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Chair

Mr. Pat Martin

Standing Committee on Access to Information, Privacy and Ethics

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• (1100)

[English]

The Chair (Mr. Pat Martin (Winnipeg Centre, NDP)): Welcome, ladies and gentlemen. I see the clock at 11:01. We will convene this meeting of the Standing Committee on Access to Information, Privacy and Ethics.

We're convened today pursuant to the order of reference of Wednesday, February 12, 2014, Bill C-520, an act supporting non-partisan agents of Parliament. We welcome as our witness the sponsor of that bill, Mr. Mark Adler.

Mr. Adler, I understand you're one of the lucky members of Parliament whose private member's bill actually succeeded in passing at second reading. It has been duly referred to this committee for your presentation, then examination by and testimony from witnesses, and ultimately a clause-by-clause analysis.

The first hour of this meeting is dedicated to you. I hope you have opening remarks. Then we'll open it to questions from the floor.

You have approximately 10 minutes, Mr. Adler.

Mr. Mark Adler (York Centre, CPC): Mr. Chair, it's an honour and privilege for me to be here today before the Standing Committee on Access to Information, Privacy and Ethics to speak on my private member's bill, Bill C-520, an act supporting non-partisan agents of Parliament.

The purpose of my bill is to improve transparency. Bill C-520 requires agents of Parliament and the employees in their offices to make a public declaration if they occupied a politically partisan position in the 10 years before their appointment. It also serves to affirm their commitment to conducting themselves in a non-partisan manner while employed in these specific offices.

This bill identifies nine specific offices with unique responsibilities and roles. Given their specific watchdog duties, it is imperative that the so-called agents of Parliament be seen to be non-partisan and free of political influence. At every step of the process in preparing a report or dealing with a case, from the selection of what to study to the research to the basic wording used, neutrality and independence must be maintained.

Let me be clear. The intent of this bill is not to limit any person's ability or freedom to engage fully in the political process of Canada; rather, the intent is to create a measure of trust and confidence in the neutrality and non-partisan nature of the offices of the agents of Parliament. I submit that the proposed legislation will enhance the legitimacy of the agents of Parliament and will make sure that the

public is aware of any professional partisan position held by the agents and their staff.

The nine specific offices that my private member's bill focuses on include the office of the Information Commissioner of Canada, the Chief Electoral Officer, the office of the Auditor General, the office of the Commissioner of Lobbying of Canada, the office of the Conflict of Interest and Ethics Commissioner, the office of the Public Sector Integrity Commissioner of Canada, the office of the Senate Ethics Officer, the office of the Privacy Commissioner of Canada, and the office of the Commissioner of Official Languages.

These agents of Parliament are a sole group of independent statutory officers who serve to scrutinize the activity of legislators and the government. I submit to you that their offices will only be enhanced by the public confidence Bill C-520 will provide.

All of the offices I mentioned report directly to Parliament rather than to government or to an individual minister and as such exist to serve Parliament in relation to Parliament's oversight role. The oversight role played by the agents is a crucial component of the balance and fairness of our institutions and the legitimacy of our Westminster style of democracy. It is critical that in carrying out their duties, the agents be independent of political affiliation. Neutrality in the office of an agent of Parliament is imperative to ensuring that Canadians receive information in a manner that is clear and trustworthy.

Mr. Chair, I would like to emphasize again the special role the nine agencies identified in my bill play in the democratic system. We already hold these groups to the highest standard of objectivity. We require them to sign an oath of impartiality and we ask them to take measures to guard against partisanship either real or perceived. The Chief Electoral Officer is even banned from voting in elections in order to maintain these standards. Bill C-520 simply suggests that given these exceptional standards, the agents and their employees should be required to disclose past or future partisan positions and continue to build transparency and openness into our democracy.

To further promote transparency, all declarations from employees would be posted on the website of the office of the relevant agent of Parliament. The declarations would state whether, in the 10 years before applying for that position, the person had occupied certain specified political partisan positions. Such a declaration would also state whether these persons intended to occupy a politically partisan position while continuing to occupy the position of agent of Parliament or to work in the office of such an agent.

In addition, the bill would require an agent of Parliament and the persons who work in his or her office to provide a written undertaking that they will conduct themselves in a non-partisan manner in fulfilling the official duties and responsibilities of their positions.

Canadians said they wanted a transparent government. Time and time again, I am proud to say, our government has brought into force legislation that increases transparency and accountability. Our government brought Canadians the Federal Accountability Act. We reformed the Lobbying Act. We brought into force the Conflict of Interest Act which named the Conflict of Interest and Ethics Commissioner. Our government eased the process of information disclosure, making it easier for Canadians to call to account their representatives.

•(1105)

The number of records that our government has released has increased, while the turnaround time has decreased. The numbers speak for themselves. Our government is committed to increasing government transparency and accountability.

Mr. Chair, this call for transparency and accountability is not something we can take lightly. The statutes that created these agents of Parliament do not imply the need for impartiality; they demand impartiality. With great power comes great responsibility.

If we look at some of the legislation about the agents themselves, the need for objectivity is clear. Subsection 15(1) of the Auditor General Act states:

The officers and employees that are necessary to enable the Auditor General to perform his or her duties are to be appointed in accordance with the Public Service Employment Act and...the provisions of that Act apply to those offices and employees.

