes or less prepared for the committee, you can go first and then we'll let our other guest give her statement, and then we'll do questions from the members.

Please go ahead.

**Mr. James Quail:** Great. Thank you.

I was legal counsel for the voters who challenged the last set of major amendments to the Election Act, when the requirement for approved voter identification documents was first introduced and the scope of vouching was restricted. That was at the trial level, in the case of *Henry v. Canada*.

In that case, both the B.C. Supreme Court and the B.C. Court of Appeal upheld that the voter ID requirements infringed the right to vote, guaranteed under section 3 of the charter, but ruled that the infringement could be justified under section 1. In the *Henry* case, counsel for the government admitted that there was no evidence of any substantial amount of fraudulent voting in Canada. The government argument justifying the rules was entirely based on avoiding a perception that there may be a risk of voter fraud.

There is an important difference between fraudulent voting and voting where there has been some procedural irregularity. The more restrictive or complicated the rules are for voting and processing votes, the greater the likelihood there is of procedurally irregular voting—that is, the more complex the process, the more that can go wrong. Above all, we need a simple, fail-safe measure to protect voters from unintended disenfranchisement.

In the *Henry* case, the government placed heavy reliance on the continued use of the vouching process as the fail-safe mechanism in its argument that the new rules were minimally impairing and would thus survive section 1 of the charter. Eliminating vouching and not replacing it with an alternative safety net so that the only way to establish the right to vote is through the production of identity documents would not only undermine the section 1 justification the government has advanced for the voter ID requirements; it would also predictably cause more improper voting than it could prevent.

Consider the number of adults in Canada at any point in time who are citizens, who have moved their residence from one constituency to another, but who have not yet updated their identification documents. When an election is held, if the only way to establish their right to vote is by producing approved documentary evidence of their address, the only place where those persons could vote is in their previous constituency, which is obviously not the right place for them to vote.

In the *Henry* case, what we proposed as a less impairing alternative means to achieve Parliament's objectives was to permit voters who don't have ID to swear declarations confirming their identity and their residence. We argued that this would actually be more meaningful evidence than, say, a library card and an Ontario wildlife card, which were both on the list of approved documents, especially in that swearing a false declaration is a crime. It would

ensure that no citizen would be wrongfully denied their right to cast a ballot.

I hear in the news today that the minister has now said that he is prepared to consider amending the bill to provide for reliance on sworn declarations where voters cannot produce the approved ID at the polls. I welcome this development wholeheartedly. It is a far better and more straightforward fail-safe than vouching. This remedy would fix the problem entirely in relation to the impact of the bill on access to the franchise in Canada.

The right to vote belongs to the citizens of Canada and not to the government or to any parliament. Especially in the absence of any national consensus that proposed changes are appropriate, the government should not institute any changes that make it harder to vote. Our problem in this country is not that too many people are voting but that not enough people are participating in our democratic process.

Those are my comments. Thank you.

● (2005)

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

Patti Tamara Lenard, I apologize; I forgot to say earlier that you're from the Canadian Centre for Policy Alternatives.

Please make your opening statement.

**Prof. Patti Tamara Lenard:** Thank you very much.

Thank you very much for having us here today. I'm here representing the Canadian Centre for Policy Alternatives—

**The Chair:** Sorry; that's Professor Lenard.

**Prof. Patti Tamara Lenard:** I am also an assistant professor of applied ethics at the University of Ottawa's Graduate School of Public and International Affairs, and I am here as a research associate with the CCPA. I'm also—some of you may know this—a co-author with several Canadian professors of an open letter concerning Bill C-23, published in the *National Post* earlier in March.

The views I express today, though, are my own and do not necessarily represent the views of my co-authors or of the 180 signatories to that letter. Of the many difficulties presented by the fair elections act, I'd like to focus on just one, which Mr. Quail has already talked about, and that is the way in which it would undermine political equality in Canada, by making the right to vote more difficult to access in general, and most particularly but not exclusively, for vulnerable Canadians.

It does this—as we've already heard today—by proposing to eliminate vouching and by imposing stricter voter ID requirements. Let me begin by pointing out that Canada's voting ID requirements are already more restrictive than in many countries. Indeed, in leading Westminster democracies, the U.K., Australia, and New Zealand, all that is required is that one be on the voter registry; no identification is required. In other democracies, vulnerable citizens are exempt from identification requirements entirely.

According to international best practices of electoral law, governments that require ID should ensure that these are provided to citizens free of cost, as with the VICs that this bill would disallow.

The purpose of beginning here is simply to highlight that the proposals to eliminate vouching and to impose stricter voter ID requirements will move us away from widely accepted international best practices by which states protect the right to vote of their citizens. In Canada—we already heard this today—the right to vote is protected in section 3 of the charter. In my view, the constitutional protection of this right imposes a duty on all of us, particularly our government, to protect that right for each one of us.

In my view, the proposed fair elections act is anything but fair. As we've already heard, it risks excluding some of Canada's most vulnerable citizens such as seniors and students, first nations' citizens, low-income Canadians, and homeless Canadians. We know from Elections Canada that these groups relied on vouching most frequently in recent elections. It should go without saying that in our Constitution, these citizens' right to vote is no less important than that of any other Canadian. This bill, regrettably in my view, makes it necessary to underline this point.

In its recent decision in the Etobicoke Centre case, the Supreme Court acknowledged the multiple values at stake in elections such as integrity, transparency, and efficiency. It then gave pride of place to the constitutionally protected right to vote. I quote from the decision:

...the Act seeks to enfranchise all entitled persons, including those without paper documentation, and to encourage them to come forward to vote on election day, regardless of prior enumeration. The system strives to achieve accessibility for all voters, making special provision for those without identification to vote by vouching.... The goal of accessibility can only be achieved if we are prepared to accept some degree of uncertainty that all who voted were entitled to do so.

In other words, our electoral system relies on a certain amount of trust in our fellow citizens not to abuse our most basic democratic right. In my view, this bill rests on the false premise that we should distrust one another.

Bill C-23 will effectively take the right to vote away from some Canadians. How then can we claim to be a democratic country?

The right to vote is not something the government grants us permission to do, like driving, hunting, or practising medicine. It belongs to each of us by virtue of our citizenship status. The job of a truly democratic government is to protect our right to vote by securing the conditions that make it possible. This act does the opposite.

The government's reason for restricting the right to vote rests on the importance of eliminating fraud from our electoral system. As has been said repeatedly in the media and before this committee, there is no evidence of fraud, only of record-keeping errors that can be dealt with in ways that do not threaten the integrity of Canadian democracy.

So let there be no mistake. The government proposes to protect against imaginary dangers by creating real and significant harms. There is something gravely wrong when we plan to turn away citizens at the voting booth because we imagine they might be trying to cheat the system. There is something wrong with a policy that slanders hundreds of thousands of Canadian citizens as potential

fraudsters because they are vulnerable in ways that make it difficult to get a driver's licence or to have a stable address.

The so-called fair elections act is inconsistent with a commitment to political equality on which Canada's democracy is built. In my view, Bill C-23 should be rejected.

Thank you for listening.

• (2010)

**The Chair:** Thank you very much, and we'll go to our rounds of questioning.

Mr. Richards, you're going to lead off for seven minutes, please.

**Mr. Blake Richards:** Good. Thank you, Mr. Chair.

As you mentioned earlier, that's one way I can assure no one will misuse all the time there.

Anyway, I do thank both of you for being here or virtually being here.

I noted that you both sort of centred your opening remarks on one particular aspect of the bill that you had concerns about.

I've also done a lot of thinking, and certainly research, into that particular item, as many members of this committee have. What I've found is that, with the 39 pieces of ID that are available to people to come to the polls, it's quite an extensive list. I've heard a number of different examples given of hypothetical voters who may not have the necessary identification, or not be able to obtain it. I have yet to see an example that I don't feel there is a solution for among the 39 pieces of ID.

We've also heard from some witnesses, certainly one who came here and had done very thorough research and came up with a bit of a matrix, I think, that showed he couldn't find an example of a voter who wouldn't be able to vote.

We had a professor come here from the States who'd done extensive research in terms of some of the states that had switched to requiring voter ID there. The research had shown that there didn't really seem to be any link between those requirements and the turnout in those subsequent elections. In fact, there were examples in the United States where the turnout had actually increased in subsequent elections following the requirement.

But certainly he indicated that his feeling was, through the research he had done, that interest in the political system was the key determinant in voting. I don't think there'll be anyone who would disagree with that particular statement.

Having said that, I do understand that you share concerns—we don't necessarily agree—on that particular provision of the bill. So what I would like to do is to give you an opportunity as well to talk about any of the other aspects of the bill, because you have had some time, obviously, to speak to this. We do appreciate you coming here and sharing your comments, even though we may not necessarily agree. But certainly I'm sure you must have had an opportunity to look at other aspects of the bill.

What I would like to do is just provide you an opportunity. It's quite an extensive bill. There are a number of changes to our elections law that will obviously, we believe, create a greater confidence in our electoral system through a number of different methods. It certainly eliminates some of the voting fraud that may exist or is certainly at great risk of existing with some of the provisions that are in there now. When you look at the idea of vouching, obviously, with the significant errors that have been identified with that, there is certainly a risk there.

But the bill does a number of other things. It looks to protect voters from rogue calls through this public registry for mass calling. That's an example. I guess I'd leave it at that one example, just because I'd like to give you the opportunity.

Can you tell us one or two things from the bill that you've identified that you feel would be good changes? I know you've indicated that you feel—

• (2015)

**The Chair:** Excuse me, Mr. Richards.

Go ahead.

**Mr. David Christopherson:** Chair, I would hope that you would direct to the witnesses that they don't have to answer questions about things that they were not prepared to.... They have a right to come here and talk about the bill, the things that they care about. We can ask if they have other views on them, but no attempt to try to make people be in an awkward spot—

**Mr. Blake Richards:** That doesn't sound like a point of order to me.

**Mr. David Christopherson:** —if they aren't researched here to answer those.

Well, I just want the witnesses to know they don't have to answer every question just because you put it to them.

