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Tuesday 13 February 2007

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Mardi 13 février 2007

**Standing committee on
the Legislative Assembly**

Electoral System
Referendum Act, 2007

**Comité permanent de
l'Assemblée législative**

Loi de 2007 sur le référendum
relatif au système électoral

Chair: Ted McMeekin
Clerk: Tonia Grannum

Président : Ted McMeekin
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Tuesday 13 February 2007

Mardi 13 février 2007

The committee met at 0935 in room 151.

**ELECTORAL SYSTEM
REFERENDUM ACT, 2007
LOI DE 2007 SUR LE RÉFÉRENDUM
RELATIF AU SYSTÈME ÉLECTORAL**

Consideration of Bill 155, An Act to provide for a referendum on Ontario's electoral system / Projet de loi 155, Loi prévoyant un référendum sur le système électoral de l'Ontario.

The Chair (Mr. Ted McMeekin): Members of the committee, we're here to do clause-by-clause for Bill 155. The clerk will guide me through this, as this is my first stint at this very important and detailed process. I think we go section by section, Madam Clerk.

There are no amendments noted on section 1, so any comments or questions on section 1? None. Shall section 1 be carried? Carried.

On section 2, are there any comments or questions? All those—

Interjection.

The Chair: Carried. Okay.

On section 3, there is an amendment noted 1. Mr. Prue.

Mr. Michael Prue (Beaches–East York): I move that subsection 3(1) of the bill be struck out and the following substituted:

“Question

“(1) The wording of the referendum question, in both English and French, shall be established by an order of the Lieutenant Governor in Council made on the address of the assembly after consultation with the Chair of the select committee on electoral reform.”

By way of explanation, this is what happened in British Columbia: In British Columbia they got all-party agreement, the question was debated in the Legislature, and then the Lieutenant Governor in Council, i.e. the cabinet, brought out the question. The question was agreed to by the citizens' committee and it was put on the ballot.

The way it is now is hardly democratic. It is the decision of one person. It is the decision of the minister through the Lieutenant Governor in Council. There is no debate, there is no tie-in with the opposition parties, there is no tie-in with the citizens' committee. I fail to see how it could possibly get the kind of broad consensus or

approval that is necessary for it to go forward. Just one party or one group of people could come forward and say, “We don't think the question is fair,” and that will throw a monkey wrench into it from the beginning. So I'm merely asking that it be done in a way that's democratic, open and where everyone can buy into what the question is.

The Chair: As I understand it, and I'm informed by the clerk, this motion is out of order, as currently the select committee on electoral reform does not exist.

Mr. Prue: Does not exist?

The Chair: Yes.

Mr. Norman W. Sterling (Lanark–Carleton): Could I suggest an amendment to the amendment? I was going to ask a question about the consultation with the Chair of the select committee. I would support the motion if it ended after the word “assembly” and struck out “after consultation....”

Mr. Prue: That's fine.

Mr. Sterling: So do you want to—

Mr. Prue: The consultation with the Chair was simply to keep everybody in the loop. But if it does not exist—Mr. Chair, that would be you, and if you don't care, I don't care—I'd be happy to strike out those words and have it end after “assembly.”

The Chair: That's in order.

Mr. Sterling: Could I just speak to that?

The Chair: Yes, please. Mr. Sterling.

Mr. Sterling: This has been a concern of mine as we have proceeded along with all of these democratic reform initiatives; that is, that in order to have a truly democratic reform within a democratic institution, it's not only the right of the majority party, but it's the right of the Parliament of Ontario to be driving the whole issue.

I think, quite frankly, that the select committee on parliamentary reform was really established after I and others from the opposition made our concerns known and put them forward, and I think the government did the right thing in striking that committee. But the problem here, and I think Mr. Prue has put it well, is that if the wording, as it is now in the bill, is set by the cabinet of Ontario—which is what the words mean when you talk about “order of the Lieutenant Governor.” That is really “what the cabinet wishes,” because the Lieutenant Governor follows whatever the cabinet says. I really think that it's not driven in the true spirit of what democratic reform should be, so therefore I will be supporting Mr.

Prue's motion. I think it's the right thing to do. I would say that you could have a fairly succinct debate in the Legislature over the wording of the motion. In fact, the government should listen to what members of the Legislature have to say about it. They may find it helpful in terms of making it clear for the public, and hopefully they would gain, in terms of the posing of the question, unanimity in the Legislature before it was put on the ballot.