The act goes on to make explicit the call for impartiality.

Before commencing his or her functions, a commissioner shall take an oath or make a solemn affirmation in the following form before the Clerk of the Privy Council or the person designated by the clerk:

I...do swear (or solemnly affirm) that I will faithfully, truly and impartially, to the best of my judgment, skill and ability, execute and perform the office of... of the Public Service Commission.

Further to that, subsection 23(1) of the Canada Elections Act states:

Before assuming duties, an election officer shall swear an oath in writing, in the prescribed form, to perform the duties of the office in an impartial manner.

In addition, the commissioners of privacy, conflict of interest and ethics, information, lobbying, public sector integrity, and official languages are all deemed to be employed in the public service and

thus are bound to the same oath found in the Public Service Employment Act when carrying out their duties.

Mr. Chair, I submit that the requirements found within my private member's bill, Bill C-520, expect from these agents the highest level of transparency and that they are already swearing to it in their oath; moreover, that they improve these laws by adding transparency and making all declarations available for the public to see.

Legislation similar to my private member's bill exists in other Commonwealth nations.

In Australia, for example, the national integrity commission bill, Bill 2013, in paragraph 7(1)(a), prohibits "any conduct of any person that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by the Parliament, a Commonwealth agency, any public official or any group or body of public officials" and continues by prohibiting "any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions."

In conclusion, Bill C-520 will enhance transparency. This bill is in line with our government's efforts towards transparency and accountability. I hope that the committee sees the value of my proposed legislation.

I believe we can all agree this is an important step to strengthening our democracy. As U.S. Supreme Court Justice Louis Brandeis has said, sunshine is the best disinfectant.

Thank you.

•(1110)

The Chair: I thought that was my line, but I see that I've been plagiarizing all this time.

Thank you, Mr. Adler, for that presentation.

I know there are a lot of questions. First, for the official opposition, the New Democratic Party, we have Mr. Charlie Angus.

Mr. Charlie Angus (Timmins—James Bay, NDP): Mr. Adler, recently your colleague Pierre Poilievre insinuated that Elections Canada wears a team jersey, signifying that they do their work in a politically partisan manner.

Have you any examples of the nine agents of Parliament you described undertaking activities in a partisan manner?

Mr. Mark Adler: Thank you, Mr. Angus, for that question.

All that my bill lays out is that these nine agencies have a very special role to play in our parliamentary democracy. In fact, as I mentioned in my remarks, even the head of Elections Canada can't vote. Now—

Mr. Charlie Angus: Yes, but do you have any examples? Has this been a problem? You say it's an "imperative".

You refer to them as "so-called agents of Parliament". They are actual agents of Parliament; they're not "so-called".

Do you have any examples? If this is so imperative, you should have some examples. Where, other than in your colleague's attack on Mr. Mayrand, have these agents of Parliament acted in a partisan manner?

Mr. Mark Adler: Well, Mr. Angus, I'm trying to answer your question, if you'll give me the time to do so.

What I'm telling you is that my private member's bill will enhance transparency and accountability. These special agents of Parliament hold a very special responsibility in our parliamentary system, and all I'm trying to do with my private member's bill—

Mr. Charlie Angus: So you don't have any examples.

Well, I'll continue. I only have seven minutes. You don't have any examples.

Partisan activity is already prohibited under the Public Service Employment Act, but what is not included that would be different in your bill is the ability of members of Parliament or of the Senate to demand investigations against these agents of Parliament.

Your colleague Mr. Penashue had to resign in disgrace because of investigations by Elections Canada. If your bill became law, would it have been possible for Mr. Penashue to demand an investigation into whether Elections Canada was unfairly picking on him? Would it suffice, under clause 9 of your bill?

Mr. Mark Adler: Well, Mr. Angus, quite frankly, I'm not here to comment on other members of Parliament and what they have or have not said. What I'm here to talk about is my own private member's bill—

Mr. Charlie Angus: But I'm trying to understand the bill here.

Let's say that cabinet minister X is under investigation by Elections Canada. Cabinet minister X thinks.... Or let's say that it's parliamentary secretary X who says, "I feel violated and betrayed by an agency in which I and every other member of this place, indeed all Canadians, must place their trust, and I feel strongly that this process has been conducted"—this process being an investigation by Elections Canada—"with malice and contempt for me as a member and for my family's well-being."

Furthermore, let's say that person X, a former parliamentary secretary to the prime minister, says that being investigated for abusing the electoral laws of Canada is a breach of his privilege. Under your bill, he'd be able to make a complaint, would he not? Right now, Mr. X, Mr. Dean Del Mastro, is unable to make that complaint, but under clause 9 he would be able to make a complaint. Am I correct?

Mr. Mark Adler: Well, let me just tell you, Mr. Angus, once again, that the purpose of my bill is to bring—

Mr. Charlie Angus: Just answer the question. Will he be able to

Mr. Mark Adler: I'm trying to answer the question—

Mr. Charlie Angus: Tell me—

Mr. Mark Adler: Chair, I'm trying to answer but he won't let me.