Thank you, Chair.

**The Chair:** Absolutely, but our witnesses can certainly speak for themselves, too.

Mr. Richards.

**Mr. Blake Richards:** Thank you, Mr. Chair, after the interruption.

What I would like to do is offer you the opportunity to share with us any other thoughts you have on the bill, but particularly what I would like to ask is this. Are there any specific changes that the bill seeks to accomplish that you feel are positive changes that would be good, and why?

I'll offer you both that opportunity.

**The Chair:** Professor.

**Prof. Patti Tamara Lenard:** Thank you.

I'd like to make several comments.

The first is that, to be honest, I spent seven years living in the United States. I'm really reluctant to encourage you, in fact, on the contrary, I'd like to discourage you, from learning lessons about American electoral—

**Mr. Blake Richards:** Sorry, I don't mean to interrupt, but by no means am I indicating that we're looking to learn lessons.... I'm just simply indicating that on that very specific point, there was—

**Prof. Patti Tamara Lenard:** But that matters. On the very specific point that you cited, on the question of whether voter ID requirements increase or decrease electoral turnout, the evidence from the United States is highly mixed. On average, taken as a sort of collection of evidence, suggests that the stricter the voter ID requirements are, the more they depress turnout. They particularly depress turnout of vulnerable citizens and citizens who move on a regular basis.

I think that evidence is not controversial. You could obviously find an article that states something different, but in general, the evidence from the United States is quite clear.

**Mr. Blake Richards:** In my research, I found a number of articles that have stated otherwise, and I guess we agree to disagree on this particular point. We've already indicated that. However, I don't have a lot of time left, about a minute and a half, so do you have some other, specific items in the bill that you'd like to share with me?

**Prof. Patti Tamara Lenard:** I'm happy to say that I think partisan polling is a really bad idea. We already have a system of international best practices, according to which partisans are not involved in selecting senior poll clerks in general, so I think that would be the next thing I would attack.

I think the campaign finance changes that you're recommending to implement are a profoundly bad idea because they increase the influence of money in electoral politics in Canada, something that we are trying to reduce, not increase.

I think the decision to remove the teeth of the electoral commission officer is a really big problem. Perhaps Mr. Quail would like to comment on additional—

**Mr. Blake Richards:** Maybe I'll have to allow him that opportunity because there isn't much time left.

**Prof. Patti Tamara Lenard:** Absolutely.

**Mr. Blake Richards:** Mr. Quail, were there any specific changes in the bill that you'd like to comment on further? For example, the idea of the public registry for those mass calls. Do you have any thoughts on that?

**Mr. James Quail:** Anything that restricts robocalling, in my opinion, is a wonderful thing. If there's one thing, personally as a Canadian citizen, that I loathe is receiving robocalls. Anything that reduces that junk coming into my telephone, frankly, is a good thing.

I'd like to address a couple of the points you made. First of all, on the question of turnout, it's important to note that the concern about the voter ID is not really something that engages turnout because most people have ID. There's actually only one government-issued document in Canada that meets all of the rules and that's the driver's licence. Most adult citizens in Canada have a driver's licence. Most of us are quite able to vote, despite the rules.

It's about some of the people who might be excluded, and not only marginalized people. I think my wife might complain about my mentioning this, but I vouched for her in the last election. She's a lawyer as well, and I don't think could be considered a marginalized citizen, but she forgot to bring her ID, and that procedure was available, and that worked and was convenient.

**Mr. Blake Richards:** Can I just interrupt you briefly on that—  
• (2020)

**The Chair:** No, Mr. Richards....

**Mr. Blake Richards:** —because I would think in that case, she probably could have gone back to get the information and been able to vote, correct? So she wouldn't be disenfranchised by that.

**Mr. James Quail:** Absolutely—

**The Chair:** Mr. Richards, your time for the question is over. We'll let the guest answer the question.

**Mr. James Quail:** The real problem arises where people, for example, in the poorest part of Vancouver, and I'm sure you're aware of the problems of the Downtown Eastside—and this was part of the evidence we presented in the Henry case—was that one thing people get stolen from them all the time in the Downtown Eastside is ID, because it's a very valuable asset. It can be a scarce commodity among the truly homeless people there. As one of the witnesses said at the earlier panel, people can have messy lives and that's a place where a lot of people have messy lives.

But it isn't only people who are marginalized who are affected, and it should not be difficult to vote.

**The Chair:** Mr. Quail....

**Mr. James Quail:** I have concerns about—

**The Chair:** Mr. Quail, I have to stop you because Mr. Richards' time is up, and you're really eating into someone else's. Maybe we'll get some points in on the next round.

Mr. Scott, you're next, for seven minutes, please.

**Mr. Craig Scott:** Thank you, Mr. Chair.

Mr. Quail, you were about to say you have some current concerns. If you could finish your answer, maybe in no more than a minute, to give me the rest of my time, that would be great.

**Mr. James Quail:** Sure. I do have concerns about removing the investigative powers and essentially reducing the communication role of the Chief Electoral Officer. I think those are serious problems. An important piece that's missing is the lack of capacity of the Chief Electoral Officer, or whoever is in charge of enforcement, to compel production of documents and compel testimony. Those are serious shortcomings. They're serious in any kind of serious legal process where important rights are at stake and are being enforced. On the one hand, there's a "we don't trust you" attitude towards the electorate, but then there's a bit of a "trust us" attitude when it comes to the other side of the equation that I find troubling.

**Mr. Craig Scott:** Thank you.

I also just want to use the next 30 seconds to inform our guests....

Thank you for listening to the account of my colleague across the way of what previous witnesses said. I want you to know that one of those witnesses did indeed imaginatively draw a Venn diagram in his

own mind where somehow the health card became the ultimate piece of ID. He seemed to have absolutely no idea that address is required as one of two pieces of ID, if you don't have a card that has both on them. It was the most unconvincing piece of testimony I've heard in my two years since being here.

As for the other gentleman, he was a distinguished scholar from the U.S. who did not say there's no relation. He did not say that. He ended his testimony by saying his claim was that voter ID is not the driving force for voter turnout. So for you to try a second time around to put on the record testimony that was not given....

Anyway, Professor Lenard, you did have a chance towards the end of your remarks to talk, succinctly, to a number of other aspects that you're concerned about: partisan selection of people, election day workers.... You mentioned also your concern about fundraising.

Could you possibly elaborate just a little bit on why you see those as problems?

**Prof. Patti Tamara Lenard:** Yes I'm happy to. The short and the long version of the issue of public financial contributions is simply one of giving Canadians who have more money greater access to the vote. Every time the government decides to increase campaign contributions rather than decrease them, which is what they should do, they're making a decision about whose voice should count more. I happen to think that every voice should count equally, so I am opposed to policies that increase the amount of money that any individual Canadian can give.

With respect to partisan poll workers, contrary to what I said to Mr. Richards in my previous answer, in this case I think it's really good to draw on American evidence. It shows that where the poll workers are partisan, it is more difficult for people for all kinds of reasons—there's lots of evidence for this—people who are of the non-dominant party, the non-incumbent party, to get access to the vote. They're more likely to be turned away. They're more likely to have their ID rejected as invalid. It looks to be as a result of political maliciousness that these things happen.

I organized a conference when I was at Harvard University in which we invited election scholars to have a conversation about which practices were best in Canada and the United States. It was widely agreed that the non-partisanship associated with the running of elections was the thing that Canada was best known for. This is something we should protect because it is something that the world should model. It's not something that we should reduce or change.

• (2025)

**Mr. Craig Scott:** I heard a comment from the chair and I think he's right that we already do have some partisanship in our selection process for parties getting involved. This bill actually deepens it with the central poll supervisors. All in all, if you had a look and I also know that you were involved in the letter of 160 academics across Canada as pointing out a range of concerns.... From what you've heard from testimony, the seeming unwillingness of this government to listen to anybody through these hearings, etc., what would be your advice on this bill? Do you think this bill should be going forward, or should we be starting all over again?

**Prof. Patti Tamara Lenard:** I definitely think that we should be starting all over again. I think it's really disingenuous of the government to say that the reason for these changes is that we're trying to increase public confidence in an electoral system that people have a lot of confidence in, and that the way they perceive to do this is by constructing an elections act that massively changes what electoral politics looks like in Canada and then refuse to have a public conversation about it. I have no understanding of how that is a confidence builder. That's clearly a confidence reducer.

**Mr. Craig Scott:** Thank you.

Mr. Chair, I only have about a minute and a half left, so I would like to just use part of that to table a notice of motion if that's at all possible.

**The Chair:** Use your time in your own way.

**Mr. Craig Scott:** It in effect would be a motion to kill this bill.

I think we've seen non-stop articulate reflective condemnation of this bill from all quarters. Whether it's voter ID rules, or undermining Elections Canada and the Chief Electoral Officer, the massively problematic fundraising exemption, the undermining of the commissioner for Elections Canada by moving that office to the Director of Public Prosecutions, all sorts of fetters on his work, not giving him the powers that have been requested, total focus on citizen fraud, and not on the kind of fraud we thought was going to lead to this bill, consequently, I would like to give notice of a motion that the Standing Committee on Procedure and House Affairs present a report to the House of Commons recommending that Bill C-23, an act to amend the Canada Elections Act and other acts and to make consequential amendments to certain acts, be withdrawn.

Mr. Speaker, this is just a notice of motion and at some point we will move that.

**The Chair:** Thank you. Will you let me know ahead of time when that time might be?

**Mr. Craig Scott:** Yes.

**The Chair:** Thank you.

You had about five seconds left, but now that I've talked, I'm going to use it up right now. Thank you.

