

Standing Committee on Legislative Offices

8:07 a.m.

[Chairman: Mr. Hierath]

THE CHAIRMAN: I would think maybe we'll get started here. There might be a few members showing up in a few minutes, but I'd like to open the meeting this morning by welcoming Derm Whelan, Brian Fjeldheim, and Bill Sage.

I guess the first thing is to approve the agenda as printed in the binder. Gary Friedel. All those in favour of the agenda? Opposed? Carried.

The next item is our last meeting, September 28. I think you all have a copy of the minutes of that meeting. I would ask for approval or corrections, if there are any, of those minutes. Gary Severtson. All those in favour? Carried.

I think maybe we'll pick up, Derm, where we left off on September 28. Maybe you can tell us where we left off, and I'll just turn it over to you.

MR. WHELAN: I thought we might pick it up again on page 4, clause 8 in the draft Bill. We had in fact covered clause 8, but subsequent to the meeting last week, Mr. Chairman, we met with officials from Elections Canada who suggested very small changes to the information requirements with respect to the enumerator at the door and any questions that might be asked. There's no change with respect to the address or the surname. We would add the given name, as we said, and if possible the initial. They agreed that we don't need the salutatory prefix Miss, Mrs., Ms, but we do need the gender for their purpose. The date of birth we had already.

Under the federal language Acts they're required to directly ask a person what is their preferred language of correspondence. The reason is that two complete computer systems are required, one for French and one for English. So they wondered if we might include an indication of the official language. I said it was going to be English mostly. Without it they're required to send all their documentation out in two languages. So that's something that was unexpected, but it was not a great difficulty to ask a person: would you prefer correspondence in English or in French? It's just ticking a box on the form.

The other item that is a little different from what you're seeing in (vi) is that instead of asking whether a person has resided in the province for a period of six months, in order to make this work both in a federal election and in a provincial one, what we'd thought we might do is ask first: have you been a resident of the province for six months? Well, if the answer is yes, it's just a tick. If the answer is no, in order to make these things mesh properly, we ask the date of residence. In other words, if a person just moved here, they would know it was a month ago or whenever.

Those would be the only differences they have suggested to this point – and I don't think it will change – for the information that would be needed at the door.

THE CHAIRMAN: I've got a question here, Derm, from Gary Friedel.

MR. FRIEDEL: On the fifth one, where we inquire about the preference in official language, is there any implication there that if it becomes part of our records, we would be required to provide any information in French as a result of having asked it?

MR. WHELAN: No, because it's federal legislation, and we were asking it only for their purpose. On the enumeration form that will be left, we can clearly have a statement to that effect.

MR. FRIEDEL: That in Alberta correspondence is only provided in English.

MR. WHELAN: In English in Alberta, yes, but federally you can have whichever. There's a way to do that without causing an undue problem, I would think, Mr. Chairman.

MR. BRUSEKER: Alberta is officially unilingual.

MR. FRIEDEL: As long as there's no implication that by being part of a form that asks that, voluntarily we're going to change all the processes and paperwork.

MR. WHELAN: It would be a great difficulty, because there's nothing that's in English and French in Alberta, as you know. The intent is just to permit the federal people to comply with their legislation, not to involve the province in anything like that.

MR. BRASSARD: What you're saying, just so I understand, is that the federal requirement, if this is going to be a joint effort, would not require an English and French separation.

MR. WHELAN: They require the person to identify their language of choice, either French or English, and if they do not, they are required by the federal legislation to spell everything out in both languages. That's a very, very expensive process.

MR. BRASSARD: Yes, I realize that. Okay. That's fine.

MR. WHELAN: The date of residency. We have the six-months' residence in the province requirement. I think that by and large there are going to be three to four months between any federal or provincial election in Alberta, but still you have to be fairly certain that the electorate would meet the residency requirement. So what was suggested is that we'll tick if it's longer than six months and write in the date the person took up residence in this province if it's less than six months. We don't have any numbers or any experiential data, but it should not be a great number of people.

Mr. Chairman, I just went back to section 8 because of these suggestions, and when we do the final draft, it will reflect these concepts. Should I continue with 9?

THE CHAIRMAN: Yes.

MR. WHELAN: I'll go into more detail with 9. The present section 25(7) is repealed and the following substituted:

Each enumerator shall visit every residence in his or her subdivision at least once, and twice, as may be necessary, during the enumeration period.

At the present time this section reads:

Each enumerator shall visit every residence in his subdivision at least once during the enumeration period.

The commentary:

The section provides for at least one but, if necessary, two visits to each residence during an enumeration period to assure that the list is as complete as possible.

THE CHAIRMAN: Any questions on this section?

MR. FRIEDEL: Is there any indication of how many are missed now, you know, on a province-wide basis percentage during a single pass as required?

MR. WHELAN: Not really. Most enumerators in fact do go back twice now. If there's no one at home, of course, they'd make a callback. That's in the training literature and so on. But we don't have precise statistics on how many callbacks were necessary.

MR. FRIEDEL: Because if you look at the existing wording, it says "at least once."

MR. WHELAN: Yeah.

MR. FRIEDEL: That implies that . . .

MR. WHELAN: It might be more often.

MR. FRIEDEL: . . . with a certain amount of initiative they could do that. Why would we want to get so specific and say that they should go back at least twice?

MR. WHELAN: The thinking behind it is that we don't want people going back more than twice, because if you only have a week for the enumeration, it doesn't get finished. It's better to identify the residents and say: I've been there twice, and I can't find anybody at home. So we can target them in a mail-out or a telephone campaign or whatever. People have the idea that right now they might have to go back 10 times to get two names, so you end up at the end of the week with an incomplete list and you've got to chase people to get it.

THE CHAIRMAN: Does that happen, Derm?

MR. WHELAN: Oh, yes. Some people are very conscientious. They want to have the full list; they want to get every single address. The tariff is 65 cents a name or whatever it might be. You know, they're not being paid to do that. When the week is over, your list is not finished. You have to start to chase people to get the data in.

MR. FRIEDEL: You see, right now the implication isn't that two visits is sufficient. It would be better, then, to word it in such a way that it would say "shall visit the residence no more than twice," if that's what you want to do.

8:17

MR. WHELAN: I agree. It could be worded that way.

MR. FRIEDEL: I didn't read into the wording here that this was intended to be somewhat restrictive rather than permissive.

MR. WHELAN: Okay. I'll make a note here that it was agreed that we'll just write it in a more restrictive way.

MR. BRUSEKER: Actually, I would argue against that. I think the idea of having people with a little more initiative go back – perhaps it's a problem in rural areas, but in urban areas the enumerator lives in the constituency. They shouldn't have a great distance to travel, and I don't see any problem if they're going to go back. They may want to go back to just one particular block. I mean, it's not something out of the way a lot.

I think that in particular when you look at the next section – and I realize you haven't discussed it yet, Derm – really the two of them are very closely linked both in terms of concept and in terms of

numerical sequence. Of course, part of the problem would be that during the daytime in particular, if you knock on a door at 10 o'clock in the morning, chances are pretty good that you'll find no one at home. So when you combine the two of them together, I personally think the way you have it drafted now is fine.

MR. WHELAN: Well, the draft is a reflection of the common language used in a lot of other jurisdictions, but whatever your directions are is fine.

THE CHAIRMAN: What would stop someone, one of your enumerators, from visiting a residence eight or 10 times, even under . . .

MR. WHELAN: Nothing, except good advice during training and an explanation of the intent here.

MR. BRUSEKER: And the time crunch.

MR. WHELAN: Yeah, the time frame.

MR. FRIEDEL: But if you're going to do that, you may as well leave the wording exactly as it is now. It's the most flexible of all.