Mr. Charlie Angus: —does he have the power to do that?

I've read your bill. I want to know, in your opinion, would member X, Mr. Dean Del Mastro, who feels that his rights were abused by being investigated by Elections Canada, be able to launch an investigation against Elections Canada?

Mr. Mark Adler: Mr. Angus, I'm not here to comment on specific cases. What I'm here to talk about is my private member's bill, Bill C-520. What I'm telling you is that these agencies hold a very unique role in our parliamentary system—

Mr. Charlie Angus: I understand that, so—

Mr. Mark Adler: —but let me just tell you—

Mr. Charlie Angus: —transparency, Mr. Adler, I like your word "transparency". Under clause 10 of your bill, these agents of Parliament, after having been called out by one of your colleagues, "must submit a report to Parliament".

When your colleague Mike Duffy and your colleague Nigel Wright were being accused of fraud and bribery, it was handed over to the Ethics Commissioner, but the Ethics Commissioner had no power to investigate Mike Duffy because he was a senator. Tell me if I'm wrong. Under clause 9, if Mike Duffy were still a sitting senator, Mike Duffy would be able to demand an investigation of the Ethics Commissioner even though the Ethics Commissioner couldn't investigate Mike Duffy. Is that not correct?

•(1115)

Mr. Mark Adler: You know what, Mr. Angus? This bill will protect all members of Parliament. This is not a partisan bill—

Mr. Charlie Angus: No, but if you understand this, you should be able to explain. Would Mike Duffy have been able to demand an investigation of the Ethics Commissioner? The Ethics Commissioner doesn't have the power to investigate Mike Duffy.

Mr. Mark Adler: Mr. Angus, I'm here to talk about not specific incidents. I'm here to talk about my bill and my—

Mr. Charlie Angus: Okay, so transparency; I like your word "transparency".

The Conservatives, our colleagues on the other side, have just brought in changes to the Conflict of Interest Act, and they're very worried about vexatious investigations. In fact, what they're saying is that when your colleagues, your fellow cabinet ministers and parliamentary secretaries are investigated for lobbying, for taking money inappropriately, those investigations must be kept secret by the Ethics Commissioner. That's what they're calling for in the conflict of interest changes.

I don't see any obligation for this to be kept secret when one of your members wants an investigation against an officer of Parliament. Why wouldn't you have the same protection that your colleagues are putting in for cabinet ministers? Wouldn't you think it would be fair if you, for example, decide to make a vexatious complaint against the Ethics Commissioner that it would be kept secret until it's been discussed? I want to know why, in transparency, it's fine for you and your colleagues to attack officers of Parliament, but officers of Parliament have to keep their investigations against your colleagues secret. Why is that missing?

Mr. Mark Adler: I'm not here to talk about other pieces of legislation, other proposed legislation. Bill C-520—

Mr. Charlie Angus: But don't you think it would be good to have that to protect against vexatious complaints?

Mr. Mark Adler: This is to protect all members of Parliament, not just any one particular party. When a member of Parliament or a senator suspects that a member of one of these agencies acted in a partisan manner, they may request, they can request, of the head of that agency to conduct an investigation—

Mr. Charlie Angus: But you haven't given us any example—

Mr. Mark Adler: The head of that agency—

Mr. Charlie Angus: —other than the attack on Marc Mayrand—

Mr. Mark Adler: —may conduct an investigation—

Mr. Charlie Angus: You don't have an example.

The Chair: Actually, you only have about 30 seconds left. If you want to complete your—

Mr. Charlie Angus: Okay. Could—

The Chair: No, I'm going to let Mr. Adler conclude his remark.

Had you finished your comment?

Mr. Mark Adler: Thank you, Chair.

Let me just say that the member of Parliament or the senator can ask the head of the agency to conduct an investigation. If the head of that agency deems it's worthwhile, deems.... In the proposed bill, it says "may" conduct an investigation. If it seems on the, I guess, prima facie case that there is evidence of a political agenda or partisan activity, then the head of that agency can conduct an investigation and make those findings available to both the Speaker of the House and the Speaker of the Senate, all very public.

Mr. Charlie Angus: And would you be able to do that as a smear? You could just put out a press release saying that you think Elections Canada is unfairly targeting Mr. Penashue, Mr. Dean Del Mastro—

The Chair: I'm afraid you're out of time, Mr. Angus. There's no time for a response to that.

The next questioner is Mr. Calandra, for seven minutes, please.

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Mr. Adler, congratulations on being able to bring a private member's bill forward.

I think it's pretty obvious, and I imagine you must have known when you were drafting the bill, that this would be a bill that would bring some controversy or contention with it. From the first round of questioning, I think it's quite obvious the avenue that at least the opposition is going to go on here.

I'm more concerned with what your motivations are on this. In particular, I think it was quite clear from the moment the bill was introduced that many people were categorizing this as a bit of a witch hunt. I'm wondering if you can address that, and indicate what your motivation was in bringing the bill forward. Also, perhaps you could address the witch hunt aspect of this bill.

Mr. Mark Adler: Thank you for that question, Mr. Calandra.