0940

The Chair: Parliamentary assistant?

Mrs. Linda Jeffrey (Brampton Centre): I've heard the debate this morning and I want to remind people what happened in British Columbia in 2005. At that time, the Lieutenant Governor set the referendum question recommended to him by cabinet. The advisory role of the citizens' assembly was not prescribed by statute. From the very beginning of this process, we felt the content of the question should be based on the work done by the citizens' assembly. If a referendum is held, then this legislation ensures that the question will be presented in a manner that's clear, concise and impartial.

The Ontario citizens' assembly was given the opportunity to consult with former members of the select committee on electoral reform. In fact, the former Chair of the select committee, Ms. Di Cocco, is in cabinet now, so the views of the select committee will be represented when the Lieutenant Governor receives the advice about how the question should read. We will not be supporting the amendment.

Mr. Prue: I have a question. This was the subject of a debate in the Legislature of British Columbia. Why do you not want a debate in the Legislature of Ontario?

The Chair: Who's the question directed to?

Mr. Prue: It's directed to the parliamentary assistant. She just made the statement, so I'm very curious as to why, if it's good enough to help the democratic referendum there and all parties signed into it, and it was only a one-day debate, a similar one-day debate wouldn't be good for the referendum and parliamentary democracy in Ontario.

The Chair: You don't have to answer that, but if you'd like to, go.

Mrs. Jeffrey: I would argue that there has been debate: There has been debate about this issue in the House, there's been debate out in Ontario—

Mr. Prue: About the question.

Mrs. Jeffrey: The citizens' assembly has travelled across this province and provided opportunities for the public to debate the issue of electoral reform, the question and every other component of electoral reform, so I would argue that there has been debate.

The Chair: Mr. Sterling.

Mr. Sterling: But you see, part of the problem here—and I guess Mrs. Jeffrey is carrying it for the minister, so therefore we're entitled to ask questions of her as a representative of the minister on this particular issue. But my concern on this is one of a long-standing understanding of how this process and this institution changes

from time to time. When we have changed the standing orders or when we have appointed legislative officers of the Legislature of Ontario, we have sought to get unanimity of all parties and all members of the Legislature. It's not always achievable, but we try to do that.

The parliamentary assistant is saying, "The statute says the language shall be clear, it shall reflect what the citizens' committee is putting forward." Well, you know, language is language, and language can perhaps be clear to one person but very unclear to someone else. So I really don't understand the reluctance of the government, a majority government—a heavy majority government—which should, I think, because of its numbers actually be more careful about how they're going into this rather than less careful about it, and not be as prescriptive as they are about the process and their involvement in it.

I very strongly support Mr. Prue's amendment, but I've got to say I'm not surprised by the government's reaction, because they have been very heavy-handed with regard to how this has gone forward in the past. So it quite frankly doesn't surprise me that we have the parliamentary assistant walking in here carrying the orders of cabinet again and not really considering this in what I consider a fair light.

Mr. Prue: On a recorded vote, please.

The Chair: We'll put the vote on the amendment to the motion and, if the amendment carries, then the motion, as amended.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: The motion is defeated.

Would someone move that we carry section 3? So moved. All those in favour? Opposed? It's carried.

We'll move to page 2, NDP amendment to section 3.1.

Mr. Prue: I move that the bill be amended by adding the following section:

"Public awareness campaign

"3.1 The Chief Election Officer shall conduct a public awareness campaign to ensure that voters throughout Ontario are informed about the referendum and the referendum question."

By way of explanation, again we go back to British Columbia. When the all-party select committee went to British Columbia and questioned people on the committee—Gordon Campbell, professors, legal people, lawyers—they felt that the chief failure of the referendum and the referendum question was that it was not well enough understood by ordinary people.

A flyer went out from the Chief Election Officer about three or four weeks prior to election day, which was also referendum day, explaining the process, but there was considerable confusion in the public's mind at the time of

the referendum question. What this motion attempts to do is to mandate the Chief Election Officer, who is a neutral figure, a non-partisan figure, to conduct a general awareness campaign so that people will understand the purpose and the methodology of the referendum; we have not held a referendum province-wide in nearly a century. So that's what the hope is.

We have not attached a financial figure to it because, of course, that is the prerogative of the finance minister and the cabinet, but we would hope that it would be substantial and that it would help people to understand the purpose and the consequence of their vote.

The Chair: Mr. Sterling.