MR. WHELAN: It is, but it gives the impression that at least once is good enough, and it isn't. At least twice is what we want, Mr. Chairman. Again, whatever your directions are is fine. However, maybe I should read clause 10 so we have the full picture. Section 25(8) is repealed and the following substituted:

The enumerator shall visit the residences in his or her subdivision between the hours of 9:00 a.m. and 9:00 p.m., but if a second visit is necessary, it shall be made between the hours of 6:00 p.m. and 10:00 p.m. on a different date.

So the full intent is to have people go once whenever possible as long as they get the data, but if you have to go a second time, which you must, go on a different day at a different hour. It's giving great precision to their procedure. It would not preclude any person, any enumerator from going back again if they wanted to, but that's really counterproductive. Every time they spend eight visits trying to get one name, they might have gotten 10 others on another street.

THE CHAIRMAN: Are there any further comments on 9 and 10?

MR. BRASSARD: I'm puzzled as to why you're specifying that you must go back between 6 and 10. I realize that, as was pointed out, if you go there at 10 in the morning, they aren't likely to be there. Between 6 and 10 p.m. seems very restrictive and unnecessary.

MR. WHELAN: The only explanation I can give is that experience in most of the jurisdictions in Canada indicates that if you're unable to find someone at home during the regular course of the day, the maximum benefit is achieved when you go back in the evening between those hours. In fact, that's the federal experience, and their legislation is nearest this. It's an attempt to say to enumerators: well, we want you to go twice, but if you have to make a second visit, go on a second day, another day, and use these hours when people are very, very likely to be home, between 6 and 10 in the evening. I'm sure there are many other examples that could be drafted to achieve the same thing. It's like writing style. I mean, you can write it a dozen different ways and say the same thing. But again, whatever your directions is, fine.

MR. FRIEDEL: This probably changes the entire intent, but I'm wondering why in legislation we even get to this level of detail. It

just seems almost nit-picking. Wouldn't it possibly be more appropriate to have some kind of general statement that the Chief Electoral Officer should make rules that would provide for appropriate calls at the residence, whatever, however you want to word it, so that you can have some flexibility built into it. This sounds so overly rigid.

THE CHAIRMAN: Any other comments?

MR. BRUSEKER: I like it.

MR. WHELAN: That the CEO set out the procedure.

MR. BRUSEKER: What difference does it make whether it's in legislation. Regulations is what you're talking about. If we pass something that just says that the Chief Electoral Officer shall create some rules, and he would create something like this, what's the difference? So why not put it into legislation? Everyone can get a copy of the legislation and know precisely what the rules are when they hire on as an enumerator. I think it makes it simple and clear.

MR. FRIEDEL: But if there are problems . . .

MR. BRUSEKER: Why would there be problems?

MR. FRIEDEL: You can change it. Look at what we have to go through to make minor changes like this now.

MR. BRUSEKER: Well, this is a pretty extensive revamping that we're talking about here, and the hours that are proposed frankly I think are reasonable. If they reflect what's happening in other jurisdictions and it's worked there, why not use them here?

MR. FRIEDEL: I'm not going to lose a lot of sleep about it, I guess.

MR. WHELAN: Whatever your directions are. If you prefer "Each enumerator shall visit every residence on the days and during the hours directed by the Chief Electoral Officer," we can put that in. It doesn't really matter. I think that if we do that, then I have to write a set of rules. They're going to be the same as what's here now.

MR. BRUSEKER: Precisely.

THE CHAIRMAN: So what is the wish of the committee on sections 9 and 10? Are we in agreement, or do we as a committee want to change that?

MR. SEVERTSON: I guess one question. When you have the set hours, can this be done on the weekend, or is that just during the week?

MR. WHELAN: It might include a Saturday. It very seldom includes a Sunday, Brian?

MR. FJELDHEIM: That's correct.

MR. SEVERTSON: As you've got it, when you use the 6 to 10, if you're doing it on a Saturday, it makes quite a difference.

MR. WHELAN: That's right, yeah. Saturdays, though, are generally the last day of the enumeration.

MR. SEVERTSON: By putting the second visit in here, you're compacting it into four hours. If it's done on a Saturday, if you don't have the times in there, you could have all day Saturday to do your revisits, but by putting this rule in, you limit that revisit to four hours. I don't think, Frank, on a Saturday you'll find the same time restraints as we do during the week.

MR. WHELAN: In 10, Mr. Chairman, we could put in "between the hours of 6 p.m. and 10 p.m., except on a Saturday, but always on a different day," or words to that effect.

MR. SEVERTSON: Maybe you could do a little work on that.

THE CHAIRMAN: What's the wish of the committee? If I don't hear any further changes, we'll leave it as is. Okay.

MR. WHELAN: Clause 11. Section 25(9) is repealed and the following substituted:

If an enumerator has

(a) visited a residence twice, and

(b) found no responsible person there,

he or she shall then leave at the residence a notice in the prescribed form so that any qualified elector resident there may be able to submit an application to be registered by mail, or to contact or visit the enumerator, or one of the enumerators in the case of two enumerators acting jointly, to have his or her name added to the List of Electors.

That's housekeeping.

MR. BRUSEKER: Just a question there, Derm, on part (b), where it says "found no responsible person there." Can I assume, then, that if you found someone who is less than 18 years of age – for example, my daughter, who's 13, might answer the door, and she could provide the information. Would that be considered acceptable under this section?

8:27

MR. WHELAN: I think it's a saving provision just to make it possible for an enumerator to avoid taking information from a person that, at least on the face of it, does not seem to be competent for the purpose, maybe a visitor, maybe a visiting relative, or it could be a person who is unfamiliar with the dates of birth of people in the house and unable to give the information. So it's worded deliberately in a very general way to give the enumerator some discretion.

THE CHAIRMAN: Any further comments on section 11? Okay, Derm.

MR. WHELAN: Then we'll do 12. Section 26(2) is repealed. At present it reads:

First names and the prefixes Mr., Mrs., Miss or Ms shall be recorded only if specifically requested by the elector.

The commentary: "This subsection, when repealed, removes the prohibition against including salutatory prefixes." That will have to be changed given the fact that it isn't required for the joint lists that will be used federally and provincially. "Inasmuch as the prefix is often determined by the given name," we have gender anyway. The other part of the reasoning was: "It is reasonable to infer that the use of prefixes . . ." Now the explanatory note will simply say: this section is no longer required.

THE CHAIRMAN: Any comments?

DR. MASSEY: Can I ask: is this consistent with what appears on the ballot? On the ballot there are no prefixes; are there?

MR. WHELAN: No, there are not, nor any designations like doctor or member of the Order of the British Empire, nothing like that.

DR. MASSEY: I guess I'm asking: why bother having prefixes?

MR. WHELAN: Well, I don't know. But in the present legislation this section reads that first names and prefixes may be collected at the request of the voter, so we're going to take it out.

THE CHAIRMAN: We're taking it out.

MR. WHELAN: Yeah.

Mr. Chairman, 13. Section 26(3) is repealed and the following substituted:

Each List of Electors shall be in the form prescribed and permitted by section 11.1, and the enumerator shall, as far as is reasonably possible, ensure that the list contains the prescribed information with respect only of . . .

It should read "to."

. . . the qualified electors enumerated within his or her subdivision.

The preposition, I think, would be "to."

Presently section 26(3) reads:

Each list of electors shall be typed on the prescribed form, and the enumerator shall, as far as is reasonably possible, ensure that the list contains the names and addresses of only the qualified electors enumerated within his subdivision.

The commentary:

The subsection, as amended, permits the preparation of the List of Electors in a format that may be utilized by a system of electronic data processing and also includes the required data to enable unique identification of electors to be completed with respect to the List of Electors.

So, again, it's a housekeeping thing. Instead of having a list typed, this will make it possible for the list to be data processed.