Quite frankly, this bill will benefit all members of Parliament. It's really to enhance transparency and accountability. Once again, these offices, these nine agents of Parliament, hold a very unique position within our parliamentary democracy. These people sit in judgment on members of Parliament. Currently, the people who are employed

in these agencies must sign an oath. Nothing on that front changes. The only change that we're asking for here in my private member's bill is that any partisan activity dating back 10 years be made public.

For the life of me, I can't understand why anybody would be against transparency. I think that transparency is a good thing. Certainly, my constituents tell me when I go door to door in my own riding of York Centre that the more transparency and accountability, the better. This is consistent with what our government has been doing since we came into power in 2006 initially with the Federal Accountability Act. On that score, we've introduced a number of other pieces of legislation to improve transparency. This is just another leg on the stool.

I think transparency is a good thing. I think this bill is a good thing. The more information that's available to the public, to the people of Canada, the better.

• (1120)

Mr. Paul Calandra: It's safe to say that your goal with the legislation isn't to investigate current partisans within particular agencies. It's not outing anybody for being a particular partisan. The goal is, obviously, moving forward to help ensure that these agencies continue to work in the fashion that at least I believe they are right now, a non-partisan fashion. This just adds to that level of accountability.

I asked that only because I think Mr. Angus wasn't quite understanding the purpose of the bill. He seems to be looking for a retroactivity in this, trying to get you to out people who might be partisan. That's not what this is about, I'm assuming. This is about moving forward and adding another layer of accountability. Am I correct on that?

Mr. Mark Adler: Exactly, exactly.

Mr. Paul Calandra: Again, just give me a bit more on the motivation. Obviously, it's a great honour to be able to bring a private member's bill forward. I never had the opportunity when I was first elected. I think I was 212 on the list or something like that. Just give me a little bit of the rationale, your motivation, for using your spot to bring this forward.

Mr. Mark Adler: Given our focus on transparency and accountability as a government, and given that in the riding, as I said, people have been telling me that the more transparency the better, with that in mind, in anticipation of my position coming up for a private member's bill, I wanted to do something that would enhance the transparency of government in one fashion or another. In my readings, I came across that these agents, these nine specific agencies of Parliament, all of whom must take an oath to be non-partisan.... I thought it would be just another higher level of transparency and better for the Canadian people to have more enhanced information, more enhanced exposure, and allow members of Parliament also to have that added level of confidence that, when they're being investigated, they are being investigated by people who are non-partisan. It's very, very important.

Given the import that I placed on this, I thought this would make a good private member's bill. Therefore, I began to pursue it.

Mr. Paul Calandra: If I'm getting this, in essence you're trying to add another tool to the tool kit for these agents to ensure they provide that level of accountability and non-partisan accountability so that when a member of Parliament or a senator has a complaint, they can be assured that it is being dealt with in as non-partisan a fashion as we would expect.

Mr. Mark Adler: That's a very good way of putting it. This bill is not just for the governing party. This bill will enhance the powers of all members of Parliament regardless of party. This has no partisan intent whatsoever. Yes, if a partisan initiative is suspected by a member of Parliament, once again, it can be referred to the head of that agency. The head of the agency may conduct investigations if they deem that partisan activity conducted or guided the investigation in any substantive way. It's about transparency, plain and simple.

• (1125)

The Chair: Thank you, Mr. Calandra. That concludes your seven minutes.

Next for the Liberal Party, we have Mr. Scott Andrews. You have seven minutes, Mr. Andrews.

Mr. Scott Andrews (Avalon, Lib.): Thank you very much, Mr. Chair,

Full disclosure and transparency are good things, and I think we all aspire to do more of that.

I'd like to ask you a question about what you call past partisanship and how past partisanship in one person's life is considered a bad thing. Why is one's past partisanship an important part of this bill? You said "free of political influence". If someone has past partisanship, does that entitle them to some sort of political influence?

Mr. Mark Adler: No, not at all. First of all, I have never said that past partisan activity is a bad thing. People have different journeys in their lives, and it takes them down different roads. The expectation from people who work in these offices is that they be non-partisan. They even have to swear an oath to that effect. This sheds light on the fact that the oath they take is pretty much codifying what they're saying. Past partisan position is clearly enumerated and defined within the bill, and it includes being an electoral candidate, an electoral district association officer, a member of a ministerial staff, a member of a parliamentary staff, or a member of a political staff.

Let's face it, Mr. Andrews. You wouldn't accept an employee of mine, say my chief of staff, and try to hire that person away to work in your office, because you would have some suspicions about their past political affiliations. This sheds light. It opens the curtain. It lets the light in and allows the members of Parliament and people to see that people have had past partisan activity, period. It's as simple as that.

Mr. Scott Andrews: You didn't explain why someone's past partisanship is a bad thing.

You, sir, were a Liberal staffer at one point in your life. You were a donor to the Liberal Party, and you said more information is better and that the public deserves more. I don't think you disclosed any of that when you were running for office yourself.

Mr. Mark Adler: The mere fact that you know about it clearly shows that it was disclosed. It's clear. The whole point of my bill is

transparency. You just proved my point, that transparency is a good thing.

Mr. Andrews, I'm expected as a politician, as you are, to be partisan. There's nothing wrong with that. Never once did I say, contrary to what you said that partisan activity is a bad thing—

Mr. Scott Andrews: No, sir. No. No, sir.