Mr. Sterling: I, along with Mr. Prue, sat on the select committee on parliamentary reform, democratic renewal. In hearing what happened in British Columbia, there's no question that there has to be a much greater awareness on the part of the public of what's going on with regard to the referendum. As you know, the citizens' forum in BC came forward with a very, very complicated recommendation in terms of how people would be elected in the future in that province. Notwithstanding very few people understanding what in fact they were voting for, many of them voted in favour of this particular option. There's a lot speculation as to why that might have happened or might not have happened. Some think that it was a registration of a vote against the existing government at the time, so if they were angry with the government, they voted for a new method of electing the government. I'm not sure that was the case, but I suspect that some of the votes were cast because of that.

0950

I think it was most interesting to hear the chief electoral officer of British Columbia recollect about that particular provincial election in British Columbia. What he told our select committee was that in terms of inquiries about the election—he recorded the number of inquiries—there were something like 10,000 to 12,000 phone calls which the office of the chief electoral officer received during that election with regard to the candidates who were running. He only received 500 calls in total about the referendum.

I think what Mr. Prue is trying to put forward here is an effort on the part of the Chief Election Officer and a clear mandate to him to spend some valuable money with regard to making certain that the public understands it. British Columbia sent out pamphlets; nobody read them. I think it was the conclusion of many of the members of the select committee that it was really necessary to go on television, to really hype it up as to what the question was—not in favour or against it, but for the public to understand what they were voting on with regard to the referendum and to get interested in the referendum debate.

The other part of it, which Mr. Prue and I heard from the witnesses with regard to British Columbia, is that what will happen in October of this year when the election takes place is that politicians from parties probably will not take hard stances on this unless it really

becomes one of the focuses of the election. It did not become a focus in the BC election, and neither party took a stand for or against the referendum. Therefore, it wasn't really the hot topic at meetings or in the media or whatever.

We have here the potential of a question and a change in our electoral system without the public really being truly engaged. That's what I think Mr. Prue is putting forward and that's why I support the thrust of this particular motion.

The Chair: Thank you, Mr. Sterling. Parliamentary assistant?

Mrs. Jeffrey: We're in agreement with Mr. Prue and Mr. Sterling that the importance of public awareness cannot be understated and that it's important that they understand the choice that they are being asked to make. If the citizens' assembly recommends an alternative electoral system, we will ensure that Ontarians have a fair and neutral information package that they need to make an informed decision in that referendum. The legislation does anticipate that advocates and other interested groups will be engaged in their own educational activities across the province. We've studied and we've learned from the process in British Columbia.

The CEO, or the Chief Election Officer, is an expert in electoral administration. If a referendum is required, the Chief Election Officer will raise public awareness that a referendum is going to take place, as he currently does for most elections. His task is to ensure that Ontarians are aware that a referendum is going to occur at the same time as the next provincial election. We have confidence in his abilities. We will not be supporting this amendment.

Mr. Sterling: Why are you not supporting the amendment?

Mr. Prue: Until the last line, I thought—

Mr. Sterling: Yes, I thought you were going to support the amendment.

Mr. Prue: The entire rationale was in support of it.

Mr. Sterling: I would go even further here, because part of what will happen here too is that there's nothing in this bill which supports the No side with regard to this referendum. What we will have in the election, quite frankly, will be those people who want change, but it's going to be very difficult for anybody to say, "I want to keep the status quo." A politician won't say it because it would be seen as defensive by the public: "You're happy in what you're doing. You're feathering your own nest by maintaining the status quo."

I would have even gone further than what Mr. Prue said here in terms of the Chief Election Officer being mandated to have a public awareness campaign. I would also fund some of the activities of the Yes and No sides, because I think it's important that conflict be there, and if conflict is there on the issue, then it will come to the fore in terms of the public and they will vote either Yes or No on the basis of the debate that will take place. There will not be a debate in this election on the referendum unless we make certain that there are organizations that want it

and organizations that don't want it and that there is a true conflict and a true debate out there. I'm sorry, but I will support this particular motion for certain.

Mr. Prue: A recorded vote, please.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: That's defeated.

We'll go to section 4, then, an NDP motion.

Mr. Prue: I move that section 4 of the bill be struck out and the following substituted:

"Decision threshold

"4. The result of the referendum is binding if the recommended electoral system is selected in more than 50% of all the valid referendum ballots cast."