THE CHAIRMAN: Any discussion on section 13? Go ahead, Roy.

MR. BRASSARD: Agreed.

THE CHAIRMAN: Okay. Agreed.

MR. WHELAN: Clause 14. Section 34 is amended by striking out in paragraphs (a) and (b) the number 6 whenever it appears and substituting the number 2. Section 34 reads:

Not later than February 1 of the year following a general enumeration, the Chief Electoral Officer shall furnish free of charge

- (a) to each registered political party,
 - (i) 6 copies of the boundary descriptions of the polling subdivisions in each electoral division,
 - (ii) 6 maps showing the polling subdivisions in each electoral division, and
 - (iii) 6 copies of the list of electors for each polling subdivision, and
- (b) to each member of the Legislative Assembly who is not a member . . .

In other words, where we read independently sitting member, six copies of each again, the same thing, of the descriptions, of the maps, of the list the member represents. So we're suggesting that the number, instead of six, be two copies, two maps, and two boundary descriptions. It will become clearer a little later.

In addition to this, we'll be providing a disc, either a CD-ROM disc or a regular three and a half inch disc, that already has all this data on it in a readable format. It would be silly to spend all this money in printing when you already have it in electronic format. That's the reasoning, and that's what I think the commentary says at the top of page 8.

Inasmuch as the concept is to provide political parties and Members with computerized Lists of Electors, it is felt that two copies, one written and one in electronic format, is sufficient. This will further reduce the printing required and, therefore, also reduce the cost of the List of Electors.

THE CHAIRMAN: Any discussion on the section?
Frank.

MR. BRUSEKER: Yeah, a couple of questions. First of all, this says, "not later than February 1 of the year following a general enumeration." Now, will the procedure be different when you get to the time when you are actually in the midst or at the beginning of a general election? Because as I read this, it says: to each political party and to each member of the Legislative Assembly. What if you have an independent candidate? As I read this, that independent candidate would not qualify for receiving a list.

MR. WHELAN: Well, you look at the explanatory note at the bottom, Mr. Chairman, the last paragraph on page seven:

- (b) to each member of the [Legislature] who is not a member of a registered political party.

MR. BRUSEKER: But I'm talking about a candidate who is not a member of the Legislature, who is running as an independent, and will not get a copy of this list by this definition.

MR. WHELAN: Not after the enumeration. You see, the candidate only becomes a candidate when the writ of election has been issued.

MR. BRUSEKER: Yes. So that's my question. Is there a different section that deals with during the election period?

MR. WHELAN: Yes.

MR. BRUSEKER: Okay.

THE CHAIRMAN: Brian.

MR. FJELDHEIM: Yeah. Once the independent candidate is registered with the returning officer, they're entitled to two copies of the list of electors, two maps of the electoral division showing the polling subdivisions, and two boundary descriptions. That's in another section.

MR. BRUSEKER: Okay.

With respect to the commentary, Derm, it says that two copies will be provided, one written and one in electronic data format. I'm wondering if you have done any more research since we last talked with respect to that electronic data format. What I'm wondering about is this. You will provide, as I understand it, a data disc that will simply contain a list of names and addresses, phone numbers, et cetera, et cetera. What I'm wondering about, then, is the driver disc that will drive that data disc. Is that something that each of the hundreds of candidates is going to have to purchase over and above the data disc you're going to provide. Really, then, what you're doing, to be blunt, is simply passing your expense off to the candidate's expense, which I'm not sure is necessarily the best way to go. So I'm still wondering: when you provide the data, are you

going to provide a program and a data disc, or are you just going to hand someone the data disc and say: there you are; good luck; have fun.

MR. WHELAN: Well, Mr. Chairman, to be quite honest, we haven't really determined whether we'll use FoxPro, Banyan, or what database. I can assure everyone here that we'll attempt to provide it in a user-friendly format so that if a person doesn't have the software on their computer, it will work with any DOS program or Windows program. The software tool needed to read the list will be given. We can't do any better than that. If we tried to do it only in WordPerfect, people would say, "I use WordStar" or "I use Works for Windows" or whatever. I tend to think at the moment it will be in FoxPro with the tools to drive it through DOS or Windows.

MR. BRUSEKER: So you're going to provide the driver disc, then, as well as the data disc.

MR. WHELAN: Precisely.

MR. BRUSEKER: Okay.

MR. WHELAN: But I don't think, quite frankly, we want to do it twice. You know, I think once the parties and candidates have it, then they would be expected to keep it. I think that if we had to give this again, we would want to recover the cost. We're already giving six lists, so there's not much difference in the present cost than what this would be.

8:37

MR. SEVERTSON: On the same line Frank is using, I'm thinking about when the election's called and the independent candidates or the small parties that don't have access to that type of . . . Are we eliminating who can run then? I use my own riding. I had an independent, I had the Alliance, a Social Crediter. Probably none of them have a computer aspect. Then are we giving the advantage to the mainline parties?

MR. WHELAN: Well, we might be. They're still going to receive a paper list. So if they want to reproduce it, you know, it's just a photocopier.

MR. BRASSARD: I doubt that anybody in this day and age could run a campaign without renting a computer, if they didn't have one. There's so much information that's computerized today. I think that's pretty standard; is it not?

MR. SEVERTSON: I was just thinking of the independents more than anyone else.

MR. WHELAN: There may be candidates who just don't want to use computers. Who knows what a candidate will want to do?

THE CHAIRMAN: Are there any further questions on this section?

DR. MASSEY: Just one minor thing. When the past lists were prepared, they used a screening alternately up and down the page. What was the reason for that? Was it just for readability?

MR. WHELAN: Readability.

DR. MASSEY: Because it ruled out using any electronic scanner.

MR. WHELAN: It does, yeah. We don't have to use that, but ordinarily the screening across – usually it's a fourth or fifth entry, either figures or letters – is to help people read it. On the electronic format that won't be there.

DR. MASSEY: No, but the hard copy lists that are provided . . .

MR. WHELAN: Well, what would you want to screen the hard copy on? You already have a computer list.

DR. MASSEY: I just know that last time we tried using a scanner on it and we couldn't.

MR. WHELAN: Well, certainly we don't have to use that.

MR. FRIEDEL: You could have been using a scanner to create a disk.

DR. MASSEY: To create a disk, yeah.

MR. WHELAN: Well, we certainly don't have to do that.

THE CHAIRMAN: Okay. Section 15, if there are no further questions on 14.

MR. WHELAN: Section 34 is amended by adding the following as paragraph (c):

34(c) The lists provided under paragraphs (a) and (b) to political parties and Independent Members of the Legislature shall contain only the initials and family names of electors, as well as their addresses.

When I drafted this, I had only in mind making public what was public now. At the last meeting there was a fair amount of discussion about why should we not have the full given name. If members of the committee feel that's the way it should be, then that's not very hard to correct.

The commentary is fairly clear. "This new provision assures that the lists used by political parties are in the same format as they now are." In other words, it's no different than the list being used now.

That is to say, they only contain the addresses, the family names and the initials of electors. This assures the same degree of privacy that is currently available with respect to the List of Electors and its use by candidates and political parties during elections.

I could add to the commentary just two observations. The first is that only Ontario and Alberta provide initials only instead of the given name. In Ontario the elector has to ask for it, de facto and virtually as a matter of practice. It is really only Alberta that only gives the initial.

Now, the given name may be on the public list. It's not a problem if that's what you want. It certainly seems clear that most jurisdictions in Canada feel the given name in addition to the family name is not a problem, but I understand that when the Election Act was amended, the intent was really to make the lists only usable in a very restricted way for reasons of privacy. I think that at the last meeting a number of you were talking about the desirability of having the full name on the list that is given to candidates. That's the family name and the given name. It's something you must decide. It really doesn't matter to Elections Alberta.