Mr. Mark Adler: I'm not making any judgment here. This is just the fact that people who work in these agencies merely put any past partisan activity on a public website for all to see. This bill doesn't judge anyone. It just makes it open and transparent.

Mr. Scott Andrews: You didn't put that on your campaign material or on your website when you were running for office.

Mr. Mark Adler: Mr. Andrews, I'm here to talk about my private member's bill, and—

Mr. Scott Andrews: I'm just trying to get my head around past partisanship and involvement with an agent of Parliament, free of political influence. Has your past partisanship now freed you of any political influences? Do your colleagues in your party think that you're free of Liberal influence now?

Mr. Mark Adler: Mr. Andrews, about my past, I'm happy to discuss that with you outside of committee, but I'm here to talk about Bill C-520, my private member's bill. If you want to talk about my past political affiliations and my experiences, I'm happy to talk to you about that outside of committee.

Mr. Scott Andrews: Mr. Adler, as an agent of Parliament yourself as a member of Parliament, after you get elected, I think we all strive to a position where we try to act as a non-partisan. We try to not let our partisan activity influence us when we're helping our constituents and that kind of thing. Don't you try to raise yourself above that bar after you're elected?

• (1130)

Mr. Mark Adler: Mr. Andrews, clearly this bill talks about the nine agencies, the exceptional agencies that have to do with reporting to Parliament, not members—

Mr. Scott Andrews: Members of Parliament are exceptional, too. They are elected by people not from their own parties—

Mr. Mark Adler: Yes, but they're not covered by this bill.

Mr. Scott Andrews: I'm trying to make the analogy between an agent of Parliament—

Mr. Mark Adler: What I'm here to talk about are the nine agencies of Parliament—

The Chair: Order, order. One at a time.

If you want to pose your question, Mr. Andrews, then we'll give Mr. Adler time to answer it.

Mr. Scott Andrews: What's the difference between a member of Parliament being non-partisan after he's elected and an agent of Parliament after he's appointed being non-partisan?

Mr. Mark Adler: The difference is that I'm here to talk about Bill C-520 and the nine enumerated agencies that report to Parliament. As I said, I'm happy to have a discussion with you offline at any time about my personal life. That's fine. But I'm here to talk about the—

Mr. Scott Andrews: You want to know about the personal lives of these agents of Parliament, though.

Mr. Mark Adler: Mr. Andrews, the people in these agencies have a very exceptional role in our parliamentary system. They swear an oath. The expectation is that they be non-partisan—

Mr. Scott Andrews: Isn't that enough? They swore an oath.

Mr. Mark Adler: What this does.... I can't understand why anybody would be against more transparency. Transparency is a good thing.

Mr. Scott Andrews: These agents of Parliament are coming before our committee. Do you think that's a good idea to have them come before our committee to address this as well and get an understanding?

Mr. Mark Adler: I'm sorry. Would you repeat that, please?

Mr. Scott Andrews: I said that these agents of Parliament are going to appear before this committee. Do you think they have something to add to the discussion on your bill?

Mr. Mark Adler: I don't know. You'll have to ask them and wait for them to appear before the committee.

Mr. Scott Andrews: But do you think it's a good idea to be fair—

Mr. Mark Adler: I don't know what they're going to say, and I'm not going to anticipate. I can only speak—

Mr. Scott Andrews: But do you think it's a good thing for them to appear before the committee on this bill?

Mr. Mark Adler: Mr. Andrews, they will appear, and you will have ample time, I'm assuming, to ask them questions.

Mr. Scott Andrews: But is that a good idea for them to come before this committee to discuss your bill?

Mr. Mark Adler: Listen, I'm here at committee. I'm here in the spirit of fulsome discussion of Bill C-520. That's why I'm here.

Mr. Scott Andrews: Do you think they should appear before the committee to discuss their past involvement and their lives prior to being elected to Parliament, how they actually got their jobs? These individuals are there now. How did they go through the process of being—

Mr. Mark Adler: Quite frankly, I don't know what you're talking about, because it's not within Bill C-520. I don't—

Mr. Scott Andrews: Their names are in Bill C-520. I'm just wondering if it's a good idea for them to come here to discuss your bill.

Mr. Mark Adler: I don't know. You'll have to ask them that question when they appear.

The Chair: Mr. Andrews, I'm afraid your seven minutes are up. Thank you.

The Conservatives are going to split their time, with Mr. Calandra first and then Mr. Zimmer.

Mr. Paul Calandra: Thank you.

Mr. Andrews has brought this up with respect to your past. I guess he doesn't look at elections.ca to see when people donate to political parties. He's probably never heard of the website, I guess.

You of course aren't the only person who has been a Liberal in his past. There are many people who have been Liberals in their past. I, too, was once a Liberal, when I was about 14 or 15, and then I grew up and got educated and became a Conservative.

Since Mr. Andrews is so concerned about your past, I'm wondering if you could help explain what it was that so turned you off the Liberals. Was it the fact that they always broke election promises? Was it the fact that they promised to get rid of the GST and lied about that? Was it the fact that they promised to enact Kyoto, but then admitted that they actually never had any intention of doing it because it was just really a—

Mr. Mathieu Ravignat (Pontiac, NDP): Point of order, Mr. Chair.