Mr. Simms, you're on for seven minutes, please.

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

I'll start out with Professor Lenard. I have a very blunt question from the beginning. In light of section 3 of the charter, is this bill a problem?

**Prof. Patti Tamara Lenard:** Yes. That's the blunt answer. Do you want me to say more? Yes, it's a problem.

**Mr. Scott Simms:** I'd love you to elaborate, yes, but I appreciate —

**Prof. Patti Tamara Lenard:** Fundamentally what I think is that if there were fraud in an electoral system, it should be eliminated. In fact, if there were anything harmful about the electoral system, I would think it should be eliminated.

But there is no evidence of fraud or harm, and when you propose to eliminate a harm that doesn't exist and you weigh it against the

harm that would be created.... In this case, the harm that would be created is the disenfranchisement of Canadians, some of whom are vulnerable—and, as Mr. Quail pointed out, not all of whom are vulnerable, just people who showed up with the wrong kind of ID at an election poll.... Many of my students don't have ID with residential requirements on it, but they are fine—more or less fine, anyway—young, upstanding adults who intend to participate in the democratic process.

There are people who will find it more difficult to vote, and I can't see any reason why a government would make it more difficult to vote when there is no evidence that any harm is being perpetrated. Why would you do that? What possible reason could you have to restrict access to the vote? Government's job is to protect that right by enabling people to vote, by providing as many different ways as possible for citizens to vote, to encourage them to do so.

● (2030)

**Mr. Scott Simms:** I want to expand on that for just a moment, but before I do—I'm running out of time—I want to go Mr. Quail, if he would like to comment on this as well.

**Mr. James Quail:** [*Technical difficulty—Editor*] ...existing rules for voter identification with vouching violate section 3 of the charter.

**Mr. Scott Simms:** Mr. Quail, I'm sorry, I didn't get the first part of your statement. Could you repeat what you just said?

**Mr. James Quail:** Yes. In British Columbia, both our B.C. Supreme Court and our Court of Appeal have confirmed that the existing rules before this bill came along violate section 3 of the charter, but the court was convinced that it would survive the section 1 test, which looks at whether there are measures that make it minimally impairing and so on.

As I said in my opening comments, a key part, really the cornerstone of the government's argument to save the old rules was the existence of vouching; that there was a safety net available to people who wouldn't have the ID. That was a significant part of their argument. It's still our position that the pre-existing rules are not justified under section 1, but if you remove that piece, it seems to me that what's left is in serious doubt. It's not clear to me that the courts would see this as passing constitutional muster. I think it's a very serious problem.

On the other hand, as I said in my comments earlier, what's missing is a reliable safety net and a rule that says that if you can't have anybody vouch for you and you don't have ID, you can swear a declaration confirming your identity and your residence—it's a criminal offence to swear a wrong one—and confirming that you're a citizen and that you're in the right place to be voting. Then you get to cast a ballot. That would do the trick.

That was our argument. It was rejected earlier by the government, but I have heard in the CBC reports that the the minister is now perhaps blinking on that issue and that the bill may undergo some amendment to reinsert this mechanism.

To my mind, with that amendment, the legislation would not violate section 3 with respect to the voter identification requirements.

**Mr. Scott Simms:** Thank you for that, Mr. Quail.



I want to go back to Professor Lenard again. I want to go to your international experience. We know that in the United States this has been a big issue in the past year. I understand that perhaps their qualifications for a particular elector are far more stringent than our own, but what was the genesis of this? Is this how it all started, through disenfranchising voters by eliminating things such as vouching?

**Prof. Patti Tamara Lenard:** I'm sorry, I can't answer that. I don't have the expertise to answer that question.

**Mr. Scott Simms:** Do you think that in this particular case, by eliminating vouching, we are going to a level that is only going to become worse because of the stringent requirements of ID? As one of the persons who was before us as a witness said of the 39 pieces of ID that they are putting in this bill, most are irrelevant for the most vulnerable in our society, and in many cases maybe even for the not so vulnerable. As was pointed out, without a driver's licence, it's tough.

**Prof. Patti Tamara Lenard:** Yes, I agree with that.

Mr. Quail said that most Canadians have driver's licences. In fact, I think the last number I saw was that 85% of voting-age Canadians have a driver's licence. There is actually quite a large proportion of Canadians who need to find some alternative way to vote.

There's an easy solution to your question, which is that we can expand national ID. The government can provide cost-free, easily accessible national ID that can be used to vote. This is what a recent U.K. report suggested, exactly this. That the U.K. should have more stringent voting requirements but that they must be accompanied, in order to avoid accessibility problems and in order to avoid violating political equality, what should happen is that the government should fully fund and make extremely accessible national ID, which would be a solution to the problem.

We have a direction. The Canadian government has moved in that direction by issuing VICs, and the bill proposes to eliminate VICs. But that's exactly the wrong thing to do, if what you're concerned about is protecting the integrity of a system by requiring identification.

I don't see anything wrong with people identifying themselves. People should be required in certain situations to identify themselves. But if identification is required for voting, then the onus is on the government to make sure that the ID is provided easily and free of charge.

● (2035)

**Mr. Scott Simms:** So you think that something similar to the voter identification card on a national basis would serve as an alternative.

One example that was talked about concerned the Australian method. The Australian method, of course, is that if you don't have any ID, you vote but you provide an oath in writing, and it is sealed with the ballot and checked at a later date. I personally like that, because then people are not discouraged once they're there, even though they have no ID. Their vote may be discounted because they don't match up, but at least they're not told to go home and come back later.

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

**Prof. Patti Tamara Lenard:** Sure. I think that's a better solution than what is offered.

Fundamentally the problem with having invited me is that I don't see any problem with the present system, except that it's not permissive enough. I would encourage more permissiveness, but that's not the political mood right now. So in light of the fact that we're moving towards stricter ID requirements, I think the answer is either keeping VICs legal and expanding their usage or providing some alternative form of national ID.

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

**Mr. Scott Simms:** He doesn't get a chance to answer now?

**The Chair:** Well, you're well past your time. Hopefully, if you would like Mr. Quail to answer the question, he might answer it under someone else's questioning.

We'll go to Mr. Lukiwski for four minutes.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Thanks.

I have one question for each of you and limited time.

Mr. Quail, you're in Vancouver. We've heard a lot of testimony about people saying that homeless people and those who are severely disadvantaged would be penalized by this bill, if we eliminated vouching. Vouching has been quite a hot button topic here.

I guess my question to you, because I honestly don't know the answer to it, is this. If you were a homeless person anywhere, whether it be in east Vancouver or not, that would imply that you're homeless because you don't have friends, relatives, or anybody else with whom you can live. How would somebody vouch for a homeless person? You have to vouch that you—

**Mr. James Quail:** Well, that's one of the real problems with vouching. It's a very serious shortcoming of vouching, you're absolutely right. It's an even larger problem with restrictions on vouching that were put in place in the last round of amendments, whereby you can only be vouched for by somebody who resides not just in the same constituency but in the same little polling division that you're in.

This makes it very difficult, because someone who's truly homeless may not have anyone who is qualified to vouch for them. People who know them—for example, who work at social service agencies—likely live in another part of town; they don't live in the Downtown Eastside. So you're absolutely right, and that is one of the inadequacies of vouching.

**Mr. Tom Lukiwski:** Thank you.

With the limited time I have left, Madame Lenard... I only want to point this out, because this is not a Canadian statistic, but I just found this news story. Since you were saying that there have really been no statistics that have found evidence of fraud in Canada—although I don't know how one would find fraud, quite frankly... If someone has voted illegally, I don't know how you would find that out, because people who do so usually have a way of concealing the fact that they are voting illegally.

But in the United States—I just noticed this article—North Carolina found tens of thousands of people whom they believe to have voted illegally, including between 40 and 50 who apparently cast a ballot when they were dead. Now, I'm not sure whether we have a completely different system in Canada from what they have in the United States, but I would suggest to you that there are documented instances—and in some cases they're very large-scale—of electoral fraud.

So my question to you is: how would one know in Canada, if someone has committed voter fraud?

Let me give you an example. It has been in the news recently that there was a reporter who registered three different times at three different polling stations, voted once legally, then spoiled the ballot in the other two, and then wrote a story about it. He was ultimately prosecuted, but the only reason he was prosecuted was that he brought to the attention of Elections Canada the fact that he had voted three times. Elections Canada would not have been able to find out otherwise.

So I am wondering how you can say with certainty that voter fraud has not occurred and does not occur in Canada.

**Prof. Patti Tamara Lenard:** Well, I certainly didn't say that.

**Mr. Tom Lukiwski:** There is no evidence of it, you said.

**Prof. Patti Tamara Lenard:** I said there was no evidence of it.

**Mr. Tom Lukiwski:** Just because there's no evidence doesn't mean it does not occur, does it?

• (2040)

**Prof. Patti Tamara Lenard:** In the absence of evidence, why would you change policy to protect against something that appears to be imaginary?

**Mr. Tom Lukiwski:** I suppose just because we haven't proven something, you're saying we shouldn't put in safeguards to make sure it doesn't happen. I don't think I can accept that.

**Prof. Patti Tamara Lenard:** I'm saying that the system, as it exists, hasn't thrown up evidence of significant fraud, and the absence of evidence—

**Mr. Tom Lukiwski:** So, if there were evidence, then would you say that perhaps the safeguards we're putting up are legitimate?

**Prof. Patti Tamara Lenard:** I would say, if there were evidence of the kind of fraud you report in some news story in North Carolina.... So the answer of how you discover fraud is presumably however they discovered it in North Carolina, so that's the answer to your question. I don't know what happened in North Carolina.