It's fairly simple. We asked research prior to the committee meeting to list all of the referenda that have been held in Ontario since 1867. There were five of them, and all five of them required 50% plus one to be successful. We can see from other referenda that have been held across Canada that in each and every case, they required 50% plus one, including Charlottetown, including what happened in Quebec, including Newfoundland coming into Confederation, including conscription, including every other major thing that's ever been put to referendum in Canada. This is an aberration. The only group that has ever decided to do this was British Columbia, and that had a very negative impact in so doing because 57% of the people chose to change and they were thwarted by the 43% who chose not to.

We had a number of deputations—and just to list them all, because you have that package in front of you. Literally almost every single person who came before us said that—and I'd better get their names correct because I want them as part of the record. Threshold for a binding vote: Fair Vote Ontario—50% plus one. Equal Voice, the voice for women, asked for 50% plus one. Mr. Dennis Pilon asked for 50% plus one. Ms. Susan Smith asked for 50% plus one. Mr. Shaul asked for 50% plus one. Deverell/Rosenthal talked about 50%. Babineau, Gregory, Howarth/Buck, Macdonald and Rapaport said that the threshold is undemocratic at 60% and should be 50% plus one. OPSEU, representing the provincial workers in Ontario, asked for 50% plus one. Gord Garland asked for 50% plus one. The Students' Assembly on Electoral Reform in a written submission asked for 50% plus one. Fair Vote Ontario talked about the threshold being incompatible with the Charter of Rights. Pilon talked about the weighing of votes differentially through the supermajority decision rule and how that was illegal.

1000

We then had a couple of people who spoke in favour of the 60% rule, but they were far outweighed by what has been normal practice in Ontario and in Canada.

It seems to me highly problematic if the government insists on a 60% rule. You have heard that there will potentially be court challenges. You have heard that it is undemocratic. You have heard that it is unfair. You have heard that it will weight the votes differently, that you will require 3-to-2 on the principle of votes being one and a half times more valuable on the No side as opposed to the Yes side.

I think this is the single greatest factor in this bill that would cause citizens to show disdain for the process. Citizens know that their vote will not count because it may be eminently impossible to get 60% turnout on one side or the other. Therefore, I ask the members to think very carefully about this. If you go forward with the 60% rule, you are in fact killing what the citizens' assembly is doing from the outset. You have had and I have had a letter from at least one assembly member detailing how members of the citizens' assembly wonder why they are going through all this work with the impossibility of getting 60% of the electorate onside should they make any recommended changes.

It's up to you, but I firmly believe that in a democracy like Canada, a majority is 50% plus one. Certainly, that's all that's needed to elect any one of us to the Legislature, even far less, and it should not be problematic to the extent that people after all these years are thwarted if there is any movement for change.

The Chair: Thank you, Mr. Prue. Parliamentary assistant?

Mrs. Jeffrey: Just commenting on the amendment, the motion, we heard a variety of opinions expressed on this issue. We heard arguments for a simple majority and we also heard arguments in support of the recommended decision rule. What we must remember is that the adoption of the new electoral system will represent a foundational change in our democracy, and legitimate electoral reform processes typically take many years to get through Legislatures. The referendum threshold in the proposed legislation reflects the significance of this decision. We believe a decision of this magnitude deserves to have the support of a solid majority of Ontarians across the province and the proposed legislation reflects the significance of this decision. We're requiring a consensus amongst Ontarians and the regions of the province and we believe that Ontarians deserve that level of certainty. We won't be supporting this amendment.

The Chair: Mr. Sterling?

Mr. Sterling: I will not support this amendment either, because I believe that our system has worked relatively well for the people of Ontario over a period of over 140 years, and before we make a demarcation from the method in which our MPPs have been elected in the past, I think it requires more than a simple majority. Other democratic institutions have rules, regulations,

different kinds of structures where more than a simple majority is required with regard to making major changes in their structures, so it is not totally uncommon for this kind of a threshold to be put there.

As well, my belief is that the institution of our Parliament should be changed prior to going out on a fishing expedition with regard to how people are elected. This institution will only work with significant reform within the walls of our provincial Parliament. I believe, quite frankly, that this is not truly democratic reform with regard to gaining the trust and confidence of the public in our institution. That was our position during the select committee as well as now. Therefore, I truly believe that the public are not engaged in this particular debate with regard to changing how MPPs are elected. I've talked to parliamentarians where systems are different, in terms of them being elected. I believe that before we head off in a new direction, which in many cases would almost guarantee minority Parliaments from here on for our Parliament, we need to have higher than a 50% threshold in order to change that system.