The Chair: We have a point of order from Mr. Ravignat.

Mr. Mathieu Ravignat: Mr. Chair, with all due respect to my honourable colleague and his questions, I'm here, as I think most of us are, to hear about Bill C-520. I think this line of questioning is irrelevant and not particularly on subject, so I'd like you to rule on that, Mr. Chair.

The Chair: The point of order is one on relevance. I'm inclined to agree that you do have a point.

Mr. Calandra, could you limit your questioning to something at least related to Bill C-520.

Mr. Paul Calandra: Can I actually finish the question then, Mr. Chair? Is that okay with you?

• (1135)

The Chair: As long as you can bring it around to Bill C-520.

Mr. Paul Calandra: Of all of those things, since it was actually brought up by Mr. Andrews in his questioning and apparently now they're not interested in hearing the answer to the question that they brought up, I'm wondering if you could also then share with the committee, because it seems to be a point of contention, what it was that turned you off the Liberals and made you want to come forward and serve as a Conservative member of Parliament?

Mr. Mark Adler: Thank you very much—

The Chair: Mr. Calandra, if I'm going to be consistent on relevance, really I don't know if that has any bearing on Bill C-520.

Mr. Paul Calandra: Mr. Chair, sorry, it was brought up actually by Mr. Andrews. I didn't—

The Chair: Yes, but nobody called a point of order on relevance on Mr. Andrews. He can use his seven minutes as he sees fit.

You've been called into line by a legitimate point of order. I don't see the relevance.

Therefore, if you have any other questions—

Mr. Paul Calandra: I challenge your ruling, Chair. I'd like to hear the question answered.

The Chair: The chair has been challenged.

[Ruling of the chair overturned]

The Chair: The ruling of the chair has been overturned.

A voice: It's time for the kangaroo court.

The Chair: It's your seven minutes. Answer the question, if you like.

Thank you.

Mr. Mark Adler: Well, Mr. Calandra, as you know, there are many of us who...and I speak to a lot of people who are—

The Chair: On a point of order, Mr. Andrews.

Mr. Scott Andrews: Mr. Chair, on a point of order, the witness asked if he and I could have a conversation offline about my subject. Maybe he could have the same conversation offline with his Conservative colleague.

The Chair: You don't have a point of order.

Carry on, Mr. Adler.

Mr. Mark Adler: Thank you.

To my understanding, there are many people who at one time were Liberals and who are now Conservatives because of, yes, the chain of broken promises. First of all, going back many, many years, they said how they'd never bring in wage and price controls, and then they did. Then there was axing the tax. Well, the tax was never axed. There was just a full chain of broken promises about their votes against Israel at the United Nations, and not standing with our friends in the Middle East, the only democracy.

I mean, it's just a series of broken promises, a series of disappointments. It was not only I as a one-time Liberal who felt that the Liberal Party really didn't represent me, but the fact of the matter is that it was a lot of the people I spoke to. The proof is in the pudding, right? The Liberal Party at one time was considered to be Canada's governing party. It is now a mere rump in the House of Commons. It's clear that I'm not the only one who feels this way.

I would ask if Mr. Angus posed a similar question to his leader, who was once a Liberal, or if Mr. Andrews posed that question to Mr. Rae, who was once the NDP premier of Ontario. These are very similar kinds of circumstances. Those two happened to make the wrong decisions. I feel I made the right decision in becoming a Conservative, and I'm proud of it.

Mr. Paul Calandra: How much time is left, Mr. Chair?

The Chair: You have three minutes and 30 seconds remaining.

Mr. Paul Calandra: I yield to Mr. Zimmer.

Mr. Bob Zimmer (Prince George—Peace River, CPC): Thank you, Mark, for coming here.

I guess I'd use a hockey metaphor here. I'm an Oilers fan, I must admit, even though we're not doing that well this year. I would like to know that my referee in a particular hockey game is neutral and non-affiliated with any particular team.

I can see that the 10-year allotment you've given for proof of affiliation is a good part of your bill. Can you explain a bit about that 10-year prior affiliation, what that person has to state in terms of whether they've been affiliated with a particular party? Just explain that part of your bill.

Mr. Mark Adler: Thank you, Mr. Zimmer, for that excellent question.

I chose the 10-year period because it represents two election cycles, more or less. That's the reason I chose 10 years.

I just want to quote from a letter, which I know is in the possession of all the members, that seven heads of the various agencies of Parliament sent to the chair. In the opening paragraph, it says:

As Agents of Parliament we support initiatives that enhance transparency and accountability to Parliament and Canadians. Our role is to serve Parliament in a strictly non-partisan manner. In this regard, we support the principle that underlies Bill C-520 and are committed to ensuring that we, and the employees of our respective offices, discharge our duties and functions in a fair, independent, impartial and non-partisan manner.

In the letter they wrote to you, Mr. Chair, the principle of transparency is supported by seven of the nine heads of agencies of Parliament.

Transparency from my perspective, and I know from the perspective of our government, and I would hope from the perspective of the opposition parties, would be something they would be in favour of supporting.