But there are two questions. One is whether there is really fraud. There's certainly not fraud. All of the documents we're talking about, the Neufeld report, the Supreme Court decision, have concluded—

**Mr. Tom Lukiwski:** How can you say there's no fraud when you said—

**Prof. Patti Tamara Lenard:** —that the irregularities.... There's been extensive investigation into types of irregularities, and the irregularities in the Canadian electoral system are mainly of the record-keeping variety. That's what's been discovered already.

There may be, in the future, evidence of fraud, but at present, the research that has been done by Canadian experts has not thrown that up. That's point one.

Point two is that in the case of one or two or three instances of people voting when they ought not to have, you have to have another conversation, which is to ask what are the harms of the legislation you are proposing. What harms will it generate in relation to the benefits you are proposing it will save us from? If we are going to protect ourselves from three fraudulent voters, the harm is not worth it.

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

We will move to Madam Latendresse for four minutes, please.

[*Translation*]

**Ms. Alexandrine Latendresse:** Thank you very much, Mr. Chair.

I want to thank our witnesses.

I'd like to continue more or less along the same lines. Investigations did, in fact, reveal evidence of fraud. In 2011, for instance, fraudulent calls were made.

The Chief Electoral Officer, the Commissioner of Canada Elections and many other elections experts have said they need some very specific tools in order to properly examine this type of fraud. Among other things, they need the authority to compel witnesses to testify and to request receipts from political parties when they file claims and receive public money. Those are just some of the things they are asking for.

The commissioner and Elections Canada need many more powers than they currently have. And no such measures are in the bill. What is in the bill is the transfer of the commissioner to the Office of the Director of Public Prosecutions, and the reason is rather arcane. It appears to be more of a smoke and mirrors exercise than anything else.

Could you please comment on that and on the fraud cases before us? They did actually happen, although the Conservatives prefer to think of them as imaginary.

In your view, should the bill include measures like the ones I just mentioned?

[*English*]

**Prof. Patti Tamara Lenard:** Basically, I'm going to say that I don't have the expertise to answer your question, but I agree with the thrust of the question, which is to say that certainly there's been evidence of wrongdoing, which amounts to fraud, in other aspects of the electoral system. But that is, unfortunately, not my area of expertise, so all I can do is agree with you and hope you find an expert to corroborate your view.

[Translation]

**Ms. Alexandrine Latendresse:** There have been many, actually. The overall sentiment is anger. The experts aren't happy that the bill doesn't include such measures, measures that have been sought for years and recommended in various reports by the Chief Electoral Officer and the commissioner. They are also angry that the people trying to prevent fraud lack the tools they need to do just that in the future. These are the people who know the system best. They should have been consulted on what changes needed to be made to the Elections Canada Act. That didn't happen, however.

Lastly, I can't wrap my head around the fact that the proposed changes to the Elections Canada Act aimed at rectifying the problem are actually measures that will prevent some people from voting. I can't see how taking away some people's right to vote bears any relation to fixing what happened.

[English]

**Prof. Patti Tamara Lenard:** I agree.

[Translation]

**Ms. Alexandrine Latendresse:** Mr. Quail, did you have something to add?

[English]

**Mr. James Quail:** Yes, I would use a stronger word than "fraud" to describe what was reported in the last election, and that word is "subversion", in fact.

I would also like to comment that we have been blessed in Canada with some really excellent people filling the post of Chief Electoral Officer. In my opinion, from my dealings with them and my knowledge of them, Mr. Kingsley and Mr. Mayrand are both public servants of the very highest calibre. I certainly think that whoever is filling that post should be given whatever authority they need to really do the job and protect our democracy.

On the other side of the question of fraud, I think the point needs to be made that the voter identification requirements don't really address the question of any deliberate fraud. First of all, the identity documents don't require you to prove that you're entitled to vote. There is no requirement—and it's probably a good thing—that you have to prove that you're a citizen of Canada. Every adult citizen of Canada is eligible to vote.

If I wanted to vote fraudulently under the current rules, without vouching, I would be able to print off a form of lease on my computer and get my neighbour to sign it, go to the local library to get a library card, and go to vote. That is the system that is supposed to be safeguarding us and ensuring public confidence in the integrity of our electoral system; as opposed to, for example, requiring me, if I don't have the ID, to go to swear a declaration, knowing that I could go to jail if it's a false one, and I'm leaving a document behind that can be identified and investigated. I flash my lease and I show you my library card, and I put them back in my pocket; I vote.

If you want to look at a situation where there is no way of really determining fraud.... Those are the rules we have now, as a matter of fact.

• (2045)

**The Chair:** Thank you.

Thank you, Madame Latendresse.

Mr. Reid, you have four minutes, please.

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

Just to follow up on what Professor Quail was saying, I concur that some of the pieces of ID that are on that list probably shouldn't be on the list. The library card is an excellent example.

I have always been mystified as to why the Chief Electoral Officer decided to just say "a lease" as opposed to saying "a non-commercial lease". I actually thought of bringing in all the leases that have my name on them to make this point, or "a current lease" would be helpful, too. Because I keep all my expired leases and apparently they all qualify me in different ridings.

There are problems with this system right now and its lack of security. But it seems to me that the fundamental problem, if I may say so, is that we moved from the process of enumeration, which gave us a current list. It had all kinds of problems. They'd take the list, they'd confirm the list, they'd put it up on a telephone pole, and you would then check it. Everybody remembers that. Mr. Christopherson is nodding that he remembers that, too.

So it had its issues but it was current. What we've tried to move to is a permanent list, and it has massive errors in it.

By the Chief Electoral Officer's own reports, it has an error rate as to people's place of residence of around 16% to 17%. The voter information card is produced from the preliminary list, not from the final list, so it retains that error rate. He says there are some ridings in the country where the rate is over 20%. So there is a fundamental problem that I think exists that needs to be addressed.

It seems to me that much of what is going on in this bill is an attempt to deal with this, including the fact that the voter information card will not be permissible as a means of proving identity, something that does not exist under the current law but which the Chief Electoral Officer announced he would be doing in the future.

I say all of this just to draw attention to something I thought was a problem that is not actually anything that was contained in the testimony of the two witnesses. But maybe I should just turn to something that was discussed by Mr. Simms and Ms. Lenard, and perhaps Mr. Quail also, who have all mentioned this model where one swears an oath. I gather that, according to Mr. Simms, the ballot is then placed in a blank envelope and is counted after the fact when the identity is approved.

If something like that were done, would that actually resolve the issues that are of concern to you with regard to the abolition of vouching?

**Prof. Patti Tamara Lenard:** I think Mr. Quail is the one who referenced that procedure so I think it would be best if he answered that question.

**Mr. Scott Reid:** Sure.

**Mr. James Quail:** Yes, in my opinion it would, as long as the process for verifying the ballot is reasonable. We have a system where we have scrutineers from the parties who are there. People can challenge things and there would be an opportunity for whatever investigations were required. That would solve the problem, and it would solve the problem in a way that eliminating documents from the list make it worse. But this would provide what we've called a safety net that reliably would provide a means for every eligible Canadian citizen to cast a ballot.

That's what we're seeking. That's what we told the court should have been inserted into the bill.

If that's the direction the government is moving in, then I applaud them for it.

• (2050)

**Mr. David Christopherson:** Hold your applause. We're not there yet.

**Mr. Scott Reid:** I think it was tentative, Mr. Christopherson. That was my impression.

Do you have comments on this system, Ms. Lenard? I don't want to put you on the spot if you haven't put any thought into it in advance.

**Prof. Patti Tamara Lenard:** No, I haven't. I read about it in the news yesterday and today. I can tell you what I thought about the news, but I don't think that entitles me to a view here.

**Mr. Scott Reid:** All right. Thank you very much to both of you.

**The Chair:** Thank you, Mr. Reid. Boy, that was bang on four minutes. You're accurate. Thank you.

I think we'll stop at this point, though, and thank our witnesses for being here today.

Mr. Quail and Professor Lenard, thanks to both of you for being here.

We will suspend for a couple of minutes.

• (2050)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (2055)

**The Chair:** We'll get started. We are in the third hour of our study tonight, and we have some guests with us.

Professor Pammett, you're at the table with us. Thank you for being here.

Via video conference, we have from St. John's, Newfoundland and Labrador, Professor Marland; and from Sydney, Australia, Professor Norris.

**Dr. Pippa Norris (Professor, John F Kennedy School of Government, Harvard University, As an Individual):** Thank you.

**The Chair:** We can hear you—fantastic—and now we can see you.

Is it a lovely morning in Australia?

**Dr. Pippa Norris:** It's gorgeous. It's morning and it's 30 degrees centigrade. It's beautiful.

**The Chair:** I'm sure.

**Voices:** Oh, oh!

**The Chair:** Everybody in the room is mad at you now.

**Dr. Pippa Norris:** I know.

**The Chair:** Here's how we'll proceed. Each of you will have some time for an opening statement to us. We'll begin with our video guests first, just in case we end up losing the connection.

Professor Norris, we'll start with you for an opening statement.

Then we'll go to you, Professor Marland, and then to Professor Pammett.

After that, the members of the committee will ask questions of all of you—and/or none of you, whichever they wish—and get their answers.

Professor Norris, please go ahead.

• (2100)

**Dr. Pippa Norris:** Thank you, Mr. Preston.

I'm honoured to contribute toward the deliberations of the Canadian Parliament on this important issue, and I thank the committee for inviting me.

I want to make four sets of remarks: a bit of background, something about the standards that we're going to talk about, the problems, and then a little detail.

Firstly, on the background, I'm engaged in this because I direct the electoral integrity project. This project looks worldwide at issues of elections. It's based in Harvard University and the University of Sydney. We monitor the problems of elections around the world, from issues facing the United States, Britain, and Canada, through to cases of fragile states, such as Afghanistan, Kenya, and Thailand.

What are the standards you can use to judge whether or not any new legislation is going to be effective? I think we can agree on certain principles, which are recognized in international law and which have been endorsed by the international community. I'd like to suggest four principles.