DR. MASSEY: I thought it was the opposite. I thought we were arguing just to have the initial.

MR. WHELAN: Oh. I understood that . . .

MR. BRUSEKER: Well, I personally like the idea of having the given name, Mr. Chairman. I think it's a useful thing to do. With respect to the issue of privacy, there are so many . . . I'm sure all each one of us has to do is take a week and look through our mailbox and figure out how many pieces of junk mail we get with our name printed on it because our name has been sold on a list someplace. Quite frankly, my impression is that most of these voters lists are treated very carefully and respectfully by the candidates. I don't see that there's going to be a big concern. So I would have to say that I personally would prefer to see it with the given name as well as the surname. Whether a middle initial is there or not is moot. I would like to see the name they use as a first name, plus the surname.

I did have one question, Mr. Chairman.

THE CHAIRMAN: Sure.

MR. BRUSEKER: I noticed in section 8 the way you talk about including the postal code. If you're into section 15, it says "as well as their addresses," but it doesn't mention postal code. Is it your intention here that it will include the postal code?

MR. WHELAN: It could include the postal code, yes.

MR. BRUSEKER: I would like to see that added if possible. I would prefer to see given names added to the list as well.

MR. BRASSARD: I think it would cut down on the confusion too. I mean, P. Brown could be Pat or Peter or Paul or Phil.

DR. MASSEY: But that's the point.

MR. BRASSARD: I realize that, but is the privacy aspect required to that degree?

MR. WHELAN: I don't think so.

DR. BRASSARD: I don't see the benefit of it, to be honest.

MR. WHELAN: Mr. Chairman, just a couple of observations quickly. The first is that later in these amendments it declares that the list be only used for electoral purposes. That means that if it were not used for that purpose, it would be an offence under another section of the Act. That's the first observation.

Secondly, it's been given to honourable people for an honourable purpose. I think that if any person were to conclude that the list of electors must only have initials to protect people's privacy, it would be sort of like trying to carry water in a sieve. Those things are available almost anywhere, you know. I don't think it accomplishes anything in particular.

DR. MASSEY: With all respect, a lot of women go to a great deal of trouble to make sure their telephone directory name, their given name is not in that. In a constituency where I have a lot of one-parent families, there are a lot of women who are very uneasy with their given names being in the directory.

THE CHAIRMAN: So in Ontario then, Derm, you're saying that . . .

MR. WHELAN: Unless a person specifically asks to have initial only . . .

DR. MASSEY: Then it's initial only.

MR. WHELAN: . . . the given name goes. So to answer you, I think legislatively the concern of your constituents would be to give them the option to have initial only, but otherwise put in the given name. Perhaps others would agree with that – I mean, if a person deliberately asks, "I want my initial only."

THE CHAIRMAN: But it would seem a little strange, Don, if the rest of the provinces don't find that as a concern. I'm throwing that out to you just to . . .

MR. BRASSARD: I don't want to jump ahead, but I think that if the fine for abusing the list were significant, that would limit a great deal of misuse.

MR. WHELAN: Yes.

THE CHAIRMAN: So what is the wish of this committee with regards to this section?

MR. BRUSEKER: Well, if I may, Chairman, I would propose that this section be amended to include a given name, whatever the elector gives, and I would also like to see the addition of the postal code at the end of the addresses. I would like to make those two changes to this section of the proposals.

THE CHAIRMAN: I've got Roy on that point.

MR. BRASSARD: Could I just amend that to include that the initials be used only when requested?

MR. BRUSEKER: Sure. I think that's legitimate, if requested by the elector.

MR. WHELAN: Well, I have three notes written here, Mr. Chairman: the given name, the postal code, and when asked, initials only. I'll draft it that way.

8:47

THE CHAIRMAN: Is that suitable to committee members?

MR. BRUSEKER: Mr. Chairman, just before we leave that point, I have one other question with respect to it. Nowhere do I see the collection of a phone number, and I wonder what that is in other jurisdictions. Do other enumerators collect the phone number? I'm just thinking that when you have someone at the door anyway . . . I'm sure we all go through this during a campaign. We get a volunteer to sit down with a phone book and write phone numbers down, which is a hugely tedious task. I'm sure we all do it, and we all make those phone calls. I'm wondering if that has been given consideration at all in terms of collecting it and then putting it on a list as we're talking about here in section 15 where you're amending section 34 of the Act.

MR. WHELAN: Well, Mr. Chairman, only British Columbia collects signatures and then telephone numbers. They have a huge database, as you know, and they have an initiative in recall legislation. No other jurisdiction in Canada, in the enumeration process with respect to electors, is collecting telephone numbers. We could collect telephone numbers, it's not difficult, but I don't know how many people would answer your question at the door. Many would say, "I'd prefer to not give that information."

MR. BRASSARD: Is that the reason why other jurisdictions do not collect telephone numbers? Is it for security?

MR. WHELAN: Well, the main reason is that we don't need it to administer the election. I certainly can understand that if we had it, we would be able to verify data and do surveys fairly easily and so on. It would be very useful, and I certainly understand that for candidates and political parties it would be most useful. Yes, we could obtain this data at any door, with the codicil that for people who do not want to give the telephone number, it certainly would not invalidate their registration as electors. But we're just concentrating only on what we need, what the privacy people would call tombstone data. You're not asking for the social insurance number; you're not asking for the phone number or anything extremely personal.

MR. BRUSEKER: Again, most phone numbers are listed in the phone book anyway – it's literally just a matter of getting a volunteer to sit down and do that tedious work – with the exception of those that have an unlisted phone number, in which case a similar provision might be made where the person could simply say, "I've got an unlisted phone number, and I prefer to keep it that way." Personally, I think it would be kind of nice to have.

MR. WHELAN: Well, I can't argue with that. I can say, Mr. Chairman, that in our office we use Henderson Directories, those big books. You can give a name and tell everybody in the city. They're not always up to date. For example, the last one for Edmonton was done about seven years ago, but still about 50 percent of it is accurate. There was one for Red Deer just last year. Calgary has one, Lethbridge and so on.

The most useful of all the tools is Canada Phone, the CD-ROM disk with all the phone numbers in Canada on it. Uncanny. Those are really, really accurate for Alberta. I found your phone number, Brian, in Vegreville. I've been checking it at random. What I'm trying to say is that certainly telephone numbers are available on computer, and this thing costs about \$95, I think.

MR. BRASSARD: That's cheap.

DR. MASSEY: Can you sort those phone numbers by a geographic area?

MR. WHELAN: You can do postal codes by geographic area.

DR. MASSEY: We asked Ed Tel. They said they could do it, but they were going to charge \$10,000.

MR. WHELAN: Well, for sure. If they find out it's an election, they also charge more.

AN HON. MEMBER: They think we have a big pot of money.

THE CHAIRMAN: So what's the wish of committee members with regards to asking for a phone number?

MR. BRASSARD: I think it's a good idea.

THE CHAIRMAN: Okay.

MR. WHELAN: On a voluntary basis?

MR. BRASSARD: Yes, on a voluntary basis.

THE CHAIRMAN: The same as a given name, on the same basis.

MR. BRUSEKER: I would say that if they're at the door and asking all the rest of this information, ask for a phone number. If someone protests – they have an unlisted number – then you say, "Okay, fine" and go on to the next question.

MR. WHELAN: Not published; yeah.

MR. BRUSEKER: That doesn't create any difficulty for you in terms of meshing ours with the federal government's audit?

MR. WHELAN: As a matter of fact, that data, that field, will even assist us. Yeah.

MR. BRUSEKER: Sorry, Mr. Chairman, to take so much time here. By adding these things to the list, are we going to in a sense make the enumeration more expensive in that it will take more time per name and affiliated data to be collected? Are you going to have to increase the pay per name that you're doing right now, do you think?