• (1140)

Mr. Bob Zimmer: Mark, I just want to talk about that, because you talked a bit about that too.

I think what's being lost in this conversation with the opposition is that this affects all parties equally. It isn't picking on a particular party. It's saying that these officers and offices have to be non-partisan regardless of the party.

To me, it is transparent. It's completely fair. It's equitable. It's everything I would expect, as a parliamentarian, of an officer. Going back to the referee analogy or metaphor, for the big game, the seventh game in the Stanley Cup playoffs, I want to make sure that particular referee is as neutral as absolutely possible. I think both sides respect that neutrality. I think we'll both have a better game as a result of that.

Could you give us some final words on how this is a transparent bill and deals with those concerns?

Mr. Mark Adler: Thank you for that question, too.

As Justice Louis Brandeis said, sunlight is the best disinfectant. The more information we have not only as members of Parliament but as the public is always a good thing. The more we pull back the curtain and let light in, the more that people can see what is behind decisions of members of our government, our legislative process, our executive, the better. It's good because it enhances democracy, accountability, and transparency.

As I said earlier, for the life of me I can't understand why anybody would be against greater transparency.

The Chair: That concludes your time, Mr. Zimmer.

Thank you, Mr. Adler.

Next, for the NDP, is Mr. Mathieu Ravignat.

Mr. Mathieu Ravignat: Thank you, Mr. Adler, for being here to defend your bill and for taking a hit for the PMO. It's a pleasure to have you here.

It's clear that this bill has some serious legitimacy issues. Even your honourable colleague, Mr. Calandra, admits that it's a witch hunt. I can give you the record for that witch hunt.

Linda Keen, president and chief executive officer of the Canadian Nuclear Safety Commission, was fired and immediately called a Liberal appointee.

Richard Colvin was subpoenaed to testify before committee on Afghan detainees. The minister at the time questioned his integrity and his professionalism. There are suggestions he was a partisan.

Kevin Page was maligned and there were suggestions he was a partisan.

Marc Mayrand wears a jersey and...repeated just a couple of minutes ago by Mr. Zimmer, a partisan jersey.

They've accused Elections Canada of partisan actions in the past, such as raiding Conservative headquarters.

The Chair: Mr. Zimmer, on a point of order.

Mr. Bob Zimmer: Mr. Chairman, on a point of order, that is not what I said. You can check the record. You are completely misstating what we said. I think you misstated what Mr. Calandra said also. Please state the facts. At least quote me accurately.

Thank you.

The Chair: Is it on the same point of order, Mr. Angus?

Mr. Charlie Angus: Yes. I think the issue here is that my colleague was using the same reference that Mr. Poilievre used when he attacked Mr. Mayrand. My colleague was repeating the smear by just saying that they shouldn't be wearing partisan jerseys.

Mr. Bob Zimmer: He said that I said a particular statement.

The Chair: Mr. Zimmer, you don't have the floor.

On the same point of order, Mr. Calandra.

Mr. Paul Calandra: In the interests of clarification he might want to then double check, because the minister did not make that comment about Mr. Mayrand. The minister made that comment specifically with respect to the election commissioner's job going forward and that the election commissioner who will be investigating members of Parliament in the new fair elections act should not be somebody with a partisan jersey. He never said that about Mr. Mayrand. In the interests of clarity I'm sure he would want to retract everything he said in his opening statement.

A voice: Mr. Chair, sometimes—

A voice: He won't because that's not what he does.

The Chair: Order, order.

We have a point of order on the floor and the point of order has precedence. I'm going to rule that it's not a point of order and we

have no way of checking the veracity of what was said by Mr. Poilievre and Mr. Mathieu Ravignat can attribute whatever sayings he wants and he can leave it up to any listeners or observers to determine how factual it was.

Mr. Ravignat, you have four minutes left.

Mr. Mathieu Ravignat: Thank you, Mr. Chair.

I can see that sometimes wounds hurt when you touch them while they're healing.

Anyway, I'd like to ask a very pointed question. It's very simple. Is it not true that the PMO essentially gave you this bill to distract from the Conservatives' poor record on transparency and accountability?

Mr. Mark Adler: Thank you for that question.

This is a private member's bill. The whole purpose of a private member's bill is it's legislation that is brought in by somebody who is not a member of the government, just as a member of Parliament, which is in fact what I have done. I hope to muster the support of as many members of Parliament as possible and in the outcome of passing this very important piece of proposed legislation which I think would be—

• (1145)

Mr. Mathieu Ravignat: Thank you for that answer. I think that pretty much answers it.

The problems with this bill go on and on. We're not the only ones to be pointing it out. It has been pointed out by various commissioners. It has no definition of partisan conduct, no threshold of evidence that would be required to request an investigation, no remedial action or any redress mechanism for the employee, no confidentiality requirements for examinations, nothing on the impacts of an examination on an employee, and nothing if there is no basis for finding that employee acted in a partisan manner. The lack of definitions is problematic. I can quote for example the letter to our honourable chair to that effect by the commissioners.

When a letter is signed by no less than five commissioners, and these are experts, there are clear holes in this bill. This is not a serious attempt to deal with partisan issues at the highest levels. There has never been a single case where it has been a problem. All of this is smoke and mirrors. Could you just simply admit it, Mr. Adler, that this has nothing to do with true dealings with cases of partisanship? It's a flawed bill. Why bring it forward? The Public Service Employment Act has provisions in it for partisanship. It's actually better at defining what partisanship is about than your bill. Do you recognize that these are fundamental problems, Mr. Adler?

Mr. Mark Adler: I don't know if I'll be able to persuade you of anything other than your own conclusions.

Mr. Mathieu Ravignat: I'm not the only one saying it, Mr. Adler.

Mr. Mark Adler: It's quite clear what the definition of a partisan position is in the bill. I suspect that given you don't know what the definition is, you didn't read the bill. A "politically partisan position" means the following: if you were an electoral candidate, if you serve in an electoral district association as an officer, if you're a member of a ministerial staff—

[Translation]

Mr. Mathieu Ravnagat: Mr. Adler, I must interrupt you because it is not necessary that you read the bill.

[English]

Mr. Mark Adler: —if you're a member of a parliamentary staff, or if you're a member of a political staff.

The Chair: Order, order. One at a time.

Mr. Ravnagat, you have the floor.

[Translation]

Mr. Mathieu Ravnagat: I have read it thoroughly. It contains some serious problems, but you are not responding to the issues that these raise.

One of the commissioners from the Public Service Commission of Canada wrote the following in a letter addressed to Mr. Martin:

In particular, the Commission is concerned about the Bill's effect on the merit-based appointment system and the impact of the overlap with *Public Service Employment Act* (PSEA) provisions for managing non-partisanship and political activities of public servants.

That is quite serious. The Public Service Commission has taken the time to write to the government about the shortcomings of your bill.

Mr. Adler, how do you respond to the Public Service Commission?

[English]

The Chair: Your five minutes are up.

We'll give Mr. Adler a few seconds to respond, if he likes.

Mr. Mark Adler: I would say that these nine agencies of Parliament are not just public servants. They hold a very exceptional role and the expectation is that they are to be non-partisan.

[Translation]

Mr. Mathieu Ravnagat: Have you considered how your bill overlaps....

[English]

The Chair: No more back and forth, please. Your five minutes has expired.

Mr. Adler, I don't think you'll have time to expand on that. Perhaps in response to other questions you can elaborate.

Pat Davidson for the Conservatives, for five minutes.

We're in five-minute rounds, colleagues.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Welcome, Mr. Adler. Congratulations on getting your private member's bill this far, to committee. We all have a lot of questions. One thing in questions and comments that I have heard several times is that some people do not believe there is any definition of partisan activities.

I know you talked about that in your opening remarks and you also just tried to address that issue with my colleague across the table but were unable to. I would like to give you the opportunity to talk about the definition of partisan activities, please, as it relates to your bill.

● (1150)

Mr. Mark Adler: Partisan activity is clearly defined in the bill. There are a number of definitions, a number of phrases and terms that are defined within Bill C-520.

Specifically, in terms of what a partisan position is, it clearly states under subclause 2(1):

“politically partisan position” means any of the following positions:

- (a) electoral candidate;
- (b) electoral district association officer;
- (c) member of a ministerial staff;
- (d) member of a parliamentary staff; or
- (e) member of a political staff.

Mrs. Patricia Davidson: Thank you very much.

Why should former partisans need to disclose their past activities?

Mr. Mark Adler: I think in the greater spirit of transparency.... These are unique agencies that we are talking about here. These are not just public servants. These people have oversight over the elected members of Parliament. They hold a unique position. In fact, the Chief Electoral Officer isn't even allowed to vote. That's how unique these positions are.

It's important that the public and members of Parliament have the level of confidence that people who stand in judgment upon them are non-partisan. They take the oath, according to the *Public Service Employment Act*, that they must be non-partisan. This is consistent with their oath. This is about more information being available to members of Parliament, to people who are elected, and to the people who send them there, the voters, the constituents.

More information is better. More transparency is better. More accountability is better. It's in the interests of everyone.

Mrs. Patricia Davidson: We've talked about partisan activities and why we need to disclose this. Does your bill ban political activity?

Mr. Mark Adler: Absolutely not. Absolutely not.

Mrs. Patricia Davidson: Could you elaborate on that, please?

Mr. Mark Adler: There is no provision in the bill whatsoever that bans political activity.

Under the current legislation, the *Public Service Employment Act*, those people who work in these agencies must take an oath to the effect that they are non-partisan.

My bill simply opens the curtain. It makes it for all to see. Currently, if someone is suspected of partisan activity, an investigation is conducted in secret. This brings it out into the open. More information is better.

It's better that we know more about those people that stand in judgment upon members of Parliament. It benefits both the members of Parliament and definitely the voters, the people of Canada. It's essential that the people have as much information as possible, particularly about those people who stand in judgment upon members of Parliament.

Definitions are clearly defined within the proposed bill. I would think that all members of Parliament would be in favour of more transparency, allowing people, citizens of Canada, the voters that elect their members to Parliament, to have more information at their disposal. I think it's a good thing.

Mrs. Patricia Davidson: When you