Firstly, electoral management bodies should be impartial, fair, effective, and independent—this is important in every country—and they have to have the capacity to manage contests. I think we can all agree that's an important criteria for trust. Secondly, voting procedures should be secure, honest and fair, and they should include all eligible voters. Thirdly, the role of money in politics, particularly private money, should be transparent and should provide a level playing field for all parties. Fourthly, electoral laws and registration regulations should be subject to widespread consultation and consensus amongst all parties.

The next point I want to make is that if we can agree on these standards—and I think they are universal; they're accepted in many countries around the world and by most international bodies—the fair elections act in Canada, which is proposed, has a problem in meeting these four goals in four ways.

Firstly, I think that some of the provisions would diminish the authority, the effectiveness, the impartiality, and the independence of electoral administration. This can affect trust in the process and can be a problem. Secondly, some of the provisions, I think, would restrict basic voting rights, and therefore reduce electoral turnout. That is clearly also a problem because turnout has gone down in Canada, as in many other countries. Thirdly, it would expand the role of money, particularly private money, in politics. Lastly, I think the process is going to lead to greater polarization rather than consensus. Once you open polarization and party polarization over the electoral law, it's very difficult to prevent that from happening in successive governments.

Overall when I look at the legislation, and I've read it very carefully, I think there might be some problems for Canada's international reputation. Canada has a worldwide role as a leading ideal type of democracy, and it could damage that. Also, other governments—and this, again, is really my concern—who are less willing to respect human rights, who are less established in their democratic institutions, could use this example, and it would therefore damage some of the world's progress in democracy.

Now in my written comments, I've also provided some detailed justifications for these claims. I don't want to go into them in great detail—I put them on the table—but I want to highlight under each of those four arguments one simple key point.

Firstly, on electoral management, I think some of the provisions would limit the ability of the Chief Electoral Officer to communicate with the public and also to provide education in civics. This is basic. Voter education is a fundamental duty of electoral bodies. Again, this is accepted by organizations like the OSCE, the African Union, the Organization of American States, as one of the key functions. The role of the institution will also be weakened by not being able to report directly to Parliament but to government.

Secondly, on voting rights and turnout, I think the committee has heard much discussion about vouching and the use of voter information cards. Quite simply, I don't believe that voter fraud is a major problem. If the Canadian Parliament believes that it is a problem, there are far more effective ways it can use to reduce problems of voter impersonation. This includes, for example, having publicly available cost-free cards that Elections Canada provides to all voters. The Indian election going on in the next few weeks provides free cards to over 800 million people in the country. Those photo cards are with photos, which were available at the polling station.

• (2105)

Voter fraud can be dealt with effectively, but it needs an investment. You don't exclude voters. You include voters. You might introduce greater fines or other punishments for transgression.

Thirdly, on money and politics, clearly every campaign costs money, and you want to be able to provide that, but I think that some of the provisions are going to reduce transparency and therefore that could be a problem. In addition, there are other ways to provide resources on a fair and equitable basis to every party, including through public funding. If it's a question of not having sufficient resources, that might be the best route to go: to expand resources for every candidate and every party on a fair basis.

The last point, and I think in some ways the most important, is that you must have a consensus when you're dealing with constitutional matters and when you're dealing with election matters. It can't be seen to be partisan. If you do that, the dangers are twofold. Firstly, you can lack trust. The public might be much more suspicious about election processes, and that would be a real shame. At present, Canadian elections are held in very wide regard. Most Canadians believe that they're very honest. You don't want to damage trust in any way, because once it's damaged, it's difficult to recover. The second damage is that this can also reduce trust in electoral officials, and it can produce partisanship in subsequent governments. If you pass this law and other parties and groups don't agree with it, it can get repealed, and that again can be very damaging.

In conclusion, I think the deliberations of the Parliament are very much welcomed. We need to make sure that Canadian democracy is not damaged. We need to make sure that Canadian elections are not damaged. We need to make sure this is not an example that countries that don't respect human rights, of which there are many around the world, can use to say that if Canada can in any way restrict voters' rights, for example, then so can, for example, Zimbabwe, Belarus, or Kenya, or many other countries that are not strong democracies but that are moving towards the leading example that Canada provides.

Thank you again very much for your remarks. I very much welcome your questions about any matters of detail.

**The Chair:** Thank you, Professor Norris.

We'll move on to Professor Marland and his opening comments.

**Dr. Alex Marland (Associate Professor, Political Science, Memorial University of Newfoundland, As an Individual):** First of all, thank you very much for having me. Hello, everyone.

To give you some context as to why you might be listening to me, my area of research is political marketing and communication in Canada. A lot of my research surrounds...[*Technical difficulty—Editor*]...people who work in campaigns at the national and local levels. As well I have reviewed party and local expense declarations for my research.

I thought probably the best use of my time and your time would be if I went through the elections act and tried to identify some areas that I thought may warrant a little bit of scrutiny. I came up with what I would call...[*Technical difficulty—Editor*]. I'm happy to follow up by email outlining what these are. I'll just summarize them very briefly, if that's all right.

The first one is in proposed sections 348.16 to 348.19, which mention scripts and recordings. What I would like to suggest in that area is, while there is mention that the script will be available for a year, I wonder if it would be more transparent if it said that this script would be publicly available after a year. So rather than it just disappear, it would be publicly available to researchers and others who are interested one year later.

The next one is in proposed section 350. There's mention of third-party spending being no more than \$150,000. I don't have any issue with that, but there is one thing that I think everybody should think about. That is that the cost of advertising is changing. We are ostensibly seeing a big change occur at the moment, because what is happening is that you now have video advertising. Due to video advertising online, all of a sudden now there are all sorts of groups who are able to communicate in ways that don't involve money and yet our Elections Act, for the most part, is focused on stopping people from spending too much money. So I'd just like to bring that to your attention as a consideration.

Proposed section 366 mentions receipt for contributions of \$20 or more. To me this is something that is worth thinking about because political parties are actively looking for very small donations. They're often saying, "Can you please donate \$3?" Because of this, it starts raising questions about anonymous contributions as well. I think the \$20 limit to me is one for which I would like to have better understanding of the justification.

Under proposed subsection 376(3), there are expenses for soliciting money. It's not an election expense if directed to people who have donated \$20 or more in the past five years. Not that I have a big problem with that but I find it a bit confusing because it's very hard to establish, the way it's worded, who exactly those people are. How do we make sure that we're not also communicating broader messages, or how do we make sure that we're only focused on those particular people and not casting a wider net?

Another comment I have is on proposed subsection 383(2), which is regarding public availability of the election campaign return for six months and retention for three years. I'm wondering if those documents could be publicly available for an indefinite period of time through Elections Canada.

Proposed section 348.01 provides a definition of automatic dialing-announcing devices. I assume this is related to robocalling. In my opinion, it's important to differentiate between helpful outbound calls that are merely about providing information, and calls that are more of a research nature where information is being provided by the person on the other end of the phone. Increasingly we're seeing research interviews being done through electronic means. I think it is important not to confuse that somebody may be making a phone call to try to conduct a survey, and that is different than simply providing information to somebody about going to a polling booth.

As well there is a proposed subsection 421(1), which mentions a party merger is not allowed 30 days before issue. I'll just bring it to your attention that it does occur to me, what if there was a snap election? I'm not a lawyer, you'd need to look at the wording. But is there a possibility that two parties could merge and the Prime

Minister could request a snap election in order to defeat the merger of those parties? I just raise that for your attention.

I have two more points to make. Proposed subsection 431(2) and proposed section 477.52 make mention of the prohibition of collusion for...[*Technical difficulty—Editor*]. I just wonder if there's any mention of prohibiting collusion for donation purposes.

• (2110)

The last thing I'll mention, which I am I personally hoping for a little bit of clarity on is proposed section 445. It just makes me wonder if the whole matter of quarterly allowances is being reintroduced—the ones that caused a kerfuffle earlier—or if I'm missing something and I didn't interpret it properly.

So thank you very much, and as I said, if you're open to it, I'll follow up by email with those comments.

**The Chair:** I'll ask you to please do so, Professor Marland. Anything you can send to us in an email that has your statements or questions in it would be fantastic.

We'll go to Professor Pammett now for five minutes or less and then we'll get the questions.

**Prof. Jon Pammett (Professor, Political Science, Carleton University, As an Individual):** Thank you.

My name is Jon Pammett. I'm a professor of political science at Carleton. I retired this last year after teaching for 40-some years. I know I don't look it, but there we are.

**The Chair:** You started when you were eight.

**Prof. Jon Pammett:** I think the remarks by my two colleagues illustrate the difficulty of commenting on this bill. We have very general or broader comments about the nature of the bill itself and then we have a lot of specific items, and I presume there are many other specific items that haven't been commented on.

In deciding what to focus on today, I thought about picking some of the smaller things, but really, the things I am concerned with are some of the broader, more general questions that other people have mentioned. I've read commentary and I'm sure you've heard commentary, so I doubt if any of the things I'm going to say are particularly new.

I've been involved with studying elections in my own research work since the 1970s and 1980s. I did studies for the Lortie commission and I've worked on many things since then. One of the things I've been interested in from the very beginning is voting participation itself—who votes and who doesn't and why this is. I was concerned about that even when the voting turnout rate was rolling along at about 75%, as it did in federal elections until 1988. Of course, I and a lot other people, have become much more concerned as things have declined since then. We know that the voting situation has gotten worse in terms of turnout.

At the federal level in most of the provinces, although there are exceptions that are related probably to the degree of competition—that's why we can look at Quebec, for example, and if you were to predict the Quebec turnout in next week's election, it would probably be reasonably high because of the nature of the competition in that election—but in general, the trends are down. People like me who are concerned about this have focused on a variety of things, focused on institutional changes that could possibly be made in order to try to make voting more accessible and perhaps more convenient, and educational initiatives and ways to encourage non-voters to vote.