MR. WHELAN: I shouldn't think so, Mr. Chairman. It has not affected the tariff in other jurisdictions. As a matter of fact, if we get this process going properly, because there's so much less work, in time the tariff should come down and not go up.

MR. BRUSEKER: Thanks, Mr. Chairman.

THE CHAIRMAN: Okay.
On to 16.

MR. WHELAN: Number 16: section 34 is further amended by adding the following as paragraph (d):

34(d) The Chief Electoral Officer may require the Members and political parties mentioned in paragraphs (a) and (b) to provide adequate valuable consideration in respect of the provision to them of any additional copies of the Lists of Electors.

The commentary: it's a "new section." The intent is obvious. The software and the lists in electronic form will cost some money. We just don't want to give that over and over and over like a paper list. So I think it's reasonable to preclude requests for large numbers of this data in electronic format by asking people to pay for it.

MR. BRASSARD: For additional copies?

MR. WHELAN: Yes.

THE CHAIRMAN: Any questions on this section?

MR. BRUSEKER: Mr. Chairman, my mind is still on the last one. I'm wondering then, Derm, if we just need to go back to section 8 that you were proposing amending and adding a 7 underneath there which would include the phone number.

MR. WHELAN: Yes, I very definitely will add all that needs to be added to the other . . .

MR. BRUSEKER: Just to cross-reference it back again?

MR. WHELAN: Yeah.
Mr. Chairman, 17.

THE CHAIRMAN: Right.

MR. WHELAN: The Election Act is amended by adding the following as section 35.1:

35.1 The List of Electors shall not be used for any other purpose other than for which it was prepared, or other use prescribed by law.

I would propose to add to that a sanction in line with the discussion with Mr. Brassard.

MR. BRASSARD: Yep. I think we need to identify a very significant penalty for the misuse of this list.

THE CHAIRMAN: So what would you consider a significant penalty?

MR. BRASSARD: Well, I would think something in the order of \$10,000 or \$20,000, something up to \$100,000. I think it has to be very significant. Really, I think it has to be in the range where magazine publishers will be discouraged by it as well as people who are trying to track down someone's spouse. I think it has to be in a range of \$10,000 to \$100,000, something like that.

MR. BRUSEKER: On average I wonder how many electors there are per constituency. Derm, do you know how many electors there are on average per constituency?

MR. WHELAN: Well, I think an average would be somewhere between 12,000 and 15,000.

MR. BRUSEKER: That's electors as opposed to total residents?

MR. WHELAN: Electors, yeah.

MR. BRUSEKER: Even if you said, then, on average \$1 per name, that's \$16,000.

MR. WHELAN: We're just checking. Give me a moment just to check and see what the offence section has now. I think it's summary conviction, left to the discretion of the bench to determine the fine. If we put in \$20,000, it will be a different kind of sanction than already is there. Maybe I'd like to bring that back. I'd like to really think about the sanction.

MR. BRASSARD: Okay.

UNIDENTIFIED SPEAKER: It varies from \$200 to \$1,000 depending on . . .

MR. WHELAN: There's nothing near \$20,000.

AN HON. MEMBER: Well, statements about a candidate cost you \$2,000.

MR. BRUSEKER: It happens all the time.

MR. WHELAN: Well, Mr. Chairman, as a matter of interest, I was involved in a court case where a candidate proved that his election was affected by the scurrilous comments of people in the community. They were just lies, and he brought the person to court, and the man was convicted. As a matter of fact, he was a federal public employee, a fisheries officer. That's a serious thing, but it's only \$2,000. The point is that if we went to \$20,000, that would throw the sanction section out of balance. I'm saying it shouldn't be \$20,000, but then what we'd need to do is review the whole sanction section in the Act to get it all in balance.

MR. BRASSARD: Just to finalize my comments, I don't think there's a whole lot of confidence in the discretion of the courts in some of these matters. If I'm a woman who's being stopped and I'm leaving it up to the judge to effect a fine for the misuse of that list, then I don't have a whole lot of confidence, but if I know there's a set amount that is significant, then I have a greater degree of comfort. That's my rationale.

8:57

MR. WHELAN: Okay. Well, right now in the Election Act any person who commits a corrupt practice – bribery, coercion – to get a vote is “liable to a fine of not more than \$5000 or to imprisonment for not more than 2 years” or to both. I think that probably would be where we could go at the moment, you know.

MR. BRASSARD: I still don't think it's enough, with all due respect.

MR. FRIEDEL: I think we've got to watch here what we're getting into. There's a difference between corrupt practice and the use of an electors list, and I think we have to be very careful that we're also talking about the deliberate misuse of it or the potential for inadvertent misuse by a campaign worker or something like that. I think we want to be very careful what we recommend putting in here, because the intent could be totally skewed.

MR. WHELAN: Well, that's right. That's why I said I prefer to take this away and think about it.

Mr. Chairman, will I continue?

THE CHAIRMAN: Yes, continue.

MR. WHELAN: Clause 18: section 79(1)(a) is amended by striking out the word “or.” That doesn't mean very much. I'd better read it. At the present time it reads:

On each ballot shall be printed the name of each candidate together with

(a) the name of the registered political party for which he is the candidate, or . . .

MR. BRUSEKER: What is the section (b) that presumably comes after that? What does that currently read? I suppose we have that here; don't we?

MR. WHELAN: Right below it you'll see: “Section 79(1)(b) is amended by adding a comma after the word ‘party’ and also the word ‘or.’”

So now in (b) you have a different section: “the word ‘independent’ if the candidate is not a candidate for a registered political party.” After that you'll have “, or”. Let me just read the whole thing in the proper context.

On each ballot shall be printed the name of each candidate together with

(a) the name of the registered political party for which he is the candidate,

(b) the word “independent” if the candidate is not a candidate for a registered political party,

and we will insert

(c) an abbreviated form of the registered political party name or recognizable initials representing that party.

What it does is remove from the Election Act all prohibitions against using, for example, COR for Confederation of Regions Party, which takes a whole ballot. It means it's possible for the Conservative Party to use just the initials PC. It makes it possible for any of the parties to use designated acronyms. And many parties want to, but the way the Act is presently worded, you really

shouldn't. You have to put in the full registered name. We don't register acronyms. Is that right, Bill?

MR. SAGE: Yeah. They are available.

MR. WHELAN: But we don't register them, or we do?

MR. SAGE: Under the Election Finances and Contributions Disclosure Act a party has to tell us the acronym they're going to use, but it's not in the Election Act.

MR. WHELAN: Not in the Election Act. So we want to get it in there, if you want use PC, LIB, COR or whatever the abbreviation happens to be on the ballot. It came forward during the by-election in Calgary-McCall. There were parties that wanted to use an acronym, and I felt I really didn't have the power to allow it in the Election Act. But I think it's a rather good idea.

THE CHAIRMAN: So what you're saying, Derm, is that it's up to the party.

MR. WHELAN: Yeah, that they'd be allowed to do it, you know. They can do it under the Election Finances and Contributions Disclosure Act now, but they cannot under the Election Act. That's away from the list, but there are a couple of things I thought we should add to these amendments as I was going through them. That was one. I apologize. Sections 18 and 19 are complicated with only doing that. They're making it possible to add an acronym, "and," or "or."

THE CHAIRMAN: I have a question from Gary Friedel.

MR. FRIEDEL: Just one suggestion. We've discussed it and you've answered Ron's question to that effect, but it doesn't actually specify that it is at the option of the political party. It's implied but not stated.

MR. WHELAN: Well, we can certainly make it abundantly clear. There's not a problem with that.

THE CHAIRMAN: Is the committee agreed? Okay.

MR. WHELAN: I'm going to move, Mr. Chairman . . .

