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Chair

Mr. Joe Preston

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• (1100)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): We will proceed. We're here at our 82nd meeting of the procedure and House affairs committee, pursuant to an order of reference of Monday, May 4, on Bill C-50. We have with us today—I won't say an “old” friend—a long-time friend.

Mr. Kingsley, it's great to have you back. We've always enjoyed it when you've visited our committee, and we think we'll enjoy it today.

If you have an opening statement, please go ahead. I know the members will be happy to ask you some very hard questions.

[Translation]

Mr. Jean-Pierre Kingsley (Former Chief Electoral Officer, As an Individual): Mr. Chair, honourable members, it's a privilege to appear before the committee once again. Thank you.

I believe that I understand the objectives set out in the bill, in light of the court's decision in Frank. I have read the presentation of the Chief Electoral Officer and reviewed members' input, all of which I appreciate.

[English]

Consequently, I would like to propose alternatives aimed at achieving the same ends as the bill, all the while unburdening the process in light of the right of Canadians to vote.

The first one would be that a further advantage of the fixed election date would allow the start of the registration process 30 days before the issuance of the writs, therefore allowing reasonable time to process the required documentation and to overcome difficulties, if there are any. In the case of a minority government, the Chief Electoral Officer could initiate the process, and if no election is called within three or four months, let's say, it would have to start again. Registrants would be advised that this had happened.

Second, under Bill C-50, the passport would now be required, as has been the practice until now. That's how people got on the list, essentially. It will serve automatically as proof of ID, as it has your picture and your name. For proof of a last address in Canada, should it coincide with the data in the register of electors, no other proof would have to be required.

Driver's licence data, I remind you, is provided every two or three months for updates to the register, thus making it essentially the same information, and we're asking people to provide proof of a driver's licence amongst one of the documents. If you're already on

the register at the address that you're claiming to be your last address, that would be it. If the address differs, the alternatives in the bill will then prevail. You must provide proof of address, as the bill requires. I noted that the register will be purged of non-Canadians, and I think this helps the acceptance of the measure that I've just mentioned.

With respect to the third proposal, the list of those electors would be kept for the subsequent election and not incorporated in the register. Canadians still living abroad would need to reapply, which is what the bill asks for, and would be verified against this list. It would be used by the CEO for registry quality control purposes as well, something that we all aspire to.

I wanted to make a comment as well with respect to military personnel. It's important to remember that they may change their address in Canada annually. That's their right. Spouses and elector dependants do not have that right. Military personnel will receive their voting package automatically. Spouses and dependants will not. They have to reapply one way or the other.

There's a fifth point that I wish to make with respect to proofs of ID and address. A further measure would be to recognize the VIC as proof of address. Another proof of ID would still be required.

I will add as well, as a personal comment, that it is completely incongruent to me that the Canada Elections Act, which is a federal statute, does not recognize the VIC as proof of both when it is the only federally issued document that contains both. A federal law says that you must have these two things, but no federal agency except the Chief Electoral Officer has it, and Parliament says to the Chief Electoral Officer, “You can't use that.”

By the way, my comments are for both proofs, but my recommendation is that it be used as proof of address at this stage, in order to make the recommendation somewhat acceptable. Any resulting confusion with the new terminology on acceptable documents—and I saw the debate on this—should in my view result in a provisional ballot, to be resolved before the official results are announced. We have seven days after polling day for official results.

•(1105)

If a deputy returning officer is not satisfied that the proof of ID or address that's been provided to him is acceptable, he could not reject that elector if the elector said, "I want you to provisionally put that aside and check with the Chief Electoral Officer." There would not be that many, and therefore, they could be easily controlled after the event.

That also raises, though, the interesting phenomenon of electors not having sufficient ID and proof of address, if we introduce the concept of provisional ballots; and that is that they could vote provisionally, go home and bring the proof that is missing, not having understood what was required when they went to the polls initially and therefore adding to the substitute for vouching, which was introduced in Bill C-23, I think.

Mr. Chairman, those are the comments I had to make with respect to what I considered to be concrete proposals on how to build upon the objectives of the proposed statute and at the same time facilitate this for Canadian electors, and not change the basic tenet, which is that electors living abroad must exercise initiative to get on the list to be approved for that election, and they then must vote. All of that requires initiative beyond what is required here.

Thank you.

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

We will go to the seven-minute round. Mr. Lukiwski, you'll start it off.

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Thank you, Chair, and thank you very much, Mr. Kingsley, for being here again.

I have a couple of housekeeping questions. First, sir, remind us, if you will, for how many federal elections have you been Chief Electoral Officer.

Mr. Jean-Pierre Kingsley: I forget, I think it was five, sir, and one federal referendum. I'm the only living Chief Electoral Officer who's run a federal referendum.

Mr. Tom Lukiwski: That's correct.

Mr. Jean-Pierre Kingsley: The other one was 1898—oh, and 1942, I think.

Mr. Tom Lukiwski: No comment on age coming from me.

Some of the main criticisms of Bill C-50, at least some of the ones we've heard in committee, have been from those who suggest that the requirements for producing identification for non-residents is too onerous. You mentioned that in your opening remarks, so I'd like to get a bit of an expansion on that. Do you think it is overly taxing on non-residents to have to produce identification that actually proves that they're a citizen of this country? If so, then why would they be treated any differently from Canadians who reside in Canada who have to produce certain forms of identification?

Mr. Jean-Pierre Kingsley: The form of ID is not a concern. They've already produced their passport, so that's not the issue. It's proof of address that becomes the issue, and on the proof of address, as I've said, the only federal document is the VIC and I'm proposing that it be accepted for that purpose for subsequent.... I tried to put

myself in the head and physical presence of someone who's abroad, a Canadian living abroad, and I was one of those when I was in Washington for a few years. You don't carry your driver's licence any more. You junked that because you knew you would be gone beyond the two or three years that it had been extended. You don't carry bills that have a Canadian address on them, because you're getting your bills in Washington, D.C., or wherever you are.

I'll answer your question a little more thoroughly. That's why I view that as being too onerous in terms of the right of Canadians to vote. That's why I'm proposing the add-on that if you're already on the register, you're looking for the last address. This is what the minister is looking for. "Stop shopping," he says, "Go for the last address." Well, we have that on the register of electors. That is most probably your last address and if that coincides, take it. You have the proof you wanted. You wanted proof. A person has to exercise initiative. He was not thrown on the list against his will. He was not sent something without having asked for it, and that's why I think the process needs to be unburdened with what I've said. If the two don't match, then you go into other proofs.

When I was thinking of my remarks, I was thinking that maybe the electors should authorize the Chief Electoral Officer to have access to income tax data for address verification—not for anything else—to facilitate the process. I did not want to go that far in these remarks, but I think it would be another way, because that is something that's in a federal file as well. It's a little unnerving to see this requirement for an address not being met by any federally issued document. I think a constitutional challenge would succeed on that, despite the court case that exists, because vouching has been eliminated as the fall-back.

That's my view.

•(1110)

Mr. Tom Lukiwski: I appreciate that.

I know that over the past number of elections evidence has come forward that there have actually been non-eligible voters included in the National Register of Electors. I think in the 2006 election evidence came forward that there were over 40,000 people, due to administrative errors, who were actually placed on the National Register of Electors who weren't actually eligible to be on that registry.

What safeguards do you think are required to try to ensure compliance, not just with residents in Canada but more specifically with Bill C-50 with non-residents?

Mr. Jean-Pierre Kingsley: Bill C-50 does it by having the Chief Electoral Officer gain access to information with the ministries of Employment and Immigration so that he can access the names of non-citizens.

Mr. Tom Lukiwski: Monsieur Mayrand was quite laudatory in his comments about that provision contained in Bill C-50. I assume you agree with that and that you think that's a positive move.

Mr. Jean-Pierre Kingsley: Yes, it is. I don't view that as an intrusion in the private lives of people when they're seeking.... I will remind the committee, though, of something that was instituted because of concerns that were brought to this committee when I was Chief Electoral Officer. In every polling station that you go into there's a big sign that says you must be a Canadian citizen, you must be 18 years of age or over. It's a big sign just as you walk in. This committee asked me to put that requirement into place, and I did that, and to this day that prevails. So there may have been 40,000 names, and I think that is the statistic, but that doesn't mean that they voted.

Mr. Tom Lukiwski: I would like to get your personal comments on something I've always wondered about. Do you think there should be any cap on the number of years a non-resident has lived in Canada before they are ineligible to vote in a federal election? I don't know this to be true, but I believe if we checked every single non-resident who has cast ballots in Canadian elections, we may find some who have lived abroad for a decade or two, and perhaps even those who have no intention of ever coming back to live in Canada. What are your comments on the length of time a non-resident is eligible to vote in a Canadian election?

Mr. Jean-Pierre Kingsley: I produced a report to you, to Parliament, saying that the five-year ceiling should be lifted entirely. I also swore an affidavit to that effect in the case that went before the courts, where the courts upheld that at this stage. It's under appeal. Leave was not granted to withhold the judgment at this stage, and I maintain that is the thing.

The reason that I do that is very simple. To keep abreast of what's going on anywhere in the world now, anywhere there's an advanced democracy like Canada, you just need to go on the web. You get all the media that produce stuff, you get all the political parties that produce stuff, and you still rely on the initiative of that Canadian to be so interested as to make a request. That's why we only have, on average, 8,000 or 9,000 Canadians who are abroad now, with the five-year limit, who actually vote in federal elections.

I heard the minister say there are 1.4 million other Canadians out there. There may well be. I would expect that we will get 2,000 or 3,000, maximum—if that number—who will care enough. The constitutional right to vote doesn't say anything about the timeframe, and you still have to exercise initiative. You still must be aware that this is going on. You still must apply to have it done. You will have to provide proof of who you are as a Canadian and have proof of address as well, hopefully with the changes I've proposed. That's why I felt there's no issue here with removing the barrier. This committee, or one of its emanations actually said the same thing at a moment in time.

• (1115)

The Chair: Thank you.

Madame Latendresse, go ahead for seven minutes, if you would, please.

[*Translation*]

Ms. Alexandrine Latendresse (Louis-Saint-Laurent, NDP): Thank you, Mr. Chair.

Mr. Kingsley, thank you kindly for joining us today.

I'd like to follow up on something you said to make sure I understand you correctly. You said you weren't in favour of doing away with the International Register of Electors.

Mr. Jean-Pierre Kingsley: What I said was that a separate list should be prepared for voters abroad in order to meet the department's objectives, given that that seemed to be a concern.

I figured there was no point in objecting to it, even though I couldn't see what the purpose of it was. Let's put together a list and use it so that people can re-register the next time. The list also helps the chief electoral officer verify the quality of the information on the register. If the same name appears for a given address, the chief electoral officer can check exactly who the person is. Are there two people or just one by the name of Jean-Pierre Kingsley? Do you know what I mean?

Ms. Alexandrine Latendresse: Yes, I do.

Mr. Jean-Pierre Kingsley: Those would be the two objectives I see for that separate list.

Ms. Alexandrine Latendresse: How would that differ from the current International Register of Electors?

Mr. Jean-Pierre Kingsley: Certainly, the terminology is different.

Once a person's name is removed from the list, that person has to go through the whole process to re-register all over again, instead of having their name stay on the list.

I support the idea of having to re-register as a way to control the ballot issued by Elections Canada, which goes to an existing address or a Canadian voter who is still in the country but living at a different address. That person's ballot doesn't just disappear into thin air. That's what worried me, and that's why I think that having to re-register isn't a bad idea. If the person intends to vote, they will show up. They will stay informed, because they have already done so.

That way, instead of the ballot going out automatically, it would go out only after the person had re-registered.

Ms. Alexandrine Latendresse: Still, I can see the benefit of doing that. In fact, it ties into what Mr. Mayrand told the committee when he was here. He said the biggest problem was that people would have to re-register every time the writ was issued. The person would have to provide proof of their address every time. I like your solution of not making the person provide proof of address again if it is still the same. The view taken would simply be that if the person had lived at an address in Canada for 20 years, the same address would still be applied. I think that approach could certainly fix the problem.

There something we haven't talked about yet, and I'd like to hear your thoughts on it. You said you had heard Mr. Mayrand's remarks to the committee, so you'll know what I'm referring to. Under the new rules, pieces of identification to prove an elector's identity and address must be issued by an entity incorporated or formed by or under an Act of Parliament or a provincial legislature or that is otherwise formed in Canada.

Mr. Mayrand told the committee that the rule was extremely vague and could prove problematic because it also changes the rules for all voters in Canada. In fact, problems could arise when it wasn't possible to ascertain whether a document was issued by an entity formed in Canada or otherwise. It's very vague.

Where do you stand on that? Do you think it should be changed?

Mr. Jean-Pierre Kingsley: Personally, I'm not familiar with that. But my sense is that the minister will likely want to review the definition to make it clearer.

What's more, I was interested in the fact that certain pieces of identification used to prove an elector's identity and address could be problematic. That's why, in my remarks, I suggested allowing the person to vote, setting that person's ballot aside and, the day after the election, verifying whether it was acceptable or not. If it was, the person's ballot would be accepted and counted.

When a Canadian goes to the trouble of voting, that person's right to vote shouldn't be easily denied. I know everyone won't agree, but I also suggested that a person who is missing a piece of identification be allowed to vote. That ballot would then be set aside, considered a provisional ballot, and the person would have up to two to three days after the election to provide the appropriate documentation. At that point, the person's ballot would be accepted.

I believe that, in *Opitz*, the Supreme Court of Canada found that errors committed during an election don't carry enough weight to reject a ballot when they are being counted, thus introducing the concept of reconstructing the election after the fact. I found that quite fascinating. I'm not sure that was the intent, but it is a consideration. I think that provisional balloting will one day be recognized in Canada because of that ruling.

Ms. Alexandrine Latendresse: Thank you, Mr. Kingsley. That was very interesting.

How much time do I have left, Mr. Chair?

• (1120)

[English]

The Chair: You have two minutes.

[Translation]

Ms. Alexandrine Latendresse: I'm going to give the rest of my time to my colleague, Mr. Scott.

[English]

Mr. Craig Scott (Toronto—Danforth, NDP): Thank you so much.

Mr. Kingsley, I wanted to just double-check if... When you talked about the idea of a separate list, I understood you to say that when you've registered once, Elections Canada would keep that, and what you have to do the next time around is apply for a special ballot.

When you gave an answer to my colleague, you used the term *s'inscrire*. I'm wondering if you're making a distinction between registering and applying for the ballot. To me, it makes sense to say that once you register and there's some kind of separate list that could keep track of you, and you've done it once, what you have to do the next time is apply for the special ballot. You can't just wait for the VIC to come and then vote, which is the current system.

Are you getting my question here? Is there a distinction that you would accept? The registration stays unless the person moves and has to update it, but they do have to reapply each election to vote.

Mr. Jean-Pierre Kingsley: The former registration keeps being noted on the list. There's a list of former registrations that facilitates the re-registration of the person when they reapply.

Mr. Craig Scott: It allows for the same thing.

Mr. Jean-Pierre Kingsley: If it's the same information, it's automatic.

If they want to change addresses in Canada.... Let's say they move back to Canada for two years. An election is every four years in this country. They may move back, and then they may move back to Washington, D.C., if they get another job offer. They will have changed addresses in Canada, but the system won't have had time to catch up with it. Then they are caught in the process of...if they updated the list while they were in Canada, their address on the register of electors, and that matches, therefore, they're registered.

It starts over again. It satisfies the requirement to register again and makes it easy. It's not as easy as if you're in Canada. That is an important nuance, but it's one I've come to accept as being essential.

Mr. Craig Scott: Yes, so it is a way of continuing the registration, but in a different way. It amounts functionally to the same thing, so that's good to know.

Mr. Jean-Pierre Kingsley: Yes. The CEO doesn't write to you at your last address to ask if you're still there. You have to use the initiative to do that.

Mr. Craig Scott: That's right. That's where I would bring up the question of January 1 being when the Americans can re-register each year. I'm wondering why you've chosen 30 days before the writ, especially because even in our system, with a fixed election date, at least the way the act is written, it can be overridden by the prerogative and elections still can be called early, even outside a minority government.

I'm wondering if there's any harm in allowing people to start the registration process as early as possible in a year in which there could be an election. You seem to suggest you're worried about this idea of VICs going to addresses where people have moved, but what are the real-world chances that a VIC being sent to a Mexico City address where somebody's moved away in the last seven months is going to be used by the new Mexican resident to vote in the Canadian election?

•(1125)

Mr. Jean-Pierre Kingsley: I can see the validity of that. I'm trying to propose a system that I think is workable. If you did that, then you would have to decide what the best date is to do that annually in light of the move dates of Canadians, because I think you should take that into account. Now, it may not be possible, and I don't think January 1 does it for me. People don't move in December and January in this country. It could possibly be April 1. We don't often hold elections in the winter. We do hold some; I have remembrance of that. But we generally favour the more clement three other seasons.

The Chair: Thank you, Mr. Scott.

Mr. Jean-Pierre Kingsley: It could be something more than 30 days, and I did say the initiative of the Chief Electoral Officer could be invoked when it's a minority. You might say you can do it only once a year or something, but it's something where a judgment comes in.

When you're the Chief Electoral Officer, and it's a minority government, you're reading the tea leaves like everybody else. But there's a flavour that comes across at a moment in time, and you say, I'd better just get ready a little bit more.

The Chair: That's it, yes.

Mr. Simms, you have seven minutes.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-
sor, Lib.):** Thank you. It's very interesting.

I have a whole bunch of questions, but very quickly, just on that note, the narrative then, what you're saying, is that this legislation attempts to bring the onus on voting for international citizens to the same degree as it is domestically. What you're saying is that it's just not possible given the ramifications, such as registering to vote at the time the writ is dropped.

I appreciate your input about how to treat the international list, as such, to be updated for every election.

The report you mentioned earlier is from 2005, is that correct, from the 38th general election?

Mr. Jean-Pierre Kingsley: I think so.

Mr. Scott Simms: Yes, and you say:

It is indeed difficult to explain what pressing objective is served by distinguishing between those who have been absent from the country for five years as opposed to six, ten or twenty years.

That's the report you're talking about, but at the base of that is section 3 of the charter, which is satisfied. That's really the base of where you're coming from in those comments.

Mr. Jean-Pierre Kingsley: Yes, and there is international experience. The minister was kind enough to highlight it. In Great Britain, I think it's 15 or 20 years. They go way beyond five years.

I'm not saying to do that. I'm saying lift it entirely. Someone may have been outside the country.... I'm thinking of—and it's something this committee brought to my attention at one time—missionaries. Your predecessors, when this was instituted, brought missionaries to my attention. You said that person is still a Canadian, wants to vote—or may want to vote—but because he's been absent from Canada

beyond five years, that person cannot vote. We'd like you to do something about that.

This is where we said that if you come back to Canada to visit... because they do that at least every five years—

Mr. Scott Simms: Right, so that's when you—

Mr. Jean-Pierre Kingsley: That's when we gave that interpretation, which may have been stretching it a bit, but that's what the committee wanted at the time. It's that person that I have in mind. He or she may not be a missionary; he or she may just be an ordinary Canadian who still wants to vote after 25 years.

Mr. Scott Simms: This hasn't really been brought up before, and it may be an obscure matter, but I think it's one that should be addressed. I want to look at sections 480 and 490 and how they could possibly be contravened.

Throughout the new process of registering internationally, there are a lot of costs involved: costs for mailing, for processing, maybe costs involved in getting former ID. Section 480 says, "Every person is guilty of an offence who, with the intention of delaying or obstructing the electoral process, contravenes this Act...", and subsection 490 (a.1) says every person is guilty of an offence who "being a deputy returning officer, knowingly contravenes subsection 174(1)", which is failure to permit a person to vote.

Do you think there's a barrier, that with all these costs involved you're not permitting people to vote?

Mr. Jean-Pierre Kingsley: I don't think so.

I didn't think so when I was running the system. I was asked whether we should provide the stamps for something to come back from India, Bangladesh, the United States, or wherever. I said that people should bear their costs for doing that.

Mr. Scott Simms: Okay.

Mr. Jean-Pierre Kingsley: The Chief Electoral Officer mails out and that's his cost, but the return is the person's cost. I felt that was—

Mr. Scott Simms: To you, the problem then is the timing and efficiency, and that's a huge reason why the international list exists, obviously, and should be continued.

Mr. Jean-Pierre Kingsley: As a separate entity from the register, to satisfy the ministers....

Mr. Scott Simms: Correct.

You're familiar with the Frank decision, I would assume.

Mr. Jean-Pierre Kingsley: Yes.

I was the affiant for the Frank....

Mr. Scott Simms: Right on.

For the record, I want to get your opinion on the appeal that is taking place right now.... Well, first of all, let me just say that nothing in this piece of legislation goes toward the Frank decision. Can I get your opinion on that?

•(1130)

Mr. Jean-Pierre Kingsley: In my initial remarks, I said I understood why this is being brought forward. There's a preoccupation with the Frank decision.

Mr. Scott Simms: Okay, so when you look at the appeal of the Frank decision right now, can I get your opinion on the appeal itself? Have you seen some of the information?

Mr. Jean-Pierre Kingsley: Well, the government wants to appeal. I've not yet seen the documents that sustain the appeal. It is being prepared by the government at this stage.

The stay was not granted. The court said that this was too pressing a matter, the grounds that the government put forward were insufficient to grant that. Therefore, the judgment prevails until the appeal is heard on the substance of the matter. That's all I can say about that.

Mr. Scott Simms: Okay.

Mr. Jean-Pierre Kingsley: What am I supposed to say? Is it, "the matter is before the courts"?

Mr. Scott Simms: I've heard that a fair bit recently.

I appreciate your comments about the spouses of military members not being allowed to undergo the same process that they do. The government has been saying that because military are involved in theatre of operations that's why they are distinct from them.

Do you think that's justified? I get the feeling that you think spouses, family members—no matter where they are around the world—who are eligible to vote should be exempt, as well as the military members.

Mr. Jean-Pierre Kingsley: I wouldn't go that far. As a matter of fact, if one goes that far, then one has to go that far for all Canadians. Because you're the spouse of, does not mean, you know....

What I was trying to say is that the committee should be aware of this. It's going to create problems. I recognize the special place that the military occupies when it comes to voting. This is a tradition. This is one of the reasons that we've extended the right to vote internationally, and all of the favourable things that apply to that. I want the committee to be aware that there's a disconnect there that will hit these service people.

They will see the package come in, and their spouse won't see theirs and they'll wonder why. They'll have to scramble because time will have lapsed. Whether or not they will make it in time to register or they have to register again to get the package is going to be an issue for them. It may not occur all that widely, but I thought you should know.

Mr. Scott Simms: Thank you for that.

Mr. Scott Simms: The current CEO is very concerned about the coming into force...and the time he has to go about doing this. He's constrained by time, in light of what happened to Bill C-23 as well.

Not only should they have held off on this legislation given the Frank ruling, but should they have held off on this legislation because October 19 is not that far away?

Mr. Jean-Pierre Kingsley: Well, I can tell you that when you've been the Chief Electoral Officer, you're sympathetic with the existing Chief Electoral Officer, your successor. I agree; I have no reason to disagree with what he said on that front. If he's concerned, I think you should listen very carefully. He knows what he can do. I don't wish to offer you an opinion on that. I have no reason to disagree

with what he said about the timelines, and I think you should take that into account.

The Chair: Thank you.

Mr. Richards, it's a four-minute round.

Mr. Blake Richards (Wild Rose, CPC): Thanks, Mr. Chair.

I know that when you were Chief Electoral Officer, particularly in 2006—and you did mention this in some of your remarks—you spoke quite a bit during that time about non-resident voting limits. I'm sure you're well aware that many other jurisdictions actually do place limits on non-resident voting. There are provinces and territories where most, if not all of them, not only have general residency requirements but also require a minimum period of being an ordinary resident before voting.

I'm just trying to get a better sense here because I think, when you look at Bill C-50, that it's clear that the intent is to fix what we would see as a fundamental unfairness in the system between resident and non-resident voters. I'm trying to get a better sense as to what exactly your issue is here with creating that fairness between resident and non-resident voters.

Mr. Jean-Pierre Kingsley: Obviously my concern is that the "fairness" that is being reintroduced is too stringent in terms of its requirements. What I proposed to you are ways of meeting those objectives but simplifying the process. So I agree, yes okay, let us require people to register every time, but why do they have to produce a piece of ID that no longer exists in their pockets? Why not use what we already have on file, if that's what they're saying is their last residence? You want only the last residence? You have it on the register of electors. That's what I'm saying.

I'm not disagreeing with the objectives of the statute necessarily. I'm disagreeing or saying that there are ways of making it simpler and more acceptable to Canadians. It is not easy to vote from abroad; you have to register.

● (1135)

Mr. Blake Richards: You're saying that you do believe that non-resident voters should be held to the same standard as resident voters. What I'm hearing here is that you're saying that you do believe they should be held to the same standard.

Mr. Jean-Pierre Kingsley: I've always felt that they had a little bit more to produce than Canadians living here where their addresses are updated automatically from the drivers' files, from the income tax department, and from other electoral lists from other jurisdictions. I've often felt that it doesn't happen for those people abroad, so the fact that the regime would be enhanced by some of the measures in the bill, the objectives of the bill, I will agree with that.

Mr. Blake Richards: I want to shift the focus a little bit to the integrity of elections workers. When you were Chief Electoral Officer, would you feel comfortable being able to vouch for the integrity of all election workers while you were Chief Electoral Officer?

As a follow-up to that, was there ever any improper behaviour by election workers that was brought to your attention during your time as Chief Electoral Officer?

Mr. Jean-Pierre Kingsley: There may have been some instances of improper behaviour, something that happened at a poll, and that would be acted on immediately.

The basic integrity of the Canadians working at the polls was never something in contention. I remember having some preoccupation with some returning officers when the old appointment process existed, but the Federal Accountability Act took care of that, and the Chief Electoral Officer vets them, checks them out beforehand in terms of integrity and political neutrality. That to me constituted a significant improvement in the statute. I think that we have an impeccable system, really, based on the fundamental integrity of Canadians.

Mr. Blake Richards: You are aware of some instances of improper behaviour that would have been corrected immediately, but you're not aware of any major improper behaviour. Would you be able to say with certainty that you would have been made aware of any issues that would have existed?

Mr. Jean-Pierre Kingsley: I was made aware of issues as they existed, and we took action as they came to the fore.

One example is someone turning back somebody from voting because the person looked inebriated. Well, looking inebriated does not pre-empt your right to vote in this country. If you act in a way that is disruptive, that's another matter. Those were the types of things. So they would act inappropriately in response to looking inebriated. That's an example that strikes me, but you get an idea with that example.

The Chair: Thank you, Mr. Richards.

Mr. Christopherson, you have four minutes..

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

Thanks again, Mr. Kingsley. It's always good to see you and I appreciate your pearls of wisdom. They help us.

One of the concerns that Mr. Mayrand identified, and I'm coming back to something that's already come up, is the issue of changing the language. What we need to understand in this, and I'm not quite sure that it's out there in the public domain in its fulsome, is that the changes to what's acceptable voter ID are not just for voters voting abroad. The changes that are being made in Bill C-50 will affect every single polling station in Canada.

That's why Mr. Mayrand said in his analysis of that particular aspect that there "will be no way for deputy returning officers or those receiving applications for special ballots to readily ascertain whether an entity is incorporated in or otherwise formed in Canada", because that's the new change. "The restriction is likely to cause confusion at the polls on the part of election officers, candidates' representatives and voters." His recommendation was that the provision be deleted from the bill.

Again I remind all of us that I'm speaking to the change that Bill C-50 causes, which will affect every single voter, every single polling station, and it's this business of a piece of ID. The CEO may authorize only pieces of identification that have been issued by—and this is one of them:

an entity that is incorporated or formed by an Act of Parliament or of the legislature of a province or that is otherwise formed in Canada.

Nobody yet can tell us what that means. It'll be interesting to see what the minister says when he arrives, but I assume you agree that this doesn't work and that it's problematic.

● (1140)

Mr. Jean-Pierre Kingsley: The introduction of that language in the bill allows me to do something I've been wanting to do for a long time, and that's to introduce the notion of provisional balloting, the inability for a deputy returning officer to refuse a ballot on the basis of what he or she considers to be unacceptable ID or proof of address and having that verified after the election.

If the language remains the same, if there's no further clarification, it's going to be problematic, but I think my answer would suffice on that front.

Mr. David Christopherson: I appreciate that. You're very optimistic that the government listens to good ideas and makes changes when it comes to election procedures. The fact is that there's an awful lot of us convinced that every bloody thing they've done is meant to be a piece of voter suppression to make it more difficult. That's what we believe. This looks like one more piece of it.

I appreciate that you may have offered an amendment that would not only mitigate this, but maybe make things better. In the absence of accepting that, we're going to be left with this. According to your successor, it's going to be problematic, and I think I'm hearing you say the same thing, notwithstanding your great idea, which we're going to look at seriously. But if this is the change, as it stands, the current Chief Electoral Officer believes this is going to be a cause of potential confusion at voting stations across the country.

Mr. Jean-Pierre Kingsley: Obviously, I share that view.

Mr. David Christopherson: Very good, thank you.

In the time I have left I want to come back to Bill C-50. It now says that if you're voting abroad, you can apply to be put on the list to be considered to vote only after the writ is dropped. If you wouldn't mind, it's obvious, but I'd like to hear you say why that is problematic. Second, can you think of anything that is broken that this would fix?

Mr. Jean-Pierre Kingsley: With respect to the first question....

I'm sorry, I've mixed up the two. You had two questions in there.

Mr. David Christopherson: Don't do that to me.

The Chair: Why is it a problem?

Mr. David Christopherson: Yes, why is waiting until the writ has been dropped a problem?

Mr. Jean-Pierre Kingsley: It's a problem because there will have to be verification of the documents that are provided to the people at Elections Canada, and there may be a problem with that. They may not be able to trace a document to which the elector has made a reference.

Mr. David Christopherson: Excuse me, sir, but it would make sense if that were done six months before. Those things that have to be done anyway could be done, and they would be done in time for the election, all set, ready to go. Is that correct?

Mr. Jean-Pierre Kingsley: I proposed a minimum of 30 days. The committee may feel, and the Chief Electoral Officer may provide you with advice, that it should be 60. I thought 30 might be sufficient, but I'm not putting my hand in the fire on this. I'm saying you need to do it before the writ, especially if it's a fixed election date.

Mr. David Christopherson: Right, but this says you can only do it after.

The Chair: Thank you, Mr. Christopherson.

Mr. David Christopherson: I'm looking for a reason.

Thanks, Chair.

The Chair: We'll go to Mr. Reid, please, for four minutes, or thereabouts apparently.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): First of all, like everybody else, I want to extend my appreciation for your willingness to come to the committee and to offer the truly unique insight you have—at least a unique insight among the living with regard to elections, referendums, and all such things.

I wanted to actually ask, is this quite literally the first time you've publicly advocated the provisional ballot idea? I can't remember. We did Bill C-23. Did you not comment then?

Mr. Jean-Pierre Kingsley: In the first instance, I do wish that my recommendations will continue to be from someone who is alive.

Mr. Scott Reid: As do we all.

Mr. Jean-Pierre Kingsley: But it's because I've been thinking more about the judgment concerning Mr. Opitz. It's called the Opitz judgment. I hope that everyone appreciates that. That's what it is, by the Supreme Court. I am saying there are repercussions to that. If there are mistakes that happen during the process, the right to vote is not vitiated. You can't say, "There was a mistake here. Don't count that ballot." You can't do that, is what the court said.

I'm saying, if there are mistakes what else would happen? Our neighbours to the south have provisional ballots. Other countries have provisional ballots. I think we're going to be faced with that in the very near future, if not as a result of this round.

•(1145)

Mr. Scott Reid: There are really two separate, potential uses for provisional ballots going on here, then. One is, as you mentioned, in the case of Mr. Opitz's election, where a number of ballots couldn't be validated. Had the provisional balloting been in effect, I gather you're saying that although the vote count would not have been very fast for those ballots, we could in each case have guaranteed that

either (a) it was a valid ballot or (b) it was not, leaving no lack of certainty.

Mr. Jean-Pierre Kingsley: Right, and it would remove the need to go to court to have that proven and remove the grounds on which it could occur. I want to remind the committee that even though the results are officially proclaimed usually within a day or two, there are seven days under the statute. You can take up to seven days as a returning officer. All we would do is say, "Okay, take your seven days," and wait for all this to happen.

The number would be small in those cases. We're not talking about hundreds of thousands here because people would gear up for this. There might be 20 in each riding, or an average of.... You can handle 50 ballots in no time at all.

Mr. Scott Reid: The second stream is that it could be used, you're saying as well, for Canadian voters overseas, to give them time to validate the various issues that are hard to otherwise establish. Is that correct?

Mr. Jean-Pierre Kingsley: The provisional balloting for people abroad would be to take care of the average 1,000 electors who vote from abroad and whose votes are cast aside because they come in after six o'clock. That happens right now.

Mr. Scott Reid: Right.

Mr. Jean-Pierre Kingsley: Those people took the trouble. They voted. Six o'clock is good. At 6.01, forget it; they fall.

There are about 1,000 at every election. It varies like this, by the way, but I'm saying on average...and that's a lot.

Mr. Scott Reid: There's some kind of provision in the United States, at the federal level, to allow for certain kinds of overseas voters' ballots to be included as long as they arrive within x amount of time—48 hours or a week. Am I right?

Mr. Jean-Pierre Kingsley: That's the provisional balloting.

It can also occur at the polls under certain circumstances, but I can't remember what they are. However, they have introduced it for abroad. When they did it for people abroad, they said, "If we're going to do it for them, we're going to have to do it for the others."

What it does is sustain, I'm going to call it, the sanctity of voting. If you go to the trouble of voting.... You have to remember people voting from abroad actually have to look at who the candidates are and put in the name of the candidate. If you put in the name of the party, that ballot is not counted.

Again it's another safeguard for people who are voting from abroad. They have to write the name of the candidate and it must resemble the name of that candidate.

Mr. Scott Reid: All right. Thank you very much.

The Chair: Thank you.

We're at the end of a round and we have a couple of minutes left, so perhaps we can have some one-offs, one minute asked and answered. If you want to take the minute to ask, you won't get an answer.

Madame Latendresse, you are first.

[*Translation*]

Ms. Alexandrine Latendresse: Very good.

I have a personal example that ties into your proposal for voting abroad. I grew up in the Montreal area, did my studies at Université Laval, in Quebec City, and went to Moscow university on an inter-university exchange. As a Canadian student who was overseas at the time of a federal election and who wanted to vote but didn't have any advance voting experience, I can tell you that providing proof of your address can be tricky. In Quebec City, I lived in a residence and hadn't moved around very much.

Another student in a similar situation may have had no plans to return to that city and had no one who could have provided proof of their address in the riding. The student may have opted to vote in their parents' riding, where they grew up.

[*English*]

The Chair: Your minute is up.

[*Translation*]

Ms. Alexandrine Latendresse: Yes, but I'd like to know the witness's thoughts on how to meet the proof of address requirement.

Mr. Jean-Pierre Kingsley: That's where the provisions of the bill would come into effect, meaning that you would have to find someone who could, to some extent, vouch for you. I admit it's quite a demanding requirement. We might do well to advise Canadians, before they go abroad, of the requirements they will have to meet in order to vote. The chief electoral officer could prepare a document with that information, and the department of foreign affairs could distribute it. Unfortunately, no piece of legislation can address every situation. If the voter was unable to provide proof of address, the requirements in the bill would apply, and that would be quite a burden, I admit.

● (1150)

[*English*]

The Chair: That was Madame Latendresse's minute and Mr. Scott's minute.

Is there anyone else?

Go ahead, Mr. Christopherson.

Mr. David Christopherson: Thanks.

You made reference to using the VIC, the voter identification card—pardon me, the voter information card. We had that fight over and over again. It should be a voter identification card.

Anyway, you said that if that was used for the purposes of address only, you thought that would be sufficient. I want to step that out. If the voter information card had been accepted as voter identification, as it bloody well should be, given that it's the most up-to-date database in the whole darned country, how many other problems would that have solved in addition to the ID one and the address one you were talking about?

Mr. Jean-Pierre Kingsley: It would go a long way towards solving, in my view, the vouching issue as well. It would reduce the difficulties that have been introduced with the changes under Bill C-23. It's something that Canadians automatically did in the past, and I think they still do. They take the card with them because it has the address of where they go to vote on it. They put it on the fridge, so it became that. It was never issued with that purpose in mind, but they would do it, and we know that because we would get them at the polls.

Mr. David Christopherson: To be fair, the last piece of legislation made it illegal for that to be accepted as identification.

Mr. Jean-Pierre Kingsley: Yes.

Mr. David Christopherson: Thank you.

The Chair: Seeing no other points today, we will call it quits.

Mr. Kingsley, thank you very much for coming and joining us today, and sharing your information.

Members of the committee, we'll suspend for a couple of minutes and then we'll go in camera.

[*Proceedings continue in camera*]

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