Mr. Prue: Recorded vote.

The Chair: We'll have a recorded vote on the amendment.

Ayes

Prue.

Nays

Jeffrey, Mossop, Peterson, Racco, Sterling.

The Chair: The amendment is defeated.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

That brings us to an opposition motion.

Mr. Sterling: I move that the bill be amended by adding the following section:

“Second referendum

“5.1(1) If the result of the referendum is binding and legislation to adopt the recommended electoral system comes into force, a second referendum shall be held in conjunction with the 2019 general election.

“Same

“(2) The purpose of the second referendum is to determine whether Ontario is to retain the new electoral system or revert to the one in existence at the time of the first referendum.

“Application of act

“(3) Sections 1, 3, 4 and 6 to 19 apply to the second referendum, except that for the purposes of the second referendum,

“(a) references to the referendum shall be read as references to the second referendum; and

“(b) references to the 2007 general election shall be read as references to the 2019 general election.”

The purpose of this particular section is to ensure that should we change our electoral system, the public will

have an opportunity to comment on it again in the future after they've experienced two general elections under the new system.

What I found in my discussions and studying of the particular electoral systems in other parts of the world is that other influences start to press on the elected members who are elected under another system.

First of all, what seems to happen in some new electoral structures is that the parties gain significantly more control than the parties have in our present structure. I talked with some delegates from a province in South Africa, and they lamented the fact that they were under the tremendous pressure and control of their political parties and the political hierarchy of their parties. If they stepped out of line, they weren't going to be on the list next time, through the next election. So if we get a new system put in place where the parties become extremely powerful and the legislators are but pawns of the party, I think it's important, if the public do not like a change, that we guarantee a referendum in the future to reverse fields and go back to what we have at the present time.

I think it's unlikely that this section would kick into effect, but if we are going to allow the people the right to change history of 140 years in October of this year, I think we should also give the right to the people to go back and say, “Well, we made a mistake. We've had two elections experiencing a change in how we elect members. We want to go back to the system where we have one member, one constituency and direct accountability.” So that's what the thrust of my amendment is, Mr. Chairman. I also would point out that I have shared this with other parties, and did so I think last week, so that the government would have an opportunity to review the amendment.

1010

The Chair: Okay. Any other comments? Mr. Prue.

Mrs. Jeffrey: Mr. Chair, can I ask a procedural question?

The Chair: If Mr. Prue will yield for a question.

Mr. Prue: I will yield for a question.

Mrs. Jeffrey: Can I just ask a procedural question with regard to motions 8 and 9 being consequential to this motion? Can we deal with all of them at the same time so that if motion 4 is passed by the committee, then motions 8 and 9 would pass at the same time? Conversely, if motion 4 doesn't pass, then motions 8 and 9 would also not be passed at the same time, because they speak to this motion, they speak to referendums.

The Chair: Both would seem to be out of order if the amendment before us at the moment is defeated.

Mrs. Jeffrey: I was just making sure that was how I read it and that was the way it was going to be dealt with—at the same time.

The Chair: Mr. Prue.

Mr. Prue: I cannot support this motion. Just to be clear, there would be three elections in between, not two. There would be this one here in 2007—oh, I see, 2011

and 2015. But there could potentially be quite a few more if there are minority governments. It may not be two.

Mr. Sterling: That's true.

Mr. Prue: But what troubles me here is the wording "whether Ontario is to retain the new electoral system or revert to the one in existence at the time of the first referendum." I have no doubt, should the citizens' committee embark upon a program that will change the way votes are counted—some form of proportional representation or whatever—there may be areas that will need modification.

What troubles me here is that in the year 2019, seeing that a minor modification may be necessary, that will not be put on the ballot in terms of a change. What would happen is you keep a system which is in need of change, a new system which is in need of some kind of modification; maybe it'll work perfectly and everybody will be happy, but it may need a modification. But then you're going to have to throw the whole thing out and go back to a system that has been rejected in 2007 because there's no alternative.

Just the way this is struck, it gives either/or. I think that in the whole scheme of things, it is far better that the citizens in that year come up with what they want to do in the citizens' assembly and that the Legislature take a really hard look over the next 12 years as to what is necessary, not just keep what we passed or go back to the old one, because I'm sure there will be other alternatives by that time. I have difficulty in doing either/or, and I cannot support the motion.

Mr. Sterling: Can I respond to that objection or do you want me—

The Chair: The parliamentary assistant will yield to your response.