THE CHAIRMAN: Just a minute. We have a question.

MR. BRUSEKER: Mr. Chairman, as I look at section 18, you want to delete the word "or," and in section 19 you want to add the word "or" at the end. It seems to me those two things are kind of contradictory.

MR. WHELAN: They are. I had to put the "or" at the beginning of the next . . .

MR. BRUSEKER: Well, that would be nice and symmetrical, because then you'd have an "or" in the front and an "or" in the back, and of course if you're rowing a boat, it's nice to have a pair of oars, but I think it's probably better written the way it is.

AN HON. MEMBER: It's too early. Bad, bad pun.

MR. BRUSEKER: It's the best I could do at this time of the morning.

With respect to that, I think it might be better if you left 79(1)(a) the way it is and then added the comma and the "or" at the end of 79(1)(b). I think that might be the easiest.

MR. WHELAN: We'll certainly do the best we can with that. It's not a problem.

I was just going to say that you're not likely to find two oars in the same boat if there's an independent candidate with a candidate for a party. If they're in different boats, of course, they're going to go around in circles with one oar.

MR. BRUSEKER: Right. I thought being from Newfoundland, you might appreciate that.

MR. WHELAN: I did appreciate it.
Should I go on, Mr. Chairman?

THE CHAIRMAN: Please do.

MR. WHELAN: Row, row, row your boat.

Okay. Section 130 is repealed. This is the section dealing with the use of liquor. It really becomes a problem during a by-election where on one side of the street pubs, bars, and other places of good shelter are able to provide satisfactory comfort to some, whereas across the street, no one can sell even beer. So it has very, very practical considerations, particularly where there is an airport. The airport in Calgary, which is in the district of Calgary-McCall, had to tell the chairman that he couldn't sell liquor. He had to close his duty-free store. He didn't like it very much. I think it's an anachronism. You know, we don't need this anymore with respect to the sale of liquor. He sold cigarettes, of course, and other things. So right now it reads:

When an election or plebiscite is held under this Act in an electoral division, no person may sell or give liquor at any liquor store or licensed premises within the limits of the electoral division during the hours the polling places are required to remain open for voting.

In sub (2) – this is right at the bottom of page 9 – "subsection (1) does not apply to a day on which an advance poll is held." So there had been earlier some relief on advance polling days.

The section removes from the Election Act all prohibitions against selling or giving liquor in liquor stores or licensed premises within the electoral divisions during the hours that the polling places are required to remain open on polling day. This is regarded in Canada as obsolete and feudal law, and most jurisdictions have repealed similar legislation. I was thinking of, on average, a letter a month from a bank or from the president of this or whatever, you know, asking – and I'm sure members do too.

THE CHAIRMAN: Roy.

MR. BRASSARD: What was the initial reason for . . .

MR. WHELAN: Fighting.

MR. BRASSARD: Fighting?

MR. WHELAN: Yeah. People would go to the polling places where you declared your vote, and it wasn't secret, so you spoke it out.

MR. BRASSARD: People would go there and get liquored up and then march down . . .

MR. WHELAN: The people would come in groups to the polling station. They would have been in their cups. So anyway, that's recommended also.

THE CHAIRMAN: Are the committee members agreed?

HON. MEMBERS: Agreed.

MR. WHELAN: Mr. Chairman, clause 22?

THE CHAIRMAN: Yes.

MR. WHELAN: The Election Act is amended by adding the following as section 148.1

148.1 Notwithstanding section 148, the List of Electors last prepared may be used to assist in the preparation of a new List of Electors in the format set out in section 11.1.

Simply put, it permits the Chief Electoral Officer to begin preparing a new list of electors by correcting the lists last used. As a result, preprinted record-of-name forms may be utilized by enumerators during house-to-house visits. This would enable them to confirm information, delete information, add information, or correct information.

It is estimated that fifty percent of qualified electors have not changed their residence since the last general enumeration or election and, therefore, fifty percent of the data required for the enumeration will have been previously gathered. The intent is to avoid gathering this data twice.

I say also, "As the duties of enumerators will be reduced, consideration may be given," and I would say at a future time, "to revising the Schedule of Fees for these election officials."

9:07

MR. FRIEDEL: That makes absolute good sense.

THE CHAIRMAN: Committee members agree?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Good.

MR. WHELAN: The only other point I need to mention: I haven't drafted clause 23, but we need a section to say that it will be possible for the Chief Electoral Officer to use a list prepared by the Chief Electoral Officer of Canada and vice versa. He can use a list prepared by us. That's the key to cutting the cost in half. I haven't drafted that, but that would go in as clause 23, and it would be an addition to the Election Act.

MR. BRUSEKER: Would it also go in, then, section 148 as 148.2? Would that be the intent?

MR. WHELAN: Something like that, yeah.

MR. BRASSARD: It would be subject to all the conditions that we've already . . .

MR. WHELAN: Oh, yes.

MR. BRASSARD: I have no problem with that.

MR. WHELAN: We have been talking about convening some kind of a national meeting with privacy commissioners as this needs to be put together with respect to privacy and freedom of information as

well as electoral law. Our preliminary meetings with Mr. Clark and his office have been most amicable meetings. We have discussed the fact that we're trying just to use tombstone information only for the purpose required, but our work with the Privacy Commissioner is not finished. We have to talk to him about all of this as it goes forward so that we're sure, then, the nose of one legislation is not spiting the other. So that's a consideration that we need to keep in mind too.

THE CHAIRMAN: Committee members agree on this?

HON. MEMBERS: Agreed.

THE CHAIRMAN: Okay, Derm.

MR. WHELAN: You want to go to the returning officers?

THE CHAIRMAN: Well, before we leave this, the understanding, I guess, from committee members would be that you would bring back a revised draft of some of the things that we've talked about in the committee during the last two meetings and we'll have something in more of a concrete form at that time. Is that what committee members are thinking?

MR. FRIEDEL: At what stage would this normally go to Leg. Counsel or Parliamentary Counsel, whoever does the actual drafting?

MR. WHELAN: Well, I would hope, with the committee's concurrence, to get this to Parliamentary Counsel very quickly with a view to maybe the spring session. I don't know whether it would be realistic to even think about the fall session. It should not be rushed. I mean, I think it should be deliberated and we should get it right. It's an area that nobody else has tried. We're the first province to introduce legislation to make it possible to share lists with the federal people. We're going to have to give them the right to comment. So I think we're probably aiming at the spring session. We would prefer to use Parliamentary Counsel, but they may be just too busy. I don't know. The draft is not in bad format, but it needs the touch of a professional. I would feel uncomfortable if it did not receive that. So if the committee agrees, we'll take it in that direction, Mr. Chairman.

MR. FRIEDEL: I'm wondering if it wouldn't be appropriate, when you said that it would now be refined to take into consideration the comments that were made today, that maybe the next time we see it, it could be in some kind of a draft format.

MR. WHELAN: Oh, very definitely.

THE CHAIRMAN: Gary Severtson.

MR. SEVERTSON: Yeah. That's what I wanted to make sure, is what Gary said.

MR. BRASSARD: One final question: has there been anything to change the savings projection that we originally looked at?

MR. WHELAN: One hundred and twenty days have gone by, and we have received absolutely no negative comment.

MR. BRASSARD: I guess I was thinking financially. There was a significant financial savings.

MR. WHELAN: No, there's nothing to indicate a change. Elections Canada is doing a survey of all the motor vehicle registrations in Canada with a view of obtaining data on how much it would cost. Quite frankly their figures are higher than the ones we were given. I think that's a function of going to the private sector, that it's going to be a little higher. But by and large there has been no significant change.

MR. BRASSARD: So it's in line with the savings. That's great.