Good citizenship, and I make no apologies for talking about things in those terms, requires participation. It's part of it and to be the good citizen, according to democratic theory and all conceptions of it, requires people to take an active interest in public life and to participate in politics, including elections and to follow it.

Research on political participation shows that virtually all acts of participation are connected with each other. So on the one hand, the seriousness of the turnout decline means that other elements of participation are also being affected by the decline we see in voting participation. On the other hand, if you want to look on the positive side, encouraging people to vote will also encourage them to do other things, so it's doubly important that we try to do that.

This piece of legislation is evaluated by people like me and I'm not a partisan, I don't take a partisan stand on this as to whether it provides institutional changes, educational opportunities, and encouragement to vote to improve the voter participation situation. My conclusion, along with other people that I'm sure you've heard from is that it does not. The changes regarding access to the vote, if anything, will likely work in the opposite direction.

I was here some years ago—and I was just reflecting on it today—testifying before this committee, not in this building but in a committee room, about another bill and I'm afraid I don't remember the number of the bill and I don't even remember what year it was, but maybe some of you here do. It proposed, among other things, a substantial increase in the advance polling days, the advance polling opportunities, to the point, I believe, where it was proposing opening all the polls days prior to the actual election day, which would amount to having a second election day and maybe that's the reason that bill wasn't proceeded with. But at any rate, those were the thoughts behind it and the direction it was trying to move forward on the participation front.

● (2115)

A little bit of that remains in this current bill. I noticed there's a provision for an additional day of advance polling. We know people are making increased use of advance polls, so this is a step in that direction. These increased voter identification requirements that are proposed here are likely to work against people for whom, perhaps, voting is a bit of a marginal activity, and there are a lot of people in that situation. It'll be a deterrent from voting.

I want to mention the electronic voting provision in this bill, not that I propose to debate the whole question of electronic voting here or act as an advocate. I'm fully aware of all the issues surrounding the whole question of electronic voting. It's available in many Canadian municipalities, as I'm sure you know, and other places in the world. Where it's available, it makes voting more accessible and

it is used. This bill provides that any trial of this is likely to be extremely difficult now, at the federal level, if not impossible; so it's kind of a clue as to the direction of the actions proposed here.

On the educational front, the bill proposes explicitly removing the ability of Elections Canada to promote voting. It can inform people about voting, but it can't promote voting. These campaigns to get out the vote have been run by EMBs in Canada at various levels and in a lot of other countries in the world with a variety of messages. There's no reason, it seems to me, why this should be curtailed. This has been mentioned by others.

Then there's research. The bill proposes that, while Elections Canada can do research, it can't publish research; so its research is not allowed to be put out to the public. Why is this? I simply do not understand that provision, suppressing research. Why would you do that?

There are many aspects to this bill, and I won't go on. In general, I feel it needs a lot more additional thought and discussion before it's proceeded with.

● (2120)

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

We will go to questions of our witnesses now.

Mr. Reid, you're starting off with seven minutes, please.

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

Thank you to our witnesses.

I wonder if I could start with Professor Marland. Professor, you raised a series of questions with relation to very specific sections of the bill, including a number that have not been addressed by other witnesses before the committee. The nature of any bill that is designed to amend another complex piece of legislation is that reference to a section of this bill normally involves some other section that's out of context; so it was hard to follow some of your questions. I would like to be able to pursue them.

I was just asking some colleagues. I don't remember seeing a written submission from you, and neither did they.

Was there, in fact, a written submission? Did we receive anything?

**The Chair:** Professor Marland has suggested he will be sending us his comments and some questions.

**Mr. Scott Reid:** That's what I was going to ask.

It would be very helpful to have that just so that we can piece together and look over the suggestions you've made. If you're doing that, then that would be wonderful. I would appreciate that.

Let me turn to the other thing I wanted to talk about, because it's come up here. That's the Chief Electoral Officer's advertising. I lobbied the minister pretty hard to include some instructions to the Chief Electoral Officer about some things he had to advertise. The list I had in mind more or less reflects the list that is now in the reworded subsection 18(1) of the act.

I think it's essential that these things are advertised. This is not advertising about what you "ought" to do, that you "ought" to get out and vote. He's put a lot of emphasis in the past...and I'm sure you can find his ads online showing people who stand up to speak and nothing comes out of their mouth because they haven't voted.

These are all about why you should vote. I have no idea how effective they are, because I've never seen any *post facto* research on them. But there is nothing about the basics of how to become a candidate. He should be telling people, advertising, how to become a candidate; how an elector may have their name added to the list of electors, or may have corrections put in if their name is put in incorrectly. Both are things that happen a lot. People aren't on the list, or there is some sort of error as to their information on the list. He should be telling people how an elector may vote, and all the different ways of doing it—advance polls, mail-in ballots, and so on—which is really not advertised very much. It is on the voter information card, but you have to get the information card in order to vote. You should also know how to establish your identity in order to vote; the kinds of pieces of identification that will be necessary in order to cast your ballot; measures that are available for assisting you if you have a disability to cast your ballot, if you have a visual impairment or a mobility impairment, etc. Then there is a provision in there saying that he has to provide all that information in a way where that information is accessible to people who have disabilities.

All of that was put in there largely at my request. I think it's necessary. This isn't in the bill, but I think he should have to report on what he did, how successful it was or wasn't, and what he will do to improve it in the future, because these are fundamental to voting.

I'm giving a long diatribe here rather than asking you a question. There will be a question, but I just want to point out that in his report tabled just recently, the 2011 general election national youth survey report, he points out that youth have the lowest participation rate of any group in Canadian society. In terms of the reasons they didn't vote, when he looked at them, he came to the conclusion that not receiving a voter information card—largely, I think, because of mobility, as they move around a lot—was a key component in why they wouldn't vote. There was a low level of awareness of the different ways to vote; that's for unemployed youth not in school. He cites that as being one of the key reasons. There's also not knowing when to vote; that's for ethnocultural youth.

It seems to me that this kind of basic informational, unsexy advertising, which he has really neglected in the past, is one of the absolute keys to boosting voter participation. That is one of the things this legislation tries to do. I don't know, isn't that a good thing?

Having said that, I was directing this to Professor Marland before, but I have no particular concern about who answers this first.

Professor Pammett.

• (2125)

**Prof. Jon Pammett:** Oh, if you're asking me, I'm certainly not disagreeing in any way with the benefits of bringing that information forward. I don't think that necessarily means you can't combine that with encouragement to take advantage of these opportunities.

**Mr. Scott Reid:** That's fair enough. All right.

Are there any other thoughts on this?

**The Chair:** Professor Marland.

**Dr. Alex Marland:** If I could chime in, I suppose I would say that I think anything you can do to generate awareness among youth, probably especially before they turn the age of 18, about politics and the voting process is important.

I think what you mentioned about how to become a candidate is bang on. When I did some research, I interviewed people who were candidates for *Canadian Idol*. I was talking to *Canadian Idol* contestants, and all these people were trying to get votes. When I asked them about politics, they all just looked at me and said, "I don't know anything about politics. I don't know how to vote. I don't know how to get any information."

To me, this is exactly the kind of thing that should be happening. As well, obviously you need to do other advertising that encourages people to vote during election campaigns. But the general idea about how to get involved in politics is a broader narrative that needs to occur.

**Dr. Pippa Norris:** If I could just chime in, again I'd very much welcome all those activities. There are standards for electoral management bodies, which are now put forward in the ACE project. It's an international thing for people who haven't run elections before in many countries, and again, providing civic education, which this is: basic information about how to get to the polls, what your rights are, and how to appeal. Such things are always being given out as one of the fundamental duties of any election commission.

I know that young people often forget how to vote, but at an anecdotal level, I remember one of the recent mid-term elections in the United States when I asked my colleagues in the political science department at Harvard if they had voted, and some of my colleagues, my professors, had forgotten that an election was going on that day. More information is better. It encourages mobilization.

**The Chair:** You have three seconds left, Mr. Reid, so I'm going to stop you there.

**Mr. Scott Reid:** That gives me a chance to say thank you.

**The Chair:** Thank you.

Mr. Christopherson, you have seven minutes.

**Mr. David Christopherson:** Thank you very much, Chair. I appreciate that. Thank you to our witnesses. That's fantastic. I just wish we were getting a lot more input.

Professor Norris, given your standing in the world and your reputation, I'd be interested in hearing you expand a bit on your earlier remarks about how the way Canada conducts elections is viewed around the world.

**Dr. Pippa Norris:** Yes, Mr. Christopherson.



Essentially, Canada has a leading role in this. Through international development, Canada has always been promoting training, capacity-building, and democratization in many countries, whether it's Afghanistan or countries like Nigeria or Ghana. Many other countries don't have the experience Canada has and therefore they want to learn. It's about cooperation and capacity-building. If Canada in any way restricts voters' rights, for example, by making it more difficult for some categories to register or for the election body to provide information, then this is a cue that is going to be seen in places around the world that don't have the experience and don't have the commitment or the willpower to push forward on democratization. So I think it would be harmful in many regards to a lot of the other activities Canada wants to do.

When I first heard about this bill from colleagues in Canada, I was pretty shocked. For me it was a little like, for example, Norway coming out and saying they're not in favour of gender equality, or Sweden saying they don't want to have democracy. Canada is really up there and to damage the trust that the Canadian elections have in the process, which this potentially could do, to make the whole process more partisan and polarized, which is very much the experience of the United States in the last decade, and to restrict the ability to provide information, seems to me to be going in exactly the wrong path, as an international example.

• (2130)

**Mr. David Christopherson:** Thank you very much. I appreciate that.

You had mentioned the issue of consultation and buy-in being a part of a successful electoral regime. You've just described Canada's reputation on the international stage, the way we're viewed, and I loved your references to Norway and Sweden, because that's the way we like to think of ourselves. That's what we take national pride in. It's not the size of our economy or our army or the population. Much like Australia, it's our reputation that is our currency on the international stage.