Mr. Sterling: Basically, Mr. Prue, this is but a piece of legislation. Presumably, if things changed with regard to the outcome of the referendum, if the outcome of the referendum was over 60% and there was a set-up and then it was modified, the Legislature could come back and amend this particular section. But I think there would be great pressure upon them not to drop the option of the electorate having a referendum in 2019, to take whatever the election will be in 2019 versus the present first-past-the-post system that we have. So this is the best you can do without foreseeing all of the changes that would be required in the future and therefore I would ask for your support on the basis that there really is no other way to do it.

Mrs. Jeffrey: This legislation is about the holding of a referendum. If the opposition believes it is important that any system be adopted and reviewed, then a second vote should be held and it's appropriate, but we would consider it at that time; we think this is premature. We won't be supporting the amendment.

Mr. Sterling: That's what they said in New Zealand, that they were going to give the public another opportunity to review their system, and when the parties got hold of their particular system they denied the public the opportunity to have a second referendum with regard

to the change of their system. That is why I wanted to insert it in this particular piece of legislation. If we are going to allow the public to have a referendum, whatever the threshold is, and we pass that particular motion 60%, if 60% plus one want to return to the present system in 2019, this gives them a much better chance of having that option without the interference of the parties at that time.

Chances are, if everybody is happy with regard to the new electoral system at that time, the referendum wouldn't pass. All I'm saying is, if we're going to give the public the opportunity to change, then we should give them the opportunity to go back if they find that the parties and the politicians have run away with accountability, as they see it, and they want to return to the 150 or 145 years of history that we have benefited from in the present system.

The Chair: Okay. Shall the amendment carry? Those in favour? Opposed, if any? It is defeated.

Shall section 6 carry? Okay.

That brings us to an NDP motion on page 5.

Mr. Prue: I move that the bill be amended by adding the following section:

"Enumeration

"6.1 The Chief Election Officer shall cause a full enumeration to be conducted for every electoral district under section 18 of the Election Act, so as to ensure that the register of electors to be used in the referendum is as complete and accurate as possible."

If it's in order, and I trust it is, the rationale for this is that we have been through a number of elections since we've had this floating—or whatever it's called—electors list. I don't know anyone who thinks it works. If you go to apartment buildings, where people move quite often, you will find that literally no one is on the electors list. People have moved away. You have a whole list of people who are no longer there, no longer exist. It's very difficult to get a count. People are left off. I can only speak from my own experience. In the last four elections in a row I've had to go down and register myself. I don't know who thinks this system works, because it does not. We had at least one deputant talk about this.

In conjunction with an election and a referendum, it seems like a good time to go back to a system that did not fail us in the past and certainly where we can get a much better handle on the actual numbers of electors. It's very important, not only for the sanctity of the process, but it's also important for candidates, the political parties, because it is from the actual number of registered electors that the financing takes place where candidates who get above 15%—the expenditures that they're allowed to make. Right now those numbers are skewed and wildly inaccurate.

We ask that for at least this election we go back to an enumeration and get the system back into gear again, a system that is not working.

The Chair: Thank you, Mr. Prue. Parliamentary assistant?

Mrs. Jeffrey: I was kind of hoping you were going to rule this out of order. I don't think this is within the scope

of the bill, and I wonder if you would make a procedural—I think that's why Mr. Prue delayed at the beginning. He hesitated, expecting to be ruled, perhaps, Mr. Chair.

1020

Mr. Prue: No, I did not expect to be ruled, but I thought—

The Chair: I'm going to rule it's in order.

Mrs. Jeffrey: Even though part of what he's suggesting would affect the Elections Act?

The Chair: Let me consult, because it changes another act.

Mr. Prue: It doesn't change the act.

The Chair: Hold on for a second.

So it's in order. Go ahead, madam parliamentary assistant, if you want to speak to it.

Mrs. Jeffrey: Sure. We agree that it's important to have accurate and complete voter lists. That's an important part of our democratic process. We're sorry to hear that Mr. Prue hasn't been on the list the last four times, but we understand that the Chief Election Officer is trying to be proactive and update and improve the voters list, which I imagine is a moving target, with people moving across and around the province. I know that they've done targeted revisions; they did for the 2003 provincial election, and they visited over two million households.

The permanent register of electors for Ontario is refreshed from a variety of sources, either from Revenue Canada, the Ministry of Transportation, the Ontario Registrar, Citizenship and Immigration, and from final voters lists from federal and provincial elections, as well as MPAC information. We know that information gets shared between municipalities for people who have moved within their electoral district. We know that Elections Ontario takes steps before and during elections to revise those voters lists and to register electors. We can't support this amendment.