MR. WHELAN: As a matter of fact, the country of Guyana has asked – and I have agreed – if they might use this as a model for the structuring of their electoral law. So the people there working for the United Nations and IFES, the International Foundation for Electoral Systems, are using it as a guide to help people decide what the best type of process for their country is. I think it's been recognized as having some credibility. So I don't think there's a problem with that.

The federal people are also in touch with departments of health in every province. They're trying to work out scenario costs and possible ways of confirming data. Even more than that, they're talking to income tax Canada and Stats Canada. So I think the whole process is going in the right direction.

MR. SEVERTSON: That's the area that we have to really get into, the privacy aspect of it, if we're including more information in the privacy Act. I think the focus for the next few years is going to be under the privacy aspects of that whole Bill, because the general populace is getting quite concerned about this data collecting and sharing by bureaucracy and worried about their privacy.

MR. WHELAN: Mr. Chairman, most of the concern with regard to privacy and freedom of information now is being driven by the European Common Market. They've extended their privacy laws to include all of the private sector. In North America, particularly in Canada, we've not done that. We've used the Standards Council of Canada to try and impose a code of conduct, let's say, with respect to the banks or with respect to any industry that wants to embrace their set of standards.

The big problem with privacy in North America is that privacy legislation is only concerned with public legislation, public bodies collecting information. Very often that's not the problem. The problem is in the private sector. So that being said, we're very aware that this has to be dealt with. We have brought this to the point, with this recommendation, where we can share the cost of the lists, but we won't have a continuous register. Mr. Brassard and his subcommittee still have to decide, and that will be for a future time. I think we're going to very definitely have to do them. We're just out of time now. We're going to have to do another enumeration anyway. In due course, if you recommend in the committee – and I don't want to use the word “permanent” – let's just say the register of electors that doesn't require enumeration, we'll have to revisit this and redo the enumeration section of the Act again. Of course, that's where the federal people want to go. It's at that point that where you're getting data from a number of databases that you really have to be careful with the privacy laws.

Yes, Brian, that's correct. I mean, it's a big concern that the people are giving data that was given, let's say, to the motor registry people with the intent of being only used for drivers' licences and we want to use it for a voters list. So that person wasn't even consulted. So that has to be worked out.

I didn't mean to digress, Mr. Chairman.

THE CHAIRMAN: Okay. I think that's good information for the committee members.

We had another agenda item, Derm, with regards to Discussion on Returning Officers and kind of left that a little bit open not knowing for sure how much time we had. I know that there are some members that would like to get out of here by 9:30, if possible. So we'll shoot for that if you want to spend a few minutes on the returning officer discussion.

MR. WHELAN: Okay.

THE CHAIRMAN: I think Diane is printing a sheet off for us. She'll be back here shortly.

MR. WHELAN: Should I wait?

THE CHAIRMAN: No. Go ahead.

9:17

MR. WHELAN: As you know, Mr. Chairman, we've broached this topic before the committee and there has been a background paper. Now, I know that judges don't like to hear factums read again, and if you people have read this, I don't want to read it all over again. So I could move directly to the amendment that I'm suggesting.

The only comment I would make is that I think the right to vote is so much a part of our electoral process. When we take that right away from anyone, we really want to be sure (a) that it's constitutionally correct and (b) that it's going to serve the purpose. I'm suggesting in the paper that saying that the returning officers cannot vote is probably not constitutionally valid, but more important it is not necessary. It's not necessary to have one person with a casting vote. If any vote in this province is ever so close that it will be decided by one person, it will never stand up in court. It will be overturned for some other reason. So from both the philosophical and the legal points of view and the matter of ordinary practice there's just no point in taking the vote away from any returning officer. Now, that means that if returning officers may vote, they will no longer have casting votes. Whether or not that's your wish, I leave it to you. Clearly, I'm the person that's supposed to make sure everybody has a vote, not the person that makes sure that certain people don't have one. That's probably, among all, the primary one.

But anyway let me go to the draft amendment. Now, I don't know if people have this.

THE CHAIRMAN: Well, each member had one, but we didn't include it in the binder.

MR. WHELAN: Oh, okay. Well, Mr. Chairman, how should I proceed? I could walk through the first part of the amendment maybe?

THE CHAIRMAN: Yes.

MR. BRUSEKER: That's difficult to do when we don't have a copy of it right in front of us, Mr. Chairman.

MRS. SHUMYLA: Do you want me to copy the first part of it?

MR. WHELAN: It isn't very long. Let me see. It's about five pages, 27 to 36. That's one, two – it isn't very long. We would not get past the first three pages, I don't think. Well, perhaps I'll just go through the executive summary, Mr. Chairman.

The paper that was presented earlier, after some discussion, put forward for your consideration draft amendments to the Election Act concerning returning officers. In general, partisanship, impartiality, competence, merit, and competition are the main points that are discussed with respect to returning officers, and the amendments proposed as well, generally, that there would be agreement that returning officers should be able to act, with respect to all elections, without any partisan political bias, impartially, that they should be competent for the purpose, and in the interests of the process perhaps merit and competition might be used with respect to the selection of particular returning officers for particular electoral divisions.

So that being said, I proposed two draft amendments. In the first option the Chief Electoral Officer, after a public competition and on the basis of merit, would select and appoint returning officers. In the second, the traditional method of having the Lieutenant Governor in Council appoint returning officers would be followed. However, in the interests of balance and fairness I proposed that a competition be used and that consultation between the opposition and the party in power occur with respect to selecting one from a number of people certified as competent after the public competition, that one of these people would be chosen by the Executive Council.

So there are two methods. One, the Chief Electoral Officer would choose the returning officer, period. It would be in my view the most competent of the persons available. The second scenario: after a public competition we would put up for consideration a list of three, five, seven names, whatever number, depending upon the competition. At that point there would be consultation between the political caucuses, the opposition and the governing party, with respect to which of the seven or eight or nine should be appointed. I thought that would preserve and perhaps even assist in the appointment process that was going to continue to be an Executive Council appointment in that it still involves the political parties in choosing the returning officer. Your choice may not be mine, obviously, but all of these people will have been certified to be competent for the purpose. I would think it would avoid ranking them so as not to fetter the Executive Council and the Assembly and its members.

So, again, going on with the executive summary, the returning officer in this scenario would have the right to vote, would not be deprived of the right to vote, any more than a judge or the Chief Electoral Officer is in Alberta. They would not need to be deprived of the right to vote simply to break a tie, because the amendment contains another mechanism for dealing with these circumstances. This follows when the people haven't decided; then you refer it back for a by-election within 21 days. Let the people decide the issue. Instead of one returning officer, go back to the people. Everything would be in place. It should not be an expensive process. Now, that indeed is what's being done now both in Quebec and in the amended legislation in British Columbia.

I'm saying here in the executive summary that the vote of a returning officer is not secret. If a returning officer votes to break a tie, you can hardly say it's a secret vote any more than the vote of the mayor in a municipality. I think it's better to have the secrecy of the vote protected in all instances. So we further recommend that not only should returning officers have the right to vote but that their vote should be secret, just as it is for anybody else.

The third paragraph in the executive summary. The value of the casting vote really has outlived its usefulness. It has always been extremely doubtful. In all my research I found one instance, in the province of Quebec, where a returning officer had cast a casting vote to break a tie. In the political history provincially and federally of Canada since Confederation: only once, and that was overturned by the courts. So taking the vote away from a person, for that reason

only, really doesn't seem to have any chain of logic that you can defend.

From an administrative point of view it is very difficult to plan elections, especially where you're talking about bringing down the cost, working smarter, and so on, without having people with some tenure. Returning officers presently are dismissed, or their appointment expires is a better way to put it, four months after polling day, period. They just aren't anymore. So if there's a by-election, you're scrambling, one, to get a person appointed; two, to find out can the person do the job; three, to cram the training. It spins off on the process. The process will never be served by anything that's cobbled together. I would suggest that these quick appointments of people and the intense training, where people often just say, "I just can't do this," so then you have to go through it all again right on the verge of another election, doesn't really help.