Professor, you have stated Canada's usual position in the world, but we now face an electoral reform bill that had no consultation with the Chief Electoral Officer, no consultation with the commissioner of elections, no consultation with civil society, not even consultations with the opposition parties. It was nice to hear Mr. Reid taking some credit for some things in the bill that he likes because it underscores the fact that the only people who had input into this bill are Conservatives. Nobody else got a say. I'd like you to put that kind of approach to electoral reform in a context as it stands beside Canada's reputation as we now enjoy it.

**Dr. Pippa Norris:** Again, I welcome that comment. I think it's absolutely right. There are two dangers. One is about public trust. If there's no consultation, if parties oppose the provisions, if the legislation doesn't work, then this is going to be a real problem for how far Canadians feel trust in the electoral process, and I have evidence for that.

For example, one can look at the Gallup World Poll, which has looked at many countries, about 120, on confidence and trust in the honesty of their elections. In 2011 in the Gallup World Poll, three-quarters of Canadians had high trust. So that's a very positive testament to the way these elections have worked.

In contrast, if you look, for example, at the United States, despite having a democracy for centuries, only about half of the population, 48%, had trust in the honesty of their elections. Part of the reason that the United States has gone down is quite simply the polarization that has occurred, and all I need to do to tell you is just say the one word, which is "Florida". Ever since Florida in 2000, and all the problems that were encountered in that particular presidential election, things have become bitterly polarized in the United States.

Right now there are about 30 states that have looked at certain forms of new regulations, new laws on voter registration, on voter facilities. Some have been pushing forward, expanding the days at which you can vote, like Massachusetts; others have been restricting some of the voting provisions and requiring stricter issues.

The problem with polarization is that not only are laws going to change more frequently as soon as there's a change of government or change of parties in government, but also again the public feels that the elections aren't in the public interest and that narrow partisanship is behind this.

I think that Canada really needs to take a breath in a way and basically say, let's have a more conciliatory role, just like you would for any other sort of constitutional reform. Elections have to be above the fray. It shouldn't be the same sort of public politicking that you get with other things because they're the rules of the game.

Just on a last note, I think it's quite easy to destroy public trust and confidence, and cynicism. It's very difficult to rebuild it, as we all know. So many countries around the world again have a crisis of confidence in their elected authorities. If you destroy confidence in elections, then I'm afraid all parliamentarians are going to face more problems in the authority of Parliament and in trust in elected officials as well.

So for all those reasons, I very much agree with your comments.

• (2135)

**Mr. David Christopherson:** Thank you very much.

We have less than a minute. Perhaps I might just try to get a little bit of an answer from you. You just mentioned you were concerned about the expanded role of dollars in elections. Of course, the closer you put dollars to politicians, the more democracy is at risk.

Your thoughts on this bill in regard to that, please....

**Dr. Pippa Norris:** Every country needs to have money for campaigning, and campaign costs are really going up. So money itself I don't think is a problem. The problem is if it's not a level playing field. We know that as soon as you bring in private money, those established parties who already have the donors can increase, and those who don't have the contacts and networks don't do that.

So instead of reducing some of the limits on the use of private money and fundraising expenses, in particular, think about more public subsidies, either by providing services in kind, for example, through expanding party political broadcasts and advertising and those sorts of things, or mailing; or by providing public subsidies that every party can have access to on a fair and equitable basis. Again, this is what many other countries in Europe have done, and so again, it's something that Canada can do to get over the issue of money in politics.

**Mr. David Christopherson:** I think they already took that away.

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

We'll go to Mr. Simms for seven minutes.

**Mr. Scott Simms:** Thank you.

I'm going to start very quickly with Professor Norris, and follow up with Professor Marland and Professor Pammett.

When we talk about voter vouching, Professor Norris, earlier guests and many in testimony lead to...and there's been quite a contentious argument about the fact that a lot of regularities have been, we'll say, presumed fraud. So the presumption of fraud seems to be the case here for the government to do this, because otherwise they would go for an alternate system as opposed to the current system of vouching.

In your experience internationally, and by international I guess I'm talking about the United States because I've heard through many talk shows and through many publications about the term "voter suppression" being caught up in the rhetoric.... But there are a lot of people in the United States who do feel disenfranchised. It seems to happen in a very short period of time, at least in my understanding. You may tell me differently. But was the genesis of that to do with the presumption of fraud in many cases, which led to the elimination of the right to vote, which to me is a basic inalienable right that is enshrined in our charter?

**Dr. Pippa Norris:** Yes, that's right. Again, in the United States, a lot of the initiatives at state level have been taking place because of the assumption of voter impersonation. It's not all types of fraud, but the idea is that somehow voters are going to vote twice, or somebody is going to come along and claim to be a voter who isn't a voter.

Essentially, the best research done by Lorraine Minnite and others in the United States has found that this is a very minor problem. The number of prosecutions, police cases, and individuals who are caught up in this is very small. Normally when voter impersonation happens it's an accident. People might have registered, for example, in two places, because they might have two homes, or there were other issues.

If there is a problem of fraud, I think we can all agree across parties that there has to be security and honesty in any election. Everybody should be able to be inclusive in having voting rights, but you clearly do not want any citizen or any problem that can be counted twice.

There are many more effective ways if you think there is a problem of fraud. One is, quite simply, increase the punishment. We have fines to make sure people don't transgress, so you just increase that. Or, you can have other forms of checks. For example, you can

have provisional ballot boxes. If somebody comes to the polling station, and they don't have the right ID or they don't have the official card, then you can say, okay, all of those ballots go into a special ballot box that are counted and verified after the election day finishes.

So there are mechanisms that are used in many places, which allow that kind of flexibility when people turn up and don't have quite the right ID.

The third thing, of course, is that the government itself, the state or the federal government, produces no-cost voter identification cards, laminated, with a photo and fingerprint. In countries like India, which have had large-scale fraud and where it's a real problem, the election management body has a responsibility to produce these. They're used in India, by the way, not just for voting but for many other things, like the land rights, because they're an official government card. But the voter doesn't pay for this. The voter has no cost. They're given to every single voter, whether they're illiterate, rural, or whatever.

There are many ways you can deal with voter fraud if it's a problem. I don't think it's a fundamental issue. But again, you don't need to go down the route of prohibiting vouching or the use of voter information cards, both of which would do the opposite and actually suppress young people, mobile populations, seniors who don't have a driving licence with an address on it, or other groups who might be mobile and don't have those particular forms of ID.

● (2140)

**Mr. Scott Simms:** Professor Norris, thank you for that.

I'm going to go now from 30 degrees Celsius to 30 centimetres of snow, and counting. Mr. Marland, I noticed you probably were shoveling today, so thanks for doing this late at night.

I want you to comment on what I asked Professor Norris, because in Newfoundland and Labrador I think the poll clerks and the officials with Elections Newfoundland and Labrador have a role to play in vouching, if I'm not mistaken. You can comment on that.

Also, you said that when it comes to the role of communicating to the public through an independent elections body, there is, yes, the where, when, and how to vote, and the details. But you also talked about a broader narrative. Can you expand on the role of a broader narrative put out there by an elections agency?

**Dr. Alex Marland:** Thank you for the question, and yes, 30 centimetres of snow it is.

Regarding vouching here in Newfoundland and Labrador, when I worked on polling day, probably the one thing that stands out for me in a personal experience is that I distinctly remember somebody showing up who I believed was homeless, who was clearly illiterate and in need of assistance to be able to vote. That's the type of example that I would raise as causing me some concern.

I personally don't have a type of alarmism that a lot of people have about vouching, because I do think there is a need to make sure you can demonstrate who you are. Quite frankly, a lot of people I know say the whole thing is a bit of joke sometimes. You just go in, and somebody crosses your name off with a ruler and that's it. But my concern would be people, as I just mentioned, who are really disadvantaged in society, who would have a very difficult time being able to produce documentation. That's different to me from someone who ought to be able to understand the difference.

As far as communication goes, for me it's a bit of a challenge that this is a situation where we have the federal government wanting to be able to promote something, but schools and education are clearly provincial jurisdiction. To me there's a civic education function here, and I wish there could be more partnering with the provinces to be able to figure out a way to make sure that a lot of this is going on in schools. I do realize it happens, but I think a lot more could be done.

With respect to the broader narrative, I would tend to agree we need to have a broader conversation occurring that extends beyond voting. It needs to be how do you get involved with politics, how do you get involved with the system? Even if somebody doesn't choose to get involved, the point is that you're making them aware that they can be involved should they wish. From my perspective, by communicating this before an election, you're conditioning people to realize that when an election comes along, it's about them, that they can be included, and hey, here's the chance to vote. So I would argue that, yes, there is a broader role.

**The Chair:** Thank you, Professor Marland.

Mr. Simms, I'm sorry but your time is completed.

Mr. Richards you have four minutes, please.

**Mr. Blake Richards:** Thank you, Mr. Chair.

Thank you all for your help this evening.

I'll start with you, Professor Pammett. I see you've done fairly extensive research on voter turnout. I wanted to ask a couple of questions in regards to that. We had a previous witness who talked to us about some of the studies that he had done in terms of voter turnout. He found that the most important factor in voter turnout was someone's interest in politics. Would that line up with what you've found?

**Prof. Jon Pammett:** I don't want to get into the discussion that we would have if we were having a seminar in political science, where we debate the use of interest as an explanatory variable. In many ways, it simply pushes the explanatory question back one step—saying that if you don't do things because you're not interested in them, then why aren't you interested in them? It pushes it back.