The Chair: Mr. Sterling.

Mr. Sterling: I just want to indicate my support for the amendment. I had hoped that the government, having had, I presume, advance notice of the NDP motions as well, might have brought back something in response to this. I think one of the problems the Chief Election Officer has now with delivering on the implementation of this kind of enumeration is the short period of time that we used to have in the writ period. Now that we have essentially a fixed election day, I think that this is more within the range of the capability of the Chief Election Officer to carry out an enumeration. You could basically start this three months in advance of the election and therefore go ahead. While it might be less accurate than the old records, there certainly would be the time.

I fully support the arguments that Mr. Prue puts forward with regard to the enumeration in the past. I was involved as a scrutineer in the recent by-elections. I was appalled at the lists in terms of how inaccurate they were, how many people were left off those lists. Only because it was a very light vote was it possible for the polling

booths to keep the business going. So I support this amendment.

The Chair: Shall the amendment carry?

Mr. Prue: On a recorded vote, please.

Ayes

Prue, Sterling.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: The amendment is defeated.

Are there any comments on section 7 through to section 18, up to and inclusive of section 18?

Shall sections 7 through 18 therefore be carried? Carried.

That brings us to section 19, the amendment on page 6.

Mr. Prue: I believe that section 19 comes before. That should be voted on. I leave that up to you because you're the Chair. No?

The Clerk of the Committee (Ms. Tonia Grannum): This is within section 19.

Mr. Prue: All right. With that clarification, I move that section 19 of the bill be amended by adding the following subsection:

“Purpose of regulations

“(1.1) The purpose of the regulations is to govern the referendum by provisions that,

“(a) resemble the provisions of the Election Finances Act as much as possible; and

“(b) are not unduly onerous or limiting for referendum campaign organizers.”

By way of explanation, section 19 sets out a whole list, with which I am in agreement, of what needs to happen for the referendum campaign, referendum campaign finances. It's got some 13 or 14 aspects to it. What we are merely saying at the end is that the purpose of the regulations—they need to be interpreted and as closely as possible resemble the provisions of the Election Finances Act and help, not hinder, people who are referendum campaign organizers either on one side or the other. It's not clear how these will be interpreted. This is an attempt so that it is made more clear that this will be conducted in much the same way as an ordinary election and that people working on this process will have the same kind of latitudes, freedoms and obligations as those who work on partisan election campaigns.

Mr. Sterling: Can I ask a question of legislative counsel? Is it normal or have we put in legislation the purpose of regulations? I don't know whether I've seen that before or not. Is that normal, for us to do that?

Ms. Cornelia Schuh: It's not common, but I don't see any rule that would oppose it.

Mr. Sterling: Okay. Just a further comment on this. This, Mr. Chair, would be the area where I would have put in the right of the Lieutenant Governor in Council to

allow the financing of the Yes and the No sides. It appears that these regulations give the cabinet the right to make rules around who can organize in terms of promoting or going against the particular referendum question, but it really doesn't offer any assistance to those particular groups. If we are going to require them to come in line with regulations, register and that kind of thing, I think it's only fair that we provide them with some kind of financing ability.

The Chair: Okay. Any further speakers? The parliamentary assistant.

Mrs. Jeffrey: I guess I wanted to just comment on the amendment, or the motion. We're encouraged by the fact that we heard from so many Ontarians who are encouraged and excited about participating in the referendum, and we certainly understand the importance of transparency in respect to the rules that govern the potential referendum campaign period.

The structure we've proposed for the referendum campaign finances is similar to the Election Finances Act. It would include spending and contribution limits, advertising rules, and reporting and record-keeping requirements similar to those of governing parties and candidates. The regulations could impose regulation requirements on people and entities who wish to campaign in the referendum, and the legislation and regulations would not allow for public subsidy of referendum campaign expenses.

We believe that ultimately the rules will be familiar to Ontarians and those involved in the political process in Ontario and that the rules will enable a lively and engaged electorate in the referendum debate and establish an inclusive process that is fair and transparent.

We feel that the proposed amendments are problematic in that they fail to articulate a legally certain standard. Therefore, we will not be supporting the motion.

The Chair: Okay. I'll put the question on the amendment.

Mr. Sterling: Can I ask a question, Chair?

The Chair: Yes, of course.

