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Chair

Mr. Joe Preston

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•(1100)

[English]

The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)): We can start our meeting. We are still looking at our order of reference on Bill C-50.

We have with us today—is it Professor Frank?

Prof. Gillian Frank (Lecturer, Department of Religion and Visiting Fellow, Center for the Study of Religion, As an Individual): Yes, Professor Frank is fine.

The Chair: Super, thank you.

Ambassador Chapuis, you're also here today.

Our tradition, Mr. Frank, when we have somebody online with us on a teleconference is that we let them go first in case we ever lose them.

Before we get started today, one of our members has a point of order. Is that right?

Mr. David Christopherson (Hamilton Centre, NDP): It's an issue for the committee that I'd like to raise.

The Chair: Go ahead, Mr. Christopherson.

Mr. David Christopherson: Apologies to our guests. Hopefully it will only take a moment.

We all received notification from the clerk that reads as follows: "Please find enclosed an order in council appointment, which was referred to the committee on Friday, May 29, 2015, pursuant to standing order 110(2). Under standing orders 110 and 111 the committee may call a nominee to appear before it during a period not to exceed 30 sitting days from the tabling date in order to examine the qualifications and the competence of the appointee to perform the duties of the post to which he or she has been appointed."

Given that when there was a new law clerk we used that same clause to invite them in, I move that we invite the new Speaker of the Senate in, since that's the appointment that's referred to here.

The Chair: I received it yesterday also, David, and I was checking into precedent. Has this committee ever vetted the Speaker of the Senate? If you give me a day or so to finish that work and then find a time, if indeed it has happened, I will bring it back to the committee.

Mr. David Christopherson: May I ask a question? My understanding is that it's allowed under the rules. Whether we've done it or not is a point of debate but I'm not sure whether it's a point of order

to determine whether or not the motion is in order and should be voted on or not, Chair.

The Chair: Are you moving a motion that we do that?

Mr. David Christopherson: Yes, I am.

The Chair: Your chair is advising you that before I rule on that motion, I'd like to do a little research. If you don't mind, I can come back to you at Thursday's meeting and tell you what I found out.

Mr. David Christopherson: That's fair. Yes, that's fine.

The Chair: Okay, we'll leave it until then.

Mr. Lukiwski, on that point...

Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC): Just to support what you were saying, I think we have to take a look at the constitutionality of this. I appreciate the fact that you are going to do some background research and come back to us.

The Chair: That's great. We'll make a ruling then.

Thank you, Mr. Frank and Ambassador. We're happy to have you here today on Bill C-50.

Go ahead, Mr. Frank. If you have an opening statement we'd like you to start with that. We'll then do an opening statement from the ambassador, and then we'll have a round of questions from the members.

Also, members I will have to leave at about a quarter to noon. My more-than-able vice-chair will be taking over the chair at that time so it should be seamless.

Mr. Frank, please go ahead with your opening statement.

Prof. Gillian Frank: Mr. Chair and members of the committee, thank you for the opportunity to speak with you today.

In March 2011, I learned that I was no longer eligible to vote when I attempted to obtain a special ballot through the Elections Canada website. I discovered that because I had lived outside of Canada for more than five years, I could not participate in the then-upcoming election. I had moved to the United States in 2001 to pursue a Ph.D. Under previous interpretations of the rules, my regular visits to Canada had reset the clock, thereby allowing me to retain my right to vote.

In 2011, I was a post-doc at Stony Brook University where I taught an undergraduate course on the history of civil rights movements in the United States. The irony was not lost upon me that while I was teaching my students about the struggles of individuals and groups to apply their citizenship to the fullest of its means, and to press forward persistently for freedom and democracy and the removal from their society of any forms of second-class citizenship, I was unable to vote anywhere. Essentially, I was teaching my students about people who had far less privilege than me who understood a basic truth: that enfranchisement is a basic recognition of citizenship. The right to vote empowers and dignifies citizens.

If the committee is interested, I can take you through the details of the various attempts I have made, along with others, to ask the government to restore expat voting rights, but I want to rest upon one detail. At the beginning of our effort, we attempted to petition Parliament to ask for redress, only to learn that Parliament does not recognize petitions from non-residents. In other words, until recently I had no vote and no means of petitioning my own government while living abroad.

Over the past four years, I have heard from many Canadian expats from around the world who shared my desire to have their voting rights restored. We believe that democracy, like the Canadian flags we wear on our backpacks, should travel abroad with us. Like me, these expats are likewise concerned about Bill C-50, which they see as an attempt to disenfranchise us.

Because of the tenaciousness and support of our lawyer, Shaun O'Brien, the generosity of her law firm, Cavalluzzo Shilton McIntyre Cornish, and the wisdom of Justice Penny's 2004 decision, we saw vindicated our conviction that the right of every citizen to vote was at the heart of Canadian democracy. Each citizen must have the opportunity to participate in the selection of elected representatives.

Justice Penny wrote the following:

...the government is making a decision that some people, whatever their abilities, are not worthy to vote—that they do not “deserve” to be considered members of the community and hence may be deprived of the most basic of their constitutional rights. But this is not the lawmakers’ decision to make. The Charter makes this decision for us by guaranteeing every citizen’s right to vote and by expressly placing all citizens under the protective umbrella of the Charter through constitutional limits on the power of the government to limit a citizen’s right to vote.

When I learned of Justice Penny's decision last year, I was elated. I am, however, dismayed at Bill C-50, which threatens to undermine much of our hard work over the past four years. I therefore offer the following to the committee.

Bill C-50, as it is currently written, violates the spirit of Justice Penny's rulings and attempts to perform an end-run around them. It adds onerous requirements by creating a narrow timeframe to submit burdensome paperwork. These new requirements make it more difficult for most expats and impossible for others to vote.

I am directly impacted by the ID requirements. I no longer have my Ontario driver's licence, which was my sole Canadian document listing both my former address and containing a photo. I had to turn this in upon obtaining a driver's licence in the U.S. I have no doubt that the overwhelming majority of my expat peers in the United States are in a similar position.

While I can probably secure some other forms of documentation, I now have to go through a process that is unnecessarily time-sensitive, time-consuming, and subject to the unpredictable schedule of post offices in Canada and the United States. I wonder why the government is not seeking to make voter registration easier, less time-sensitive, and more accessible. Rigour and access need not be mutually exclusive.

In my course on the history of civil rights, we studied in detail the history of voter suppression. A favoured tactic to thwart further registration, we saw, was the use of bureaucratic red tape to create administrative roadblocks that were justified in the name of protecting the integrity of the system, electoral fairness, or maintaining the democratic process.

• (1105)

Such justifications offered a respectable veneer to those who were actively undermining the democratic process by requiring frequent re-registration, registration at inconvenient times, provision of information unavailable to many targeted voters, and so forth. It also sent a strong message to targeted segments of the population that their vote is not welcome. I fear that by attempting to accomplish administratively what can no longer be accomplished since our recent court victory, Bill C-50 falls squarely within this inglorious tradition.

Over the past four years, reporters have asked me to justify my right to vote. My answer is simple. I am a Canadian citizen and want to have the right to exercise my citizenship to its fullest capacity. I also point out to these same reporters that it is the politicians who are attempting to limit constitutional rights who deserve far more scrutiny than those asking for access to their constitutional rights.

In closing, I wonder why my own government is so determined to spend so much time, money, and energy disenfranchising expat Canadians. Other witnesses have generously suggested that this legislation is a solution in search of a problem. I would merely ask who stands to benefit from making voting so difficult for so many Canadian citizens.

Thank you for allowing me to make these remarks.

• (1110)

The Chair: Thank you very much, Mr. Frank. We will hear from the ambassador, and then the group will ask questions.

Ambassador, please go ahead with an opening statement.

[*Translation*]

H.E. Nicolas Marcel Jacques Chapuis (Ambassador of France to Canada, Embassy of France): Mr. Chair, I would like to thank the committee for inviting me to speak about the French experience. I will be as brief as possible, and I will then answer your questions.

Since the Fifth Republic in France, in other words since 1958, the constitution has allowed all French citizens living abroad to participate, in appropriate forms, in all polls nation-wide at the local, regional and national level. This may be the election of the president of the Republic, or the election of parliamentarians, legislative elections, elections of regional councillors, elections of general councillors—now called departmental councillors—or municipal elections.

As a result of this constitutional provision, the act that allows French citizens abroad to vote is very favourable to the voter, as it is in France, as well. In other words, no distinction is made between a French citizen living abroad and a French citizen living on the national territory.

There are about 2 to 2.5 million French citizens living abroad, and they are eligible to vote in all national elections, including presidential elections, legislative elections, European elections and in referenda at polling stations at their embassy or consulate. They can also vote in elections for French citizens living abroad because we do have local representation for them in each country.

To be able to vote abroad, the French expat must be registered on a consular electoral list. These lists are open in diplomatic and consular posts. To be able to vote for one year starting on January 1, the citizen must have registered prior to December 31 of the previous year. This registration on the electoral list is facilitated by registration on the registry of French citizens resident outside France, a national registry open in all embassies. French citizens arriving in Canada, for example, need only register on the registry to be automatically added to the electoral list, unless they request otherwise. A French citizen may in fact decide to vote in France instead of at an embassy. Registering on the registry can be done by simply presenting proof of French citizenship, a piece of identification, proof of residence in the foreign territory and the residence permit issued by the country in question.

It should be noted that if for some reason the voter has not been registered on the electoral list and thinks there was an administrative error, the voter can seek recourse before an administrative tribunal in France up to the very day of the election. The tribunal must render a decision immediately on whether the claim is founded.

As I said, a French expat living abroad may ask to be registered on the electoral list of a commune in France, generally the last commune of residence. This is interpreted very broadly within French electoral law. In fact, a French citizen living abroad may ask to be registered in the commune of his or her parents, an ancestor or descendant, as long as there is a family link. If the individual is registered on the electoral list abroad and is on the list of these communes, the citizen may ask to vote in France at the local polls. In other words, the individual may be registered in two places.

• (1115)

If the person absolutely doesn't want to vote abroad, which is that person's right, including for local entities, the citizen can vote in France, either in person or by proxy.

Abroad, citizens can vote only at the ballot box or by proxy at the diplomatic post for presidential elections, European elections and the referendum.

For legislative elections, citizens can vote by Internet. This is an entirely new provision that was implemented for the first time for the 2012 elections, which elected the current Parliament and includes 11 French members living abroad.

That is what I wanted to say for my opening remarks.

Thank you.

[English]

The Chair: Thank you very much, Ambassador.

We'll go to Mr. Reid, for a seven-minute round, please.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): Thank you to both of our witnesses.

This may seem like an odd juxtaposition, having an explanation of France's system of voting for expatriate citizens and a Canadian who has been dealing with his system, but it's actually convenient, because it lets me ask Professor Frank a question relating to the Canadian voting system by providing the context of the French system.

In Canada the vote is attached to a specific constituency. In fact, in Justice Penny's ruling, in paragraph 77, he makes a point of observing that the charter right to vote is for the member of Parliament for the electoral district in which the voter resides. Obviously, a non-resident doesn't reside in any district, and the assumption we've always made is that you remain, for electoral purposes, a resident of the district in which you last resided when you were last in Canada. Of course, district boundaries change, so you are attached to an address. We figure that the address you were last in is where you reside for electoral purposes. But the point is that the charter section 3 right is attached to a specific locale in order to spread all the votes between ridings across the country.

The system that France and some other countries, such as Italy, use is to say that electoral districts will be created that are outside of the country. There are actually representatives who serve in the national Parliament who represent districts that are not part of the territory of the country. They are representatives of the interests of electors in that particular district. Wikipedia has some convenient maps that actually show where the Italian districts are and where the French districts are. They don't overlap perfectly. I guess the distribution of Italian and French citizens outside of their respective countries is not identical.

Anyway, assuming there were no constitutional difficulties—and there might actually be constitutional difficulties because of the way the courts have interpreted section 3—what do you think of the idea of having some kind of extraterritorial electoral district for Canadians who live outside the country?

• (1120)

Prof. Gillian Frank: I would want to study the proposal in detail. I'm not good at answering yes or no to hypothetical issues. I would want to know how it works for those countries, so I would have to do a lot more study before I could give you an informed answer.

In theory, if it works well, if it empowers people, if it gives them access, then that might be a great avenue forward. But again, I would want to see more concrete details.

Mr. Scott Reid: That's fair enough. What strikes me when I think about this is that on the one hand it resolves the problem of tying you to some previous address, which can be difficult to prove as time goes on. Your story of your driver's licence is actually a pretty typical story for a non-resident who formerly resided in Canada.

I used to live in Australia, and for the first three months I used my Canadian driver's licence. Then New South Wales law said that doesn't work anymore, so I had to get a New South Wales licence. I cannot remember where my Canadian driver's licence went, to be honest, so I get that problem.

The trouble is that we have a system that's set up on the basis of ridings, and that appears to me to be the nub of all the discussions that have gone on. We've had the Chief Electoral Officer in, for example, and the former chief electoral officer, and they're all trying to find fixes around this. This just struck me as being another way one could fix a problem.

On the other hand, as I say this I am aware of the fact that there might just be a constitutional impediment, which is insurmountable.

Let me ask another question, then. You mentioned insurmountable practical difficulties with regard to timing and so on. I know that as someone who has studied voting rights and the voting rights legislation in the United States you're very sensitive to this sort of thing. Can you tell me what the number one problem was at a practical level—there are many problems, but I mean the one that was the biggest impediment, in practice—to your exercising your franchise, other than the actual five-year limitation? It sounds to me as though overcoming this technically doesn't resolve your concern.

What's the number one thing that was a problem for you?

Prof. Gillian Frank: When I was applying for the ballot previously, the mail system was incredibly slow. I lived in Rhode Island at the time. You could send something from Toronto to Rhode Island and it might arrive in a day, it might arrive in a week, it might arrive in three weeks. It was unpredictable.

In the act of registering to vote, I worry about the efficacy of the mail system and about relying upon it not only for registration but for ballots. It concerns me greatly that you have a narrow time window within which to mail documents back and forth, perhaps in various iterations.

Say there's an error with the document. Say I send in a bank statement or a tax statement proving my residence and they say, "That one is not valid. There's a missing paper. We need to start from scratch." I go through another reiteration, but perhaps between point A and election day it's still lost in the mail. An outside contingency—and this would be an outlier—is what happens if there's a mail strike somewhere in between.

When we rely upon this method and give it such a narrow window, we're setting the stage for a lot of people to be inadvertently excluded just by the slowness of the process.

Mr. Scott Reid: Okay. Let's say for the sake of argument that the process was re-engineered to involve online registration and permitted dealing with the back and forth via emails, with scanned documents rather than having to send photocopies of documents, as one would do now. Electronic signature adds some level of security,

but basically doing it that way. Would that make a significant difference from your point of view?

Prof. Gillian Frank: I suspect it would expedite it significantly. It would probably reduce costs to expats abroad as well, so I think that would be a start.

The biggest impediment is the narrow time window. I think I just heard the ambassador from France describing the registration as ongoing. When I think about this proposal, with its very narrow time window of when the writ is dropped, I have to ask where the fire is, to have the registration done just within that time. Why the continual re-registration? Why not any time between elections, for example?

I think the Internet would be a great way of moving forward, but I also think leaving an open window for registration and verification would be as well. We have more than a million expats abroad. Let's say even 10% of those try to register in that narrow time window. Who is on the other side doing all of that paperwork in a timely manner?

The Chair: Thank you.

Thank you, Mr. Reid.

We'll go to Madame Latendresse for seven minutes, please.

• (1125)

[Translation]

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

Mr. Ambassador, I have a few questions for you, then I will have some for Professor Frank.

I would like to clarify something. You said that over two million French citizens live abroad. Obviously, that number doesn't include individuals in overseas departments and territories.

H.E. Nicolas Marcel Jacques Chapuis: Absolutely not. They are on the national territory.

Ms. Alexandrine Latendresse: You already have the system in each of these overseas departments and territories. You have already arranged it so that those individuals can vote the same way as if they were in France. In fact, they are on French territory.

H.E. Nicolas Marcel Jacques Chapuis: It is the national territory.

Ms. Alexandrine Latendresse: You said that there are also two million French citizens who live outside the national territory.

Do you know how many of those French citizens vote, in general?

H.E. Nicolas Marcel Jacques Chapuis: It depends on the election. It is difficult to estimate the number of voters based on whether the votes were cast abroad or by proxy in France.

I would simply like to correct what Professor Frank just said. During a legislative election, for instance, French citizens may choose to vote in France for a member from their riding. They are not required to vote for the riding abroad. They choose their representation.

The levels are higher for presidential elections, obviously. Voter turnout is very high for elections for the president of the Republic. We're talking about over 50% of French citizens abroad.

Ms. Alexandrine Latendresse: So about one million people.

H.E. Nicolas Marcel Jacques Chapuis: Those citizens who are registered on the electoral lists abroad. I don't have exact numbers, but they are significant numbers, which can make a difference during an election.

Ms. Alexandrine Latendresse: I'll explain the basis of my question. According to the numbers we have currently, about 2.8 million Canadians live abroad. Of that number, barely 6,000 have participated in elections. In my opinion, the changes made by Bill C-50 won't help increase the number of these people and help these millions of Canadian citizens who, I think, have the right to vote but can't because the current system is just too complicated. I think these changes are instead harmful.

I think that if we compare our system to the French system, which seems to really encourage every French citizen to take part in the electoral process, we will see that we still have a lot of work to do.

Professor Frank, my question has to do with the other obstacles faced by Canadians living abroad. You spoke about it earlier.

You and Mr. Reid mentioned the driver's licence. Information I recently received indicates that certain U.S. states require individuals who want a driver's licence from that state to give up the licence they already have. I was quite surprised to learn that. I find it very difficult to justify. Yet that's the kind of situation that we need to consider if we are asking Canadians to prove their residency, their identity and their citizenship using Canadian ID cards. I have a lot of trouble understanding why we are creating obstacles to voting.

In terms of the postal system, you said that it sometimes takes three weeks. When I lived in Moscow, it would take three months to get a letter from my parents. We say we're trying to harmonize the system, but in reality, the experience of citizens living abroad is something else.

Could you give me a reason that justifies the changes that we want to make to the Canadian electoral system?

• (1130)

[English]

Prof. Gillian Frank: Are you asking me to look for a rationale for this legislation?

[Translation]

Ms. Alexandrine Latendresse: Yes.

[English]

Prof. Gillian Frank: I don't see a good one. It doesn't seem to help voters like me participate in the system. A cynical person might see this as an attempt to work alongside the court battle that is currently ongoing to maintain the disenfranchised status of expat Canadians.

The legislation says it's in response to Justice Penny's decision to account for the new numbers of recently enfranchised voters. I don't know what was broken about the system before, or what in the system before was incapable of accommodating these same voters.

Again, as I said in my opening statement, this seems to be a solution in search of a problem, or it seems to be a solution for the problem of newly enfranchised expat voters.

To your earlier statement about drivers' licences, when I moved to Maine after grad school for my first position, I got a Maine driver's licence. Until that time, for seven years, I had held onto my Ontario driver's licence, mostly because I was a poor graduate student who couldn't afford a car. I finally was able to buy one, I registered my car, and I needed a Maine licence.

I asked to keep my Ontario driver's licence as a souvenir. My mindset was that it was my hope to return to Canada as soon as possible, as soon as I could find gainful employment there. But the DMV in Maine said I must relinquish my licence, as they don't allow two licences to be kept. The same was true for my wife when she moved to New York state. The same is true in New Jersey, where I currently reside. This is a common practice.

It is my understanding—and again, I would want to double-check my figures—that the majority of expats live in the United States. They are all facing a similar situation, if they choose to drive.

[Translation]

Ms. Alexandrine Latendresse: Thank you very much.

[English]

The Chair: Thank you.

We'll go to Mr. Simms.

Welcome again today, Mr. Simms. You have seven minutes.

**Mr. Scott Simms (Bonavista—Gander—Grand Falls—Wind-
sor, Lib.):** Thank you for the warm welcome, Mr. Chair. I appreciate it, as always.

One thing you said, Ambassador, that I found quite striking and that seems to me prevalent everywhere, except for what we're facing now in this legislation, is that the system favours the voter. This to us is a default under section 3 of the charter, where it says that we have the right to vote. The government should do what it can to help enable that person to vote.

One of the big problems we have with the bill we're dealing with in Canada is that you're eliminating the permanent list of voters. You have probably heard now by testimony how difficult it is, when an election is called, to exercise your right to vote. It becomes problematic. We don't have Internet voting and don't have the immediacy that you have. In your voters list, you said, you must register by December 31 for the following year. In essence, is that the list that you use on a permanent basis for all elections?

[Translation]

H.E. Nicolas Marcel Jacques Chapuis: Yes. The list is verified every year on December 31. It is consolidated internationally every year on December 31 in order to be validated centrally in Paris. That's the list that will be valid for all elections for the following year.

However, as mentioned, in our system, citizens can change their registration on the electoral list in France and abroad at any point during the year for the following elections.

[English]

Mr. Scott Simms: This list, in your opinion and the government's opinion, helps to favour the voter, as you said, and allows and makes it an easier process to participate in all levels of governing.

[Translation]

H.E. Nicolas Marcel Jacques Chapuis: Absolutely because registration on the list is what gives the right to vote.

[English]

Mr. Scott Simms: Thank you.

One other thing is something you said that struck me as interesting. I haven't seen this yet. One of the problems the government cites is what we call "riding shopping". If someone wants to vote in our election, which is "first past the post", they can choose whatever riding they wish, which favours certain parties, or maybe not, but that's what they're leery about, and in many cases most of us would be.

But you said you can provide a familial link in order to vote. Can I provide a birth certificate, if I were a French citizen living in Canada to allow me to vote in the district in which I was born?

• (1135)

Mr. Nicolas Marcel Jacques Chapuis: It's not a birth certificate you need to present. It is a familial link with a person, a voter, in that riding.

Mr. Scott Simms: Okay.

Mr. Nicolas Marcel Jacques Chapuis: For instance, if your father, your son, or your daughter is a voter in one riding, then you can register in that riding.

Mr. Scott Simms: I see, so it's a direct family member who resides in a certain area. You can do that.

Mr. Nicolas Marcel Jacques Chapuis: Yes, as proof of residence.

You have many expatriates who have not kept a home, an apartment, a residency in their country of origin, but they have family and they can opt to link the right to vote to the riding of that family.

[Translation]

Mr. Scott Simms: Thank you very much.

[English]

I don't have a lot of time. I wish I could spend more time with you, but I want to move to Dr. Frank.

Considering the government is challenging Justice Penny's ruling, is it appropriate or not to be doing this Bill C-50? That's probably the easiest question you're going to get.

Prof. Gillian Frank: Is it appropriate for the government to be doing Bill C-50?

Mr. Scott Simms: Is it appropriate to be proceeding with Bill C-50 at this time, given the fact of what the decision is and given the fact that the election is coming in October.

Prof. Gillian Frank: I'm not a constitutional expert. To me it feels to be doing an end-run. It seems inappropriate to me.

Mr. Scott Simms: Given what was said by the French ambassador earlier, and listening to his testimony, do you feel that the system favours the voter in their case, their permanent list of electors? Would you agree with what the ambassador had put out there?

Prof. Gillian Frank: It seems that their system is much more geared and willing to accommodate expat voters than the Canadian system is, and is shaping up to be with this legislation.

Mr. Scott Simms: I was surprised to hear that you had to hand in your driver's licence to do this, to sacrifice your own driver's licence in order to drive in the United States. This is one of the issues we're going with. As was pointed out earlier, and you quoted, this certainly is a solution in search of a problem.

You also said Bill C-50 falls within this inglorious tradition of what you called voter suppression.

The two things that are at play here, the permanent voters list as well as the time that it takes, in addition to your testimony, as Madame Latendresse also pointed out from being in Moscow, the disenfranchisement under Bill C-50 is now going to be astronomical as opposed to what it was before.

Prof. Gillian Frank: I would agree with that.

Mr. Scott Simms: Given this, what is next for us? Is this particular legislation salvageable in any which way, shape, or form? Is there anything in this that you see that's palatable, acceptable, and maybe encouraging you to exercise your right under section 3 of the charter?

Prof. Gillian Frank: I find no encouragement in this legislation. I see it as an attempt to make voting more difficult. I would have to study the nitty gritty of it in much more detail.

Again, I read through it closely a couple of times. There are parts of it in terms of the requirements for identification that I simply do not understand. I asked my wife, who is an attorney, to puzzle over it with me and parts of it still remain opaque to both of us.

Again, I can't speak as a total.... Are there any parts of it that might be encouraging? I would have to look more closely. As a whole, it sends a powerful message to me, which is that my vote is not welcome.

Mr. Scott Simms: That certainly is a powerful message.

The Chair: Mr. Richards is next on the list.

Mr. Blake Richards (Wild Rose, CPC): Mr. Ambassador, I want to just ask you a few questions. The first one touches on what Mr. Simms was speaking about just a few minutes ago.

I want to make sure I understood correctly. You mentioned in your opening remarks that those who were expats who were voting could actually make the choice as to whether they vote in one of these out of country constituencies that are set up—I believe there are 11 of them—or they can choose to register in a constituency in France based on some familial connection. It's a choice that they can make of one or the other. Is that correct?

• (1140)

Mr. Nicolas Marcel Jacques Chapuis: Absolutely.

Mr. Blake Richards: You mentioned registration in your opening remarks. I think that I saw, of the 2 million to 2.5 million expats, about 820,000 that are actually registered. If I understood your opening remarks, they register at an embassy. They come with proof of citizenship, a piece of ID, and a visa for the country they are living in, in order to register.

Is that the only method to register out of country? Is there a method to register by mail, email, facsimile, or anything like that, or is it simply at the embassy?

Mr. Nicolas Marcel Jacques Chapuis: It would be at the embassy or consulate.

[Translation]

With your question, I can announce that, as part of the reforms that the government is preparing for the end of the year or early next year, a French citizen living abroad will be able to register electronically. In other words, we are going to reform the registry of French citizens resident outside France to allow them to register directly online.

[English]

Mr. Blake Richards: That's something you're planning to do. It's not currently in effect.

[Translation]

H.E. Nicolas Marcel Jacques Chapuis: It is under way. Obviously there are security issues to avoid fraud related to identity documents, but we now have the opportunity to do it. With the French ministry of the interior, the ministry of foreign affairs is in the process of defining the perimeter of the information system that will make this possible.

And with this possibility of registering online, we are hoping to encourage a lot more of these French citizens who are not registered to do so, especially younger citizens. They don't want to go to a consulate or embassy, but if they can register online, they would find a link to their citizenship.

[English]

Mr. Blake Richards: Okay, thank you.

I also noted that there is essentially the system for them to register, and it appears to me, from what I can see here, that if they move to a different jurisdiction or a constituency outside of the country, when they move they actually have to re-register in the new location in order to be able to vote. They're not automatically shifted to the new constituency or whatever you want to call the outside-of-country area. Is that correct?

[Translation]

H.E. Nicolas Marcel Jacques Chapuis: Yes. Once again, we need to make a clear distinction between the registry for declaration of residency abroad and registration on the electoral list.

For example, businessmen from Singapore and China often settle in Canada. They register on the registry in Canada and must then say whether they want to be added to Canada's electoral list. They are no longer on China's electoral list because they have left the country, but they can still ask to exercise their right to vote in the national territory.

In short, the answer is yes. They must register again. This is also true for the national territory. When a French citizen moves to a different commune in France, the citizen is on a different electoral list.

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you very much. Your time is up.

We will now move on to Mr. Dusseault for four minutes.

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Madam Chair.

Mr. Ambassador, I would like to thank you for your very enriching presentation on the right to vote that is facilitated for French citizens living abroad.

Along the same lines, I would like to know a bit more about Internet voting for French citizens living abroad. From what I've understood from your presentation, they can register electronically on the electoral list abroad. When an election is under way, a French voter living abroad can also vote by Internet. Did I understand that correctly?

• (1145)

H.E. Nicolas Marcel Jacques Chapuis: Currently, they can do so only for two types of election: in legislative elections of members for French citizens living abroad and the democratic local entities created for them, which we call consular councils. For those two elections, Internet voting is permitted. The government is currently considering extending Internet voting to other types of election.

Mr. Pierre-Luc Dusseault: I suppose the Internet voting process is very quick. A voter can register at any time during the election and be verified as a voter living abroad, and vote fairly quickly.

H.E. Nicolas Marcel Jacques Chapuis: Absolutely. For legislative elections, for example, there is an electronic voting window, which is added on to the vote by proxy. From the time voters have asked to vote by Internet and have received their identifiers through secure means, they may exercise their right to vote in the prescribed window before election day in France.

Mr. Pierre-Luc Dusseault: Thank you for that clarification on the electronic voting system.

I also wanted to ask Professor Frank a few questions and thank him for being here.

In your opinion, is Bill C-50 an adequate response to the court ruling? Is it the response you expected, yourself being a stakeholder in this matter before the court? Do you think the government's Bill C-50 is a satisfactory response?

[English]

Prof. Gillian Frank: Thank you for your question.

I find the response disappointing. It seems to me, again, that it is an attempt to make voting more difficult for newly enfranchised expatriate Canadians. That is my reading of what this bill is about. The previous system, as I understood it, and based on the testimony we heard during the court hearings, seemed adequate to accommodate these new voters. I wonder what has changed and why the need for it.

Is it an appropriate response? It seems to be a strategic response, but I'll leave it for others to decipher what the strategy is and what the end game is here.

[Translation]

Mr. Pierre-Luc Dusseault: I am going to continue along the same lines. You may suggest something else, but do you think that simply removing the restriction concerning the five years of residence abroad could have been a simple, quick and adequate response?

[English]

Prof. Gillian Frank: When we first brought the lawsuit there was an option to change the rules. Also, Megan Leslie, an MP, introduced a private member's bill asking for the five-year rule to be stricken. There were opportunities along the way to make it possible and available for expatriate Canadians to vote, regardless of duration abroad.

At every turn this government has chosen to fight our attempts to be re-enfranchised, and they continue to do so. I see Bill C-50 as an extension of this ongoing court battle. The short answer is yes, there were opportunities to strike down the five-year rule.

I believe I heard you ask earlier about what could have been done or what other responses were possible. Any number of responses were possible. The most welcoming would be to court Canadian expatriate voters, welcome them to the fold, to embrace them as members of the polity, and to campaign among us to solicit our votes.

[Translation]

Mr. Pierre-Luc Dusseault: Thank you very much.

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you, Professor Frank. I would also like to thank Ambassador Chapuis. On behalf of the committee, I would like to thank you for being here today and for your testimony on the study of the bill.

There are no other questions at the moment, and we have a few minutes left. Does anyone have a brief question to ask? If not, we will suspend the meeting in order to move on to the next panel of witnesses for the next hour.

[English]

Mr. Richards.

• (1150)

Mr. Blake Richards: It's for you, Mr. Ambassador. There was one question I didn't have a chance to ask. I see that it appears this applies specifically to the out-of-country expatriate voters. They're required to reside there for three years prior to being able to obtain registration and vote. Am I understanding that correctly, what I'm reading in our briefing notes here? Is that accurate?

Mr. Nicolas Marcel Jacques Chapuis: No. You register.... You need to be a permanent resident. You cannot register if you are a tourist.

Mr. Blake Richards: Okay, so that's what that was referring to.

Mr. Nicolas Marcel Jacques Chapuis: It's not a question of visa. We ask for *un titre de séjour*. In English, it's a residency permit by the foreign country.

Mr. Blake Richards: Okay, understood. I wanted to make sure I was understanding that correctly.

Thank you.

The Vice-Chair (Ms. Alexandrine Latendresse): You have a quick question, Mr. Christopherson?

Mr. David Christopherson: Thank you.

Excellency, you mentioned that anyone can register in the year prior to the election, as long as it's done by the end of that year. The proposal before us is that expats can only apply after the writ has been dropped, after the election has been called. Our concern on the opposition benches is based on expert testimony from Elections Canada. There's a real question as to whether or not those registrations can be processed adequately, given all the checks and balances that have to happen in time to allow an individual to vote. That's one of our concerns.

Given that you have something that makes a lot more sense, can you give us a sense of how it would work in your system if people couldn't apply to register until the election began, rather than your current system where they have to register by the end of the previous year?

I realize it's speculation, but if you could, Excellency.

Mr. Nicolas Marcel Jacques Chapuis: I have two reactions on a hypothetical. First, it would be very difficult in terms of human resources to process registrations in a specific window. Already our system allows citizens to register at any time. Unfortunately, we see many compatriots registering at the last minute, and of course, political parties push the citizens to register. That's already hard on our staff. If we had to limit that, this would create a tension in human resources.

Second, we would have an upheaval of the representatives of these French citizens abroad, saying we were limiting the possibility of their exercising their democratic right.

Mr. David Christopherson: That's our concern, and our officials have said that this runs the risk of disenfranchising people. This is driving us crazy. We already have a registry. It's being abolished—it's not broken—and then you can't even apply to vote until after the writ is dropped. It looks to us as if it's just more of this government's intent to have fewer people vote. They like the idea.

That's us. That's political. I don't expect you to respond to it, but clearly that's what's going on. It's yet one more step in voter suppression, to try to keep as few people as possible voting on election day, which the government knows historically and demographically is to their advantage.

I thank you, Chair.

[Translation]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you, Mr. Christopherson.

Once again, I would like to thank the witnesses.

We will suspend the meeting to welcome the next witnesses.

•(1150) _____ (Pause) _____

•(1200)

The Vice-Chair (Ms. Alexandrine Latendresse): We are resuming the meeting.

We are continuing the study of Bill C-50. I would like to thank the witnesses very much for being here today.

If everyone is in agreement, I will start with Mr. Paterson and Mr. Biggar because they are appearing by video conference. That way, we can at least be sure that we'll hear their opening remarks in case a technical problem arises. We will then move on to Professor Milner.

To start, I invite Mr. Paterson of the British Columbia Civil Liberties Association to make his presentation.

Mr. Josh Paterson (Executive Director, British Columbia Civil Liberties Association): Thank you very much, Madam Chair, and thank you to the committee for the invitation to appear.

[English]

The British Columbia Civil Liberties Association is a non-profit, non-partisan group whose objectives are to promote, defend, sustain, and extend human rights and civil liberties in Canada. We have a long history of defending voting rights and the principle of voter equality. For example, we were an intervener in the Frank case at the Court of Appeal for Ontario, and have applied to intervene in the current challenge to certain provisions of the Fair Elections Act.

One critical case that we brought was Dixon versus the Attorney General of B.C., in 1989. In that decision, the court held that to give some voters less weight than others ran counter to the charter principles of equality and democratic governance. At the time, it was Chief Justice of the B.C. Supreme Court Beverley McLachlin who wrote in her opinion that “the right to vote and participate in the democratic election of one's government is one of the most fundamental of the Charter rights. For without the right to vote in free and fair elections all other rights would be in jeopardy.”

We believe this bill will jeopardize this right. It will place undue impediments on the right of Canadians living abroad to vote in federal elections, and we believe it will be found to be unconstitutional as a result. While the Frank decision sets the stage for maximizing citizens' ability to participate in our democracy and recognizes and extends the constitutional right to vote, this bill has the effect of limiting that right and limiting the participation of Canadians abroad in their own governance.

If Parliament is determined to legislate beyond a simple deletion of the inoperative provisions from Frank, we have no objection to the requirement that an individual prove they're a Canadian or that they establish their place of last residence. We do, however, share with the Chief Electoral Officer and other witnesses the concern that the requirement to register only once an election has been called is likely to disenfranchise some voters. For many voters like Dr. Woo, who testified last week, there simply may not be enough time.

We also believe the requirements to constantly re-prove one's last residence in Canada are unduly onerous. As far as we can tell from reviewing the evidence in these proceedings, no hard evidence has

been provided as to why these steps are necessary. If an individual has proved their last residence in Canada once, why can that proof not stand until they return to Canada? Their last residence, as we've heard, cannot change once it has been established. We see no reason that any of this should only be done as well once the writ has been dropped.

As the committee has heard from no less than the Chief Electoral Officer, it is highly likely that people will not be able to complete this multi-step process in time—applying for a ballot, proving their last residency, waiting for the assessment, having the ballot mailed, and mailing it back. Resident Canadians don't need to do this. For example, 84% of tax filers provide their address to Elections Canada using their tax filings and keep themselves constantly updated in that way. We see no reason that non-resident Canadians, whose last address in Canada is fixed and immovable, need to re-prove that location at each election.

We also object to the one voucher per voter rule, whether for resident or non-resident voters. You can easily foresee a situation in which a Canadian family, with several members who have long lived abroad but who don't have acceptable proof of their last residence in Canada, might have difficulty locating and reaching vouchers for each of the family members. Maybe you're still in contact with an old neighbour, who, lucky thing, still lives in the riding, but what if there's only one person left in that family living in the riding? What if there's not enough of them to vouch for the members of your family?

This is senseless. While we're pleased that the vouching has been expanded from the totally baseless requirement that the voucher live in the same polling division, we question the riding restriction, too. Why is this sworn and declared word of a voucher less worthy if they literally live down the street in Kitchener Centre, but you lived in Kitchener—Waterloo, and your kids went to the same school? Or what if they got transferred to Kitchener Centre in the recent redistribution? You used to live in the same riding and now you don't. We don't see why that should matter.

There can be no question for us that this act on its face places a barrier in the way of Canadians abroad exercising their constitutional right to vote, and the case law is clear. When legislation interferes with the capacity of citizens to play a meaningful role in the electoral process, it is inconsistent with section 3 of the charter. It's plain that the combination of all of these measures will make it so that Canadians will have more difficulty in voting from abroad.

•(1205)

Given that there's been a lack of any justification offered for the proposal, it's difficult for us to imagine how the infringement of charter-protected voting rights would be upheld by the courts as a justified infringement.

We urge the committee to take to heart the suggestions that have been made and make changes to this so that people could register earlier, before the election, so they are better able to cast their ballots—or else to reject this bill entirely.

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you, Mr. Paterson.

Mr. Biggar, you have the floor.

[*English*]

Mr. Jamie Biggar (Campaigns Director, Leadnow.ca): My name is Jamie Biggar. I'm the co-founder and campaigns director at Leadnow.ca. We're an independent non-profit that brings Canadians together for an open democracy, a fair economy, and a safe climate.

Last year we helped tens of thousands of people across Canada speak out against what they called voter suppression measures in the updates to the Canada Elections Act.

I want to start with the premise that voting rights are fundamental rights and essential to the health of our democracy, and then the recognition that in a globalized society and economy, we can expect that Canadians will work, travel, and live abroad extensively and that those trends will only grow. As a forward-looking country that values democratic rights, we should be looking to protect their right to participate in Canada's democracy by strengthening their access to voting.

Unfortunately, the measures in this bill—we agree with many of the other experts and commentators on this issue—would make it harder for Canadians abroad to vote in Canadian elections by creating unnecessary barriers that will stop people from voting. Those include the requirement to register only once the election's been called, the need for constant reapproval of the registration, the one voucher per voter rule, and the limitation that the voucher come from within the person's old riding.

At Leadnow we create a platform for people to speak collectively to government on issues that concern them, especially democratic rights, so I've brought some comments that reflect the input that we've received on Bill C-50 from the community.

Kate writes, "As someone who lives outside of Canada but very much hopes to return some day, it is disheartening that the government is trying to make it more difficult for me to exercise my rights as a citizen and to participate in the governance of my country. It is even more offensive somehow that it is being done in such a banal and bureaucratic way, tightening regulations to address a problem that doesn't really seem to exist."

Kate's comments reflect some of the core insight and sentiment in the discussions we've seen about this bill from Canadians across the country. Instead of strengthening the voting rights of Canadians, the provisions in Bill C-50 strengthen the growing bureaucratic voter-suppression regime in Canada. As many in this room already know, there's no coherent justification for these measures.

The proponents of bureaucratic voter-suppression measures, especially in some jurisdictions in the United States, point to the supposed threat of voter fraud; however, voter fraud appears to be a largely fictitious problem. Individuals have little incentive or means

to impact the outcome of elections through fraudulent measures, so they don't do it. This is actually something we understand quite well through our work at Leadnow, because our work focuses on facilitating democratic participation. We understand that the key ingredients for democratic participation are low barriers and high motivation.

People will act when they believe that a cause matters and that their actions will make a difference. Individuals correctly recognize that individual cases of voter fraud would have little impact on an election, so they don't appear to participate in it on any significant scale.

On the other hand, electoral fraud organized by political parties or other interested groups is a real threat to elections around the world. Efforts to protect the integrity of elections should focus on detecting, preventing, and punishing organized electoral fraud by groups with the means and interest to change election outcomes, and effectively, to steal elections.

To defend the integrity of our elections we should focus on stopping organized electoral fraud. Voting rights make us feel that we are part of the country, part of the body public. To be excluded through bureaucratic voter suppression sends a clear message to Canadians living abroad.

Alexis writes, "A Canadian is a Canadian, regardless as to whether they are in Canada or abroad. We are proud of our country and extremely patriotic, and we care deeply what happens there. We watch news reports and keep up with current affairs and election issues. To deny expat Canadians the right to vote in a Canadian federal election would be extremely undemocratic and far more unpatriotic than what you accuse us of."

I would urge the committee to consider the examples that we're increasingly seeing around the world where voting access is being strengthened for folks who are living outside of their home countries, increasingly, in fact, through online voting measures. I also urge the committee to consider that instead of imposing bureaucratic voter-suppression measures on Canadians, we should be expanding voting rights to more people living in Canada and strengthening our access to voting at home and abroad.

In sum, instead of imposing bureaucratic voter-suppression measures on Canadians living, working, and travelling abroad, let's focus on the real problems: declining voter turnout, eroding trust in our electoral system, and the threat of organized electoral fraud.

Thank you.

• (1210)

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you very much, Mr. Biggar.

I will now give the floor to our next guest, Professor Milner.

Prof. Henry Milner (Visiting Researcher, Department of Political Science, Université de Montréal, As an Individual): Thank you, Madam Chair. I am happy to be here.

I will make my presentation in English, but I can answer questions in both languages.

[English]

I'm actually just coming from a session of meetings of the Canadian Political Science Association, which is part of the Congress of the Humanities and Social Sciences taking place at the University of Ottawa right now. In fact, at this session I was just giving a paper on declining youth political participation, which is an area I've been working on and have written books about, and we have some pretty scary new data. This is comparative. It's not only Canadian; it's all advanced democracies, and Canada is certainly one of the more acute examples of that. It means that it's not simply that young people vote less when they're young and more when they're older, but there are generational phenomena that show that the current generations are voting less when they are young and are likely to vote less when they're older.

It's part of a wider phenomenon, which is the sense of duty to vote. The sense of duty to pay attention to politics isn't what it used to be under previous generations. This has something to do with means of communication, the arrival of the Internet, and so on. But most democratic countries, as far as I can tell, are making efforts, therefore, to make the vote more accessible under these circumstances, rather than less. It's hard to get real detailed information on very specific aspects, like the aspects that are in this particular law, but in general the tendency has been for countries to figure out what the impediments are to voting and to try to remove them as much as possible.

I'm not going to repeat the arguments made by the former and current heads of Elections Canada and the arguments you've heard today. It's very hard, in the context of what's happening in general, to understand the need to tighten this particular law or other laws. Focusing on these laws, I cannot see why we have to require, for example, registration after the writs have been issued. Especially now that we have fixed election dates, the idea that we have to wait until the writs are issued before somebody can apply to vote from outside of Canada, strikes me as quite.... I'd love to know the reasoning behind that.

I couldn't find other countries that are so restrictive in terms of when people can get on the lists. What we do know is that of the countries to which we can compare Canada, almost none are really as restrictive as we are. For example, as you may know, Americans can vote forever outside of the country. We are restricted to five years. In the United Kingdom it's 15 years. I have more data about other countries, but very few.... Only Australia's sort of close to us. They allow six years, but they allow you to renew if you actually apply. This five-year limit—it's five years and you're out—is something that is hard to understand.

Of course, the problems with producing the kind of information needed in order to actually have access to the vote...I think the critiques you've heard are quite compelling.

You may know there are countries that really do make it easier to vote from abroad in different ways. For example, some countries actually have electoral districts simply to represent their expats. The French do that. Some of you may know that expats from several countries, Portugal, France, and so on, actually have direct representation in the Parliament and they vote directly for their own representatives. Quite a few countries make it possible to vote in different ways.

• (1215)

There is postal voting, which is the way we do it, but there is also voting at embassies and voting sometimes by proxy. That's something I'm not too keen on but there are some countries that do it. Now, countries like Estonia, which have introduced electronic voting, are also working on introducing electronic voting for people outside the country.

In general what we're seeing are more efforts being made to facilitate the ability of people to vote in the country but also outside the country, to vote and to participate in the political process.

You've heard the reasons put much more eloquently than I could in terms of why it's important to have that electoral connection, but I must say I have some difficulty understanding why, in Canada, we feel the need to tighten these restrictions.

I'll leave it there. Thank you.

[Translation]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you very much, Mr. Milner.

We have lost the connection with Vancouver, but it will be back shortly.

We can still start the first round of questions with Mr. Reid. As soon as we can, we will reconnect with our witnesses in Vancouver.

[English]

Mr. Scott Reid: Under the circumstances, I will start with Professor Milner.

Just one thing...I think I am correct in correcting you, but I want to make sure I haven't misunderstood. You mentioned the example of Australia, where there is a six-year cut-off and you can renew. In Canada the rule had been after five years of non-residence you can't vote any more, but that's not contemplated under the new legislation.

Prof. Henry Milner: That is not existing. I agree, that's not in the law. It's just that since we're changing it, I would suggest making it longer.

• (1220)

Mr. Scott Reid: Okay, fair enough, yes.

Assuming a five-year electoral cycle, or a four-year electoral cycle, it is essentially renewed every time. That may or may not be defensible, but I want to be clear it's not quite as presented.

Prof. Henry Milner: It's not part of the law.

Mr. Scott Reid: I do want to ask you, though.... You mentioned both the Chief Electoral Officer and the past chief electoral officer, Mr. Kingsley. May I take it from that, that you have read Mr. Kingsley's—

Prof. Henry Milner: I read the transcripts, yes.

Mr. Scott Reid: Okay.

One of the things he suggests, which struck me as being quite innovative—it hasn't been mentioned by other witnesses, but seeing as you're here I'll ask your opinion on it—is the idea of what he calls a provisional ballot. What he means by a provisional ballot is that a person no longer resident in Canada requests a ballot, it's sent to them, they fill it out and vote however they're voting, they slip it inside an anonymous envelope, which is put inside another envelope addressed to the appropriate location, and it is sent back to Canada.

They engage after the fact in determining whether it's a validly cast ballot and it was sent to the appropriate constituency, as opposed to the present system in which we try to establish all of this information in advance. On election day, it's assumed everybody who has a right to vote is capable of voting and everybody who doesn't have a right to vote has been excluded, neither of which appear to be true of either people who are living outside of Canada or of people living inside of Canada.

I'm not the expert on this. My colleague, Ted Opitz, who had to experience some of the problems that resulted from this, can speak at greater length.

Do you think the provisional balloting proposal might serve to resolve many of the problems? You can tell I think so. I'm asking, am I right in thinking Mr. Kingsley has a good idea, or am I not right?

Prof. Henry Milner: I'm not sure it's the particular answer to the question of people outside the country. This is not the first time Mr. Kingsley has suggested this. I think since we now insist you can't just show up at the voting booth with the card you've received from Elections Canada and say this is where you vote, which many people still think is in fact sufficient identification, that creates problems. He says the best way to resolve this is to let people who have arrived without sufficient identification vote provisionally and then have an opportunity to provide that identification in another way, rather than being told, "Sorry, you can't vote". He is much more knowledgeable on this than I am. I think that would make sense.

I'm not quite sure if it would work that way that easily for external voting because people have to show passports, so their identities are not in question. What seems to be harder to establish is that they live where the riding is and where they're entitled to vote. That's the complication in terms of producing identification.

If they didn't happen to have that at the time, would some kind of provisional set-up work? I don't know. I haven't really thought about it, but I don't think that's the solution right now. I think the main solution is simply more time. The idea that all this has to be done after the writ strikes me.... I can't possibly understand why that seems to be the case because that way, if you do send in insufficient information, then there is time to add the additional information in the ways the law could provide for.

Mr. Scott Reid: I think his point was that you get the extra time after the end of the writ period. Effectively, some of those ballots won't be counted for some time after the writ period has ended, which as I understand it is how it works for overseas ballots in the United States, for example. There's a bit of a time lag.

Prof. Henry Milner: Extra, yes.

Mr. Scott Reid: Essentially, where do you get the time? Do you get it before the writ?

The obvious problem is.... Right now we have our first fixed-date election, and if we get a majority for one of the parties in the next election, I assume we'll stick with that. We sometimes don't know when our election's going to start, so it's hard to say 60 days before we start some process, whereas figuring out when it ends is easy, and in establishing that you have a limited time period to sort out these problems of identity and residence.

● (1225)

Prof. Henry Milner: I think there were recommendations in the previous presentation, something that had to do with a period linked to the fixed election date—six months, or a year, or whatever it is. It wouldn't necessarily resolve the issue if we have an unexpected election and so on, but that would be the main solution. The primary solution for that is to extend the period.

Once we get into getting on the list, I think it's a question of whether or not we have to have a new list for each election. For most people, if the place they're living is the same and the last address hasn't changed, I don't see why they should have to go through a whole new proof of all of that. Why can't they just apply for a ballot?

I think there are ways of changing it without necessarily introducing provisional ballots. If we introduce provisional ballots for domestic purposes, sure, it might also make sense to introduce them in this way.

Mr. Scott Reid: Thank you very much.

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you very much, Mr. Reid and Professor Milner.

[*English*]

Welcome back to our guests in B.C. Some questions might be directed to you.

I'm going to Mr. Scott for seven minutes now.

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

I'd like to ask one question to each of our guests, starting with Mr. Biggar, and thank you all for being here. You spoke very well about the false or the fictitiousness of individual fraud. I want to talk a little and ask your opinion on the existing international register for voters abroad.

We heard from the Chief Electoral Officer that they do test, they check it out. They send out mailings to ensure that a person is still there, and if the person doesn't reply within a certain time they're taken off the list. From the time that checking mail has been sent to the time the election is nearing, what are the chances of fraud in the following scenario?

Elections Canada has a person on the international register. They've confirmed they're there. They send them a special ballot at the time of the election, but it turns out the Canadian has since moved and they've forgotten to take their name off the register in that period of time. They've either moved back to Canada or they've moved somewhere else. Say the Canadian was in Mexico City, and a Mexican now lives there. That Mexican opens the special ballot envelope, fills it out, and votes fraudulently in the Canadian election.

Do you see this as a real scenario, a really likely problem of that form of individual fraud, which the minister seems to be concerned about?

Mr. Jamie Biggar: No, certainly not. It's very difficult to imagine any scenario like that resulting in any impact on the Canadian election, or a person who would commit such fraud being motivated significantly to do so, given their knowledge that it would have essentially no impact.

To take this a little further, the degree to which the notion of individual voter fraud by people living abroad, to think about how absurd it is but on the flip side how strong the barrier would be, it would be unimaginable for the political parties to create a situation whereby nobody could donate to them during an election period unless they had registered for the opportunity to donate to them prior to the election period. There is no chance that any political party would accept that kind of situation because they would understand that it would create an unnecessary and unreasonable barrier to people participating.

The barriers that are being created here are very strong, while the problem that's being imagined is essentially non-existent.

Mr. Josh Paterson: I would agree with Mr. Biggar, Mr. Scott.

Even if there were a Mexican so committed to the partnership of NAFTA that they wanted to have a say in our democratic process, we would just see that as being a very unlikely scenario. To balance that out, we're looking at a situation in which every single Canadian living abroad is going to face these barriers that will potentially disenfranchise thousands of them, even among those who want to vote and who try diligently to vote, who move the very instant the writ is dropped wherever they are in the world to follow through on this.

The evidence before the Ontario Superior Court of Justice in the Frank decision was that during 20 years of the current system, there was simply no evidence of any complaint, no evidence about any serious concern having been raised about voting by Canadians living abroad either within the five-year limit or by those Canadians living abroad for more than five years who work for international organizations, who work for the Canadian government, or who are families of those people abroad. There was just no evidence whatsoever, so we don't think that's a serious concern.

•(1230)

Mr. Craig Scott: Thank you.

Professor Milner, you situated your presentation in the general decline in voter interest particularly amongst youth. One of the concerns we have with this bill, apart from how it generally signals that it should be hard for everybody to vote, is the not uncommon scenario in which a student goes abroad and takes up residence for

graduate work. Thousands of Canadian students do that and they have wherever they went to university listed as their last place of residence. The problem is that almost everybody they would know who could attest to their last place of residence would also have been students who quite likely would have moved on.

Do you believe that is a problem on top of the fact that the minister has drafted a new provision intended to make sure that no identification issued outside of Canada can be used to prove address? That's not the way it's been worded. It's been worded in a very clumsy fashion and it actually excludes individual leases, so if a student has been in a house rented by an individual person, that lease can no longer be used as proof of former residence. Do you see those two barriers on their own as being indicative of the problem that this bill represents?

Prof. Henry Milner: I have to admit I haven't thought of these things. All I can say is that for that particular age group, especially when they're away from their own home communities, even at a school or university in Canada let alone outside the country, they're going through a situation in life involving many changes. We know that at that point in life the likelihood of their doing what's necessary to vote is reduced. Therefore, anything that makes it particularly hard, in many individual cases, I'm sure would just be the straw that breaks the camel's back. They'll say, why bother?

It would seem to me we should be doing the opposite. We should be identifying the groups abroad and asking what their particular needs are and how we can better meet those.

You're right about a student in another country who has all kinds of personal concerns, residential concerns, and academic concerns. Let's say he's doing graduate work, or he may be doing undergraduate work in Montreal or Toronto or Ottawa. Is he going to try to track down someone who's there for him to testify to his having lived there and so on? As you say, he can't use a lease. I doubt if he would even have a copy of that lease with him to begin with. What would be the motivation for any young person in that situation to make the effort?

When we are doing this, we have to put ourselves into the minds of the people affected, and I don't see how this law does that kind of thing.

Mr. Craig Scott: Thank you.

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): Mr. Simms, you have seven minutes.

[*English*]

Mr. Scott Simms: Thank you, Madam Chair.

I want to thank our guests in British Columbia, and here as well, for joining us.

This issue about provisional voting came up the last time. I think the concept is being put out there as a way of encouraging voting, but my opinion is that we're overlooking the obvious every time we bring up provisional voting. In other words, it may be a solution to some people in certain cases, but if you restore the international permanent list, it goes much further.

With provisional voting, as my colleague from Cape Breton would point out, all we're doing is moving the house in order to tighten up the clothesline. What we should be doing is saying that the international list should be created permanently. As Mr. Biggar pointed out, we want low barriers, high motivation.

I'm going to start with Mr. Biggar on this one. Obviously the high motivation is in your domain, given Leadnow and what it does to get people to vote. However, the lower barriers issue, which you pointed out in the beginning, is becoming very uncertain. We can no longer use the voter information card with Bill C-23.

I would assume—yes or no, Mr. Biggar—about the international list on a permanent basis....

● (1235)

Mr. Jamie Biggar: Yes, I think that would be strongly worth considering. I think there are growing examples from around the world that we could look at to set the bar in a different direction: creating longer lasting lists; easier registration; and lower barriers to voting, potentially though electronic means.

I appreciate the direction of the question, which is that we should be moving the bar in the other direction, towards greater accessibility, instead of reducing it. There are simple methods of doing it that are increasingly common around the world.

Mr. Scott Simms: Mr. Biggar, do you come into contact with a lot of expat voters, people living outside of Canada?

Mr. Jamie Biggar: We do. We've heard from quite a few of them on this issue.

Mr. Scott Simms: Are they primarily American?

Mr. Jamie Biggar: Well, I couldn't speak to that; I'm not sure where they're from.

We haven't done that analysis, but they're people from all over the world.

Mr. Scott Simms: Okay.

The other issue that was brought up by our two gentlemen in British Columbia was the one voucher per voter rule. The way you outlined it is that it becomes problematic once they're unable to establish their last place of residency. This is just one more impediment on top of an impediment that was not there before. Is that correct?

I'll let both of you answer that, Mr. Paterson and Mr. Biggar.

Mr. Josh Paterson: That's right.

Of course, this is assuming that they are unable to satisfy Elections Canada, through identification, as to their residency. We can imagine so many problematic scenarios. There are maybe two parents living in the home riding and three kids who are all working abroad. Which one of them doesn't get to vote if, for whatever reason, they don't have proof with their name on it? They wouldn't have had a bill going to their parents' address.

You can just imagine multiplying scenarios where the one voucher per voter rule doesn't make sense. That applies in resident voting just as it does in non-resident voting.

Mr. Scott Simms: Thank you, gentlemen.

I want to turn to Mr. Milner.

You said that we cannot find other countries that are not as restrictive—

Prof. Henry Milner: I didn't quite say that; I said there are very few.

Mr. Scott Simms: There are very few. Okay.

Well, then, of the few that are restrictive...for instance, you said that in Australia there's a six-year thing but that they can re-register.

Prof. Henry Milner: For a year, and then I assume for another year and so on.

Mr. Scott Simms: Would you say that most of them require a permanent list to be created?

Prof. Henry Milner: I actually tried to get that data and I couldn't.

For example, Sweden, which I've written about, has no particular list. You're assumed to still be eligible to vote based on the previous list, even if you're not in the country, and you can get the necessary material electronically.

Mr. Scott Simms: You don't have to re-register when the writ is dropped.

Prof. Henry Milner: Not at all. I think there's a 10-year period in Sweden. If you've been away for 10 years, then you have to re-register.

Mr. Scott Simms: Can you do that at any time?

Prof. Henry Milner: I assume so. Do you mean that if they wait beyond the 10 years, it would no longer be possible? That I don't know. But in the case of Sweden you can vote at the embassy, you can vote by mail. You can't use proxy voting but you can vote in Swedish local elections if you're away, based on the locality that you live in, so they've gone out of their way. I can't imagine they would refuse somebody who let it expire after 10 years. It's just simply that you're supposed to renew your communication with the electoral authorities.

There are other countries that, I think, equally go out of their way to make it easy.

● (1240)

Mr. Scott Simms: You said that, in general, countries try to encourage voting. In your study and analysis—

Prof. Henry Milner: Yes, I think that's overall. If there have been changes in the past 10 years or so, they have been in the direction of making access easier rather than the reverse.

Mr. Scott Simms: In your opinion, does Bill C-50 go in an opposite direction? It's certainly different.

Prof. Henry Milner: I haven't understood why those particular aspects of making it harder are being introduced. Unless somebody gives me a good answer, I'd have to say that this seems to go in the opposite direction, yes.

Mr. Scott Simms: Oh, I'm out of time, am I?

[Translation]

The Vice-Chair (Ms. Alexandrine Latendresse): You have five seconds left.

[English]

Mr. Scott Simms: Okay, Mr. Milner, Mr. Paterson, Mr. Biggar, thank you for your time.

Prof. Henry Milner: Can I just add one thing that I should have answered to Mr. Reid when he asked?

This is not a very large group, but it is a real group. This has been studied by academic experts, and what they say is that there is a group of young people who, if they do not vote in that crucial period, do not develop the habit of voting for the rest of their lives. I can imagine young people who might have voted, although not particularly motivated to vote, but who might have voted when they were away at university but found it more difficult and just got out of the habit. It's not that many, but it is a real number that we know. If they didn't vote between the ages of 18 and 22, or whatever the research is, some of those people will never vote, and that is something to keep in mind.

[Translation]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you, Professor Milner.

Mr. Richards, you now have the floor for four minutes.

[English]

Mr. Blake Richards: Thank you.

Professor Milner, I'll direct some questions at you to begin with.

Mr. Reid just mentioned this briefly when he was having his conversation with you earlier, and it was about the issue that all three of you have indicated you see as your main concern, which is this idea that people should be able to register prior to the election period rather than simply within it.

Now, I can certainly understand how in the context of a fixed election date that potentially could be an option. However, obviously knowing our system, there is all kind of potential for an election to fall outside the period of a fixed election date. There could be a minority parliament. There could be the defeat of a government on a non-confidence motion. There are all kinds of reasons that an unexpected election could happen at any time. Therefore, under those types of scenarios, you would have voters in one election as compared to another election potentially being treated differently if we were to have a system where they were able to register prior to an election, because obviously if there was an unexpected election on a defeat of a government, they would only of course then be able to register within the period of the election.

People would be treated differently in two different types of elections. Would you have any concern about the potential unfairness in that type of system, of people being treated differently in one election as compared to another?

Prof. Henry Milner: If it were some people being treated differently from other people, I would have concern, but here everyone is being treated the same. They're just being treated differently under different circumstances.

In a sense, a fixed-date election is not the same as an election called prematurely—that's the word I think I would use—in terms of the kind of campaign that people are going to be seeing, and so on.

That's the nature of our system now. My own feeling is, and this is another discussion, we could tighten the rules so that even under minority systems we would have fixed election dates. That's what they have in Norway, and in other countries they make it very difficult to have premature elections.

But that's not going to be changed, so I don't think there's any injustice involved. I think it's built into the nature of the system.

We don't have to have a new list for every election. It is possible to say that if people's circumstances have not changed since the previous election, they would then be eligible to vote. I'm not a legislator so I would leave it to you to figure out how to do it, but I don't see any reason that it cannot be that way, even for people outside of the country.

•(1245)

Mr. Blake Richards: In that scenario then, if you're talking about having what would essentially be a permanent list, if their circumstances haven't changed, how would we be aware whether their circumstances have changed or not, unless they were registering at some point?

Prof. Henry Milner: The law would require it.

Mr. Blake Richards: Certainly, but I guess what I'm concerned about in this scenario... I know that it was raised earlier and our other two witnesses indicated that they didn't believe it would be likely that someone would use a ballot that was sent to them incorrectly or that it would be likely to affect an outcome. It may in fact be true that it wouldn't be likely, but it certainly would be possible. Obviously there would be a concern around that then.

I just wonder what your thoughts would be on that, because it seems to me as though there are two options here. There is a re-registration or there's a permanent list. The potential concern with the permanent list would be, obviously, somebody getting an opportunity to vote who shouldn't be qualified to vote. Do you have concerns about that?

Prof. Henry Milner: There are two ways of addressing the issue. One is to make it a longer period, and then obviously it wouldn't apply to premature elections but it would apply to regular elections that would already be part of it; or to have a permanent list—

Mr. Blake Richards: Sorry, can I interrupt you? I probably don't have a lot of time.

So a longer period, I understand that. Let's say the longer period was established at two years prior to the expected election, but let's say a year into the Parliament the government...so then we'd still be outside. You'd still have the concern of people being treated differently from one election to another.

Prof. Henry Milner: No, it's not people being treated differently. It's the same people. It's not like this group of people is treated one way, and this group of people is treated—

Mr. Blake Richards: I understand that, but it would be that, from one election to another, people would be treated differently.

Prof. Henry Milner: If you call a premature election, you're treating people differently than what they normally have a right to expect, which is a fixed election date. It does seem to me it goes with the territory.

I would prefer the permanent list, but if there are serious problems with that—this is not my expertise—the alternative of a longer period is certainly the second best. The current one in which everyone is having to produce the documentation after the writ is called, I haven't seen anybody defend that. I can't understand how it could be defended.

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): Thank you, Professor Milner and Mr. Richards.

Mr. Christopherson, you have four minutes.

Mr. David Christopherson: Thank you, Madam Chair.

[*English*]

Thank you very much, all of you, for your attendance.

One thing that's an observation—I'm going to read a quote and then ask for some comments—is that we've been talking about whether or not the registry, the international register of electors, should exist or be blown up, and whether is it broken or not. All of us, including the Chief Electoral Officer, have made the argument that it's not broken. I haven't heard a witness yet come forward and say, "It's broken, please fix it."

But what I want to point out is that not one government member has taken the floor to defend it, to give the arguments as to why this is a good idea. When it gets to the point where virtually everybody, including the government by virtue of their silence, feels that this is a dumb idea, at some point somebody's got to bell this cat.

What I'd like to do for all three of our witnesses is to read from our Chief Electoral Officer's presentation on May 7 of this year:

The second and perhaps most significant change proposed by Bill C-50 is the elimination of the International Register of Electors. All electors abroad who wish to vote by special ballot, other than military electors, will now be required to make an application after the writs are issued. They would have to provide proof of citizenship, in addition to proving their identity and residence. If they no longer reside in Canada, they would have to prove what was their last place of ordinary residence here....

It is clear that these new rules will make it harder for electors abroad to vote.

Continuing the quote, he said:

Currently, once electors residing abroad have established entitlement to be included in the international register, they will automatically be mailed a voting kit after the writs are issued. In this regard, the international register was designed to reduce the number of situations in which an elector is unable to return a completed ballot in time for the election day.

Under Bill C-50, electors would now have to make an application after the issue of the writs and send it to Elections Canada from whatever part of the globe they find themselves in. The application will have to be processed, a voting kit mailed out, and their completed ballot returned by 6 p.m. on election day. While we would strive to reduce the delays as much as possible, the challenge for electors abroad would be unavoidably increased.

Both of these concerns—that is, the problem with having to repeatedly prove a former residence and the difficulty for electors to return their ballot in time—result from the abolition of the International Register of Electors. I see no reason why the International Register of Electors should be abolished or how maintaining the register isn't compatible with the objectives of the bill.

I'd like comments from our guests, please, in whatever order you want to recognize them, Chair.

• (1250)

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): Mr. Paterson or Mr. Biggar, there are a few minutes left to respond.

Mr. Josh Paterson: Thank you, Madam Chair.

[*English*]

I would agree that there is no evidence that it's broken. To respond to the concern being raised by the previous member, just because in a snap election we're going to be time crunched and there may be some difficulties with that, it doesn't mean that we should create a situation of difficulty for every election.

In any case, that could be dealt with by maintaining a registry. You could even have, as you request, a special ballot—

Mr. David Christopherson: Exactly.

Mr. Josh Paterson: Have the elector say, "Here I am, send me a ballot now; it's not a Mexican living in my apartment."

The minister made a comment that this is just like with special ballots and all that kind of stuff, it's just the same. It's not because these voters abroad are going to have to prove a lot more stuff. They need a longer amount of time, so this system, I agree with the member, does not make any sense.

Mr. Jamie Biggar: I don't have much to add. That really hits the nail on the head. I'd simply say that when we compare, in part, responding to the previous comment, or the previous committee member, the vanishingly small possibility of fraud or impropriety with the certainty of effective disenfranchisement with voters, what we're entering into is a situation of superficial ridiculousness and fundamental disturbingness when looking at this bill.

I would urge you to strongly reconsider.

Prof. Henry Milner: I don't have anything to add.

Mr. David Christopherson: Do you agree with the statements of the electoral officer, though?

Prof. Henry Milner: Yes, I said at the beginning of the presentation that basically—

Mr. David Christopherson: We like repetition though in politics, professor. You can't say it enough that you agree with our electoral officer.

The Vice-Chair (Ms. Alexandrine Latendresse): We're out of time.

Mr. Richards, you have four minutes.

Mr. Blake Richards: Thank you.

I wanted to follow-up on something that was referred to earlier. Mr. Simms had been asking about the number of expats that you've heard from, Mr. Biggar, and you mentioned that you heard from quite a few. But obviously, you weren't able to provide any indication of where those come from, or even what proportion might have been from the U.S., Europe, or anywhere else.

I'm assuming you must track the contacts you receive from people, whether it be by phone, email, or however you would have received them. Can you give us some sense as to what is "quite a few"? That's obviously pretty broadly open to interpretation. What would quite a few people be, who would have contacted your organization?

Mr. Jamie Biggar: On this particular issue, we haven't run an active campaign. I haven't solicited feedback from our community on it. In that context, we received several dozen contacts through email, Facebook, and other methods. Without having actively campaigned on it and for an issue that we're not actively working on, it shows quite a lot of interest.

Mr. Blake Richards: Several dozen you say. That gives us a better indication.

Would you be able to give me some kind of indication as to where those would be made up from, those living in the U.S., or otherwise? Could you give me some percentages?

Mr. Jamie Biggar: I'm sorry, as I said earlier, we didn't do a content analysis on where they were coming from, so I really can't speak to that.

● (1255)

Mr. Blake Richards: That's fine.

[*Translation*]

The Vice-Chair (Ms. Alexandrine Latendresse): There is no one else on my list. I will give committee members the opportunity to ask brief questions. Otherwise, we will adjourn the meeting.

I would like to thank Professor Milner for being at the committee meeting, and Mr. Paterson and Mr. Biggar for joining us to make their presentation and answer all the committee members' questions.

Your contribution was greatly appreciated.

[*English*]

The meeting is adjourned.

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