I think the research on voter turnout—without going into it at great length—can be encapsulated to say that for many people, particularly young people, politics, elections, and voting is a kind of marginal activity. But the thing that you find if you look a lot closer is that it's not that young people—although this doesn't just apply to them—are determined not to be interested in politics, it's that they want to be given reasons why they should be.

In other words, what we're used to considering as the traditional civic duty that we have, that you have, and that my parents had—you

did it because that's what you had to do... We vote because everybody votes and we vote all the time. We simply vote to express ourselves, in a way. That is often being changed into a more conditional kind of duty. To say that people will do things if it matters, will do things if there's a good reason to, will do things if they're well informed, but not if they're not well informed. There are ways in which the information that's being provided can help to stimulate one's feeling that maybe they should get involved.

● (2145)

**Mr. Blake Richards:** If I can stop you, because I don't have a lot of time left.

One of the things that Elections Canada found was that when voters—young voters particularly—were contacted by a political party, there was a huge increase in their vote. That shows that we, as political parties, have a big role to play in that.

**Prof. Jon Pammett:** That's right.

**Mr. Blake Richards:** Maybe we are failing at that as political parties, but we need to play our role.

Having said that, Elections Canada also found that when they looked at some of the reasons for young voters not voting, those practical problems were very high on that, as well. Not knowing where to vote was 25%, when to vote was 26%, and how to vote was 19%. Obviously, that was playing a big role.

So I would think that the focus in this bill on trying to ensure that Elections Canada does a better job in that role, focusing more on that role, will help to eliminate some of those things that are causing young people not to vote. Those are practical issues—simply not being aware of when, where, and how to vote. A significant problem has been identified. I would hope, and I would think—

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

**Mr. Blake Richards:** —it would be good if Elections Canada could better perform in that role.

Any thoughts on that?

**Prof. Jon Pammett:** Yes.

As I mentioned to your colleague—

**The Chair:** Now, now...

**Prof. Jon Pammett:** —I would fully support the transference of that kind of information. Once again, I don't see that it's necessarily in contradiction to urging people to take advantage of these opportunities.

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

Ms. Latendresse, there are four minutes for you—about equal to Mr. Richards.

[*Translation*]

**Ms. Alexandrine Latendresse:** Thank you.

The input from all three of you has been extremely informative. Thank you.

I'd like to continue along the same lines as my colleague.

I see a problem with the way the changes were made at Elections Canada and the way the Conservatives introduced those changes. The point was to improve how Elections Canada provides voters with information on where, when and how they can vote. That shouldn't exclude all other forms of communication between Elections Canada and voters.

Could all three witnesses comment on that?

[English]

**Prof. Jon Pammett:** I think I just did that.

**The Chair:** Go ahead, Professor Norris, and we'll circle that way.

**Dr. Pippa Norris:** I would agree that there is a key communication role for all the reasons we've talked about. Of course, now it's through the social media, as well as through traditional media, where you have to get the information out to voters in real time and in a very timely fashion. Things like not allowing research to be published by Elections Canada is a real step backwards.

Again, the committee might want to look—for example—at the electoral commission in the United Kingdom, which has produced a series of exemplary research, in conjunction with scholars, on many issues, for example minority voting, on women and voting, on representation in Parliament, and many other issues such as electronic voting, and disability, and how far one can get over those issues as well.

So where you have good research that is funded by the taxpayer, the idea that it somehow can't enter the public deliberation, it can't be debated in Parliament because it's not known, it's only known to the government, I think is a real step backwards.

• (2150)

**The Chair:** Go ahead.

**Dr. Alex Marland:** If I could just comment I would say that communication is extremely important. What we need to keep in mind is that the average person does not care about politics, pays no attention to it. Right now they're worried about getting their kids to bed, they're complaining about the snow, whatever. So unless you have somebody communicating actively with them, they're not thinking about politics.

**The Chair:** Professor Pammett, you said you had given an answer on that.

**Prof. Jon Pammett:** This question about whether voter mobilization or voter encouragement is necessarily in any contradiction to the providing of basic information about how to vote, if I'm interpreting that correctly—that question was mentioned by a couple of other people too—I think I've already said that I don't see any contradiction between the two.

[Translation]

**Ms. Alexandrine Latendresse:** That's my position as well. It would be possible to require Elections Canada to provide that information to everyone without necessarily muzzling the agency in other areas.

One comment, in particular, that the Chief Electoral Officer made when he appeared before the committee definitely bears repeating: "It is essential to understand that the main challenge for our electoral democracy is not voter fraud, but voter participation." And I

completely agree. Anything that can be done to encourage people to vote and increase voter turnout should be.

Mr. Pammett, I read your report. You talk about the importance of voter turnout among young people. One of the problems is that young people may have no interest in voting. You indicate in your report that when political parties communicate with youth, it improves their turnout. I wholeheartedly agree, and we will continue to communicate with youth. But it's important not to take away Elections Canada's ability to convey to the public the importance of voting.

[English]

**The Chair:** Thank you, Madame Latendresse.

We're going to move to Mr. Lukiwski.

**Mr. Tom Lukiwski:** Only one minute and then I'll cede my time to my colleague, Mr. Opitz.

My question is to Professor Norris.

Professor, you had mentioned earlier in testimony that you had really not found any significant evidence of voter fraud in the United States or elsewhere. I've heard that same commentary from many other people.

I'm just reading from a news report that was posted yesterday from the North Carolina Board of Elections, which found that there were more than 35,000 incidents of double voting in the 2012 election, where there were people with the same first names, last names, and dates of birth who voted in North Carolina and voted in other states as well. In addition to that, they found between 40 and 50 instances of people who had been deceased who cast ballots.

I'm wondering if you can give me your reaction to that in light of your comments that you don't really have any evidence of voter fraud, at least in the United States?

**Dr. Pippa Norris:** Thanks, Mr. Opitz.

Again, there's been an enormous debate, as you know, in the last year about the issue of voter fraud and how extensive it is, so I'm drawing on some of the best research in the game. Lori Minnite has published an excellent book on the issue of electoral fraud. She studied it in great depth and she found that, yes, there were some errors, again, things like people registering in two places. It's quite easy, you get sent a card and you have two homes, so you put it in to make sure that you can actually vote in—

**Mr. Tom Lukiwski:** With respect, I'm sorry to interrupt. Professor, I'm sorry to interrupt.

Just a quick reaction, this is from the North Carolina State Board of Elections who said there was 35,000 examples of voter fraud, no reports from an outsider, these are their findings.

How do you react to that?

**Dr. Pippa Norris:** I'd need to look at their findings, their research, their evidence in particular to see what's going on—

**Mr. Tom Lukiwski:** They searched databases—they searched over 100 million databases across the United States, and they found 35,000 examples in one state alone.

**Dr. Pippa Norris:** When I looked into this myself, I found that what happens is, as I said, there are some errors. In other words, in particular, the electoral register in the United States is far from what one might hope for in a professional electoral register. Part of the reason is that the elections are administered at the local level and by partisan officials. Partisan officials and local officials don't necessarily have the right standards, so I certainly would welcome a more accurate voter register, and one that was comprehensive, which did not have people who were deceased, who had moved out of the area. We're all in favour, I think you'll agree, Mr. Opitz, on security and honesty of your voter register list. Nobody disputes that. The question is what are the ways in which you get error.

One of the ways in which you get error in the United States is the localization of the electoral administration and the fact that it's done on an amateur basis, if we can put it like that. A more professional organization like Elections Canada has nowhere near any of those sorts of problems and is much more capable, professional, and accountable in how it creates its electoral register, so I think there are certain problems.

• (2155)

**Mr. Tom Lukiwski:** Thank you.

**The Chair:** Thank you.

Mr. Opitz.

**Mr. Ted Opitz (Etobicoke Centre, CPC):** Now actually it is Mr. Opitz speaking. That was Mr. Lukiwski, and he's far better looking than I am.

**Some hon. members:** No.

**Mr. Ted Opitz:** Yes, I know, I'm throwing him a bone there.

I would like to go back to voter encouragement and information. It's in the interest of all of us in this room to enfranchise voters, and there's nobody in this room who understands the value of a vote better than me, having won by 26, and having had to go to the Supreme Court to maintain my seat here in this House.

To my honourable colleague's question, nobody has to be interested, but how do we inspire people to vote? Professor, you're in a university. You've seen university kids, Professor Pammett, and they have so many different interests right now, so many things

going around with exams and courses that it's very hard to get youth interested. However, we have done one wonderful thing. The CIC has produced a guide, *Discover Canada*, and one of the things in the *Discover Canada* guide is a section on federal elections that talks about voting and the rights—

**The Chair:** Mr. Opitz.

**Mr. Ted Opitz:** Am I—

**The Chair:** Finish up, really quickly. Ask your question.

**Mr. Ted Opitz:** Okay.

Professor Pammett, what would you suggest? What other means of popular communication like Facebook, Twitter, Google ads, things like that, could Elections Canada contribute to?

**The Chair:** Go ahead, Professor Pammett. We'll let you answer the last bit of this question. Mr. Opitz has taken his time.

**Prof. Jon Pammett:** Thank you.

We see a lot of students in university who are not interested, but being political science professors, we see the more interested ones. It's hard to say exactly what would engage others, but the main thing is that young people in particular need to be shown that the issues that are there are of relevance to them.

This is partly political parties that need to do this, but there is no particular reason why the messages that come out of the election administration advertising, which are that you need to speak for yourself rather than having other people speak for you, that those couldn't go along very well with the messages of other parties in elections that the issues are of concern to you. It can fit together.

I see my colleague has his hand up.

**The Chair:** Yes, I'm trying to slow you down. We're well over Mr. Opitz's time, and that does finish the time for this panel.

I would like to thank you all for coming tonight and helping us with this, from beautiful Australia to snowy Newfoundland and Labrador, and from right here in Ottawa.

We will suspend for a couple of minutes to go in camera for committee business.

[*Proceedings continue in camera*]





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