Mr. Sterling: You mentioned that the organizers—this is about the financing of these organizations who are either for or against the referendum. People can donate to these particular organizations, but there's no advantage in terms of tax credits; there's no government funding of the Yes or the No side. So basically they are left on their own to raise their money, and that's the point I was making. I think we want to be very, very clear that there's no guarantee that either side is going to have the necessary financing to go on television, to raise the profile of this particular issue.

The Chair: Okay. Thank you.

1030

Mr. Prue: A recorded vote, please.

The Chair: A recorded vote.

Nays

Jeffrey, Mossop, Peterson, Qaadri, Racco.

The Chair: The amendment is defeated.

Shall section 19 carry? Carried.

That brings us to section 20, PC—okay, there's notice with respect to 20, so we'll go right to the government, then, on page 7.

Mrs. Jeffrey: I move that section 20 of the bill be struck out and the following substituted:

“Repeal

“20(1) If a referendum is held in accordance with section 2,

“(a) sections 2 to 11, sections 17, 18 and 19 and tables 1 and 2 are repealed on the day the Legislature is dissolved for the first time after the 2007 general election; and

“(b) the remaining provisions of this act are repealed on October 10, 2013.

“(2) If no referendum is held in accordance with section 2, this act is repealed on the day the Legislature is dissolved for the first time after the 2007 general election.”

This motion would amend the repeal provision of the referendum legislation. Currently, the legislation provides that the legislation in its entirety is repealed when the first general election is called after the upcoming October 10, 2007, general election. This could, at a maximum, be in October 2011. It is required by statute 12(1)(e) that the Chief Election Officer publish on the Internet for six years all guidelines and directions he or she issues, as well as any financial reports that he or she receives from the referendum campaign organizers. This is similar to the rule under the Election Finances Act. In order for statute 12(1)(e) to remain in force, the repeal provision needs to be adjusted to accommodate this extended time frame.

As long as these records are published, the interpretations (section 1) and enforcement provisions (sections 12 to 16) also need to remain in place in case any reporting discrepancies are revealed that need to be examined. The repeal deadline needs to be extended to October 2013, but only if a referendum is held. Otherwise, the current repeal provision is fine.

This is a housekeeping or technical amendment and it will ensure that if a referendum is held, the referendum campaign finance reporting is transparent and consistent with the Election Finances Act, as recommended by presenters before the committee. If you'll recall, OPSEU made this recommendation in one of the presentations. I believe Susan Smith expressed concern that if the referendum was held without a change to the existing repeal provision, the Chief Election Officer might not have to keep the financial reports he receives from a referendum campaign organizer posted on the Internet for six years, as intended. This amendment ensures that if a referendum is held, all financial reports and related materials will remain posted until October 13. This is the

Ayes

Prue, Sterling.

same length of time that the Election Finances Act has documents remain posted. Additionally, if a referendum is held, it will ensure that the Chief Election Officer will have ample time and authority to investigate any referendum finance complaints that should occur.

The Chair: Thank you. Shall the amendment carry?

All those in favour? Opposed? It is carried.

Shall section 20, as amended, be carried? Carried.

Shall section 21 be carried? Carried.

The motion with respect to section 22 has been ruled out of order.

Shall section 22 be carried? Carried.

Mr. Sterling: How is it out of order? I was going to withdraw anyway, because it doesn't make any sense, because I hadn't changed—

The Chair: That's why it's out of order.

The Clerk of the Committee: We haven't changed the bill enough to warrant the change in the title.

The Chair: We should withdraw everything that doesn't make any sense.

Mr. Sterling: The long title—I withdraw that motion as well.

The Chair: Withdrawn; okay.

Table 1, Special Rules Relating to Scrutineers: Shall that be carried? Carried.

Shall table 2 be carried? Carried.

Shall the long title of the act be carried? Carried.

Shall Bill 155, as amended, be carried?

Mr. Prue: Recorded vote.

The Chair: A recorded vote.

Ayes

Jeffrey, Mossop, Peterson, Qaadri, Racco, Sterling.

Nays

Prue.

The Chair: It is carried.

Shall I report the bill, as amended, to the House? All those in favour? Carried.

Just before we adjourn, let me just make a comment as the Chair. Behind every reasonably decent Chair is a wonderfully exceptional clerk and legal support staff. We want to just express our appreciation and thanks to them for bearing with us through this onerous process.

Shall we adjourn? Carried.

The committee adjourned at 1036.

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