MR. BRUSEKER: Derm, just on that issue, we have recently gone through and are in the process of going through boundary redistribution yet again. What impact does that have on your proposal with respect to tenure? For example, I'm thinking about west Dalhousie, which used to be part of Calgary-North West and is now part of Calgary-Foothills. Now, suppose we had a returning officer from that area. Can they then switch over to another constituency? Is that feasible or not?

MR. WHELAN: Well, the way the amendment is drafted is that if the district disappears, so does the position. If there's no district, there can't be a returning officer for it. That would not stop an incumbent returning officer who had left the field from asking or being considered for reappointment in another district.

MR. BRUSEKER: But it wouldn't be an automatic carryover then?

MR. WHELAN: No. No, I don't think so.

MR. BRUSEKER: Okay.

MR. WHELAN: That's the same as the legislation on the jurisdictions now.

9:27

THE CHAIRMAN: What I really wanted to do for a few minutes today was have a general discussion over the two concepts, Derm. You know, we're in a preliminary discussion on your idea to amend the Election Act with regards to returning officers, and I wanted the discussion from the members in general terms on, first, the returning officer having the right to vote and, secondly, how the returning officers would be appointed: either by yourself or Executive Council. So I don't want to spend a whole lot of time having you explain it. I would just as soon have some members give you a feeling of what their thoughts were – I didn't want to get bogged down on real details – in a kind of discussion here today, if that was okay.

MR. WHELAN: Yeah. No problem.

THE CHAIRMAN: So I think, then, if that's the wish of the committee, we'll have a few minutes to just bat some ideas back and forth of some of the committee members.

Gary, did you have some comments or questions?

MR. FRIEDEL: Well, one thing with the appointment issue or the alternate versions that you're talking about. I think we have to look at the differences of the position in different parts of the province.

In some cases I suspect there will be all kinds of competition to get such a position. In other places which are relatively remote you might be lucky to search out someone who is reasonably qualified. I think we have to look at that.

The issue of tenure I'm extremely nervous about. I don't see that there's anything wrong with re-evaluating a person's qualifications from time to time. Certainly one who has experience, that would show as an improved qualification if they're competing in another round. I would sooner see that not be considered anything even resembling automatic, that reconsideration is required.

THE CHAIRMAN: Any other thoughts on any of these in a general term from any of the committee members? Gary.

MR. SEVERTSON: Yes. Well, I agree with Gary in the sense of tenure in the fact that you lose that chance of evaluation. If you've gained the experience, the chances are that that person is going to go again anyway, but if that person hasn't done a good job and you've got him for the next election or two, you've got a process to go through to get rid of him or her. I don't see where it's necessary. When I look at your numbers, we had three elections in that time span – the last five elections. Does that say you only had 210 of a possible 83 times four? Then we have 52 that have completed three or more elections. The practice has been to rehire anyway. Now if you want to put into a contract that they have to be there for 10 years, you could have some that haven't done a good job that you're stuck with.

I have no problem with the right to vote. I think that's common sense.

I guess if we want to go on to how we appoint them, I don't know. I'd like to study that one a little bit more. Would that put a lot of work on your part, your department if you have to interview 10, 20 candidates times 83, you know, in the selection if it's left to your office, whereas before it was done more on a local basis and the names came forward that way?

MR. WHELAN: Yeah. Well, Mr. Chairman, there will be quite a front-end load if all 83 of the districts are willing to have their persons chosen that way. I tend to suspect that whatever process we were to develop, a fair number of people that have already done this would be appointed. Obviously they would. Even in the competition they would have the edge: they've done this before successfully. You're right; there would be a front-end load, at least initially, for the first time around.

On the other hand, when you're doing interviews, you sort of get to know people very well, and you'd be detecting competence. I mean, in the public service of course people are hired after a competition, and their appointment continues unless there's some serious reason why it shouldn't. I understand what's being said. You know, right now it's easy to review and then to reappoint, but the downside is that we have a vacuum between elections. We don't have anybody to plan with.

THE CHAIRMAN: Roy, you had some comments, thoughts.

MR. BRASSARD: That's my concern: this vacuum. I don't know what the cost of a tenure system would be, to keep someone on contract, and I'm not sure what kind of a contractual arrangement I would like. I wouldn't like it to be a heavy-duty dismissal, a contract-breaking arrangement to get rid of someone. There have got to be advantages to having someone in touch on a constant basis with the issues at hand so that if there are changes being made on an ongoing basis, if anything comes up during the period between elections, then your returning officers can be brought up to date on

that. I think you would be far more ready for an election when it arrived having been in constant touch with a person and thereby knowing the strengths and weaknesses of that individual going into an election and knowing full well that they have been brought up to speed on every change prior to the election. I would think you could be at the ready very quickly as opposed to going through the process of hiring returning officers all over again. I don't know the cost of that, and I don't know what contractual arrangement I would be comfortable with, but I do see some benefits definitely.

MR. WHELAN: Mr. Chairman, I hesitate to use an absolute word like "no one," you know, is paid a stipend. Generally speaking, unless returning officers who have tenure in Canada are doing a task, an identifiable task, working on electoral matters, that's it: there is no stipend. So it continues from year to year.

MR. BRASSARD: There's no cost associated?

MR. WHELAN: No, but when the writ is issued, of course, and they become actively involved in the process, they have to be paid at that point. Whereas if there was a specific task – for example, after this boundaries commission is finished and the Legislature makes new boundaries – where we'd have to start readjusting things, they might be very actively involved in redrawing maps for their own electoral divisions. I think, all things being equal, that people should be paid for something like that. By and large having tenured returning officers is not expensive, no more really than not having them. The expense falls on the system that has to cram the training and correct the mistakes and do things over again. That's where the savings would be realized.

MR. BRASSARD: Is there a contractual liability then?

MR. WHELAN: Not really, because it's an appointment for a particular purpose.

MR. BRASSARD: Do you have to rescind the appointment if you decided . . .

MR. WHELAN: If you decided to, yeah, but I don't think you could do that without cause. I think reason would have to prevail.

MR. BRASSARD: Yes, I agree with that.

MR. WHELAN: I think there would have to be cause. It has generally not been a problem anywhere in Canada. Now, that's not to say – some returning officers have managed to really make a mess of what they were doing, and they had to be persuaded to step aside.

THE CHAIRMAN: Gary, you had another comment.

MR. FRIEDEL: I realize that others may want to get in on this. With all due respect, Roy, the benefits that you talk about, the adverse side is that whether they're paid or not, I have some concern that these things could grow into minibureaucracies just by virtue of being there. Volunteer service is not unusual. As a matter of fact, probably a good part of what we do in our society depends on volunteers. You know, with all the best intentions and, as I say, with all due respect, just by virtue of having an entity there, they tend to create things to do. That is the seed of bureaucracy, in my opinion, and I would be nervous about it.

THE CHAIRMAN: Well, I think that was a little bit of an interesting exchange, Derm. If there aren't any further questions, it's something that we will probably be discussing at future meetings. I just kind of wanted to let the committee members think about the concept between meetings. Maybe we'll leave it at that for now.

I guess I'll now ask if there's any other business of this committee today. If not, agenda item 7 is the next meeting, and I would suspect that if it's all right with the committee, we will call a meeting right after the session is over. So if it's the wish of the committee members, we'll leave that to that unknown date as to when the session is over. Is that agreeable to committee members?

HON. MEMBERS: Yes.

THE CHAIRMAN: Okay. Then I would entertain a motion to adjourn.

MR. BRUSEKER: So moved.

[The committee adjourned at 9:38 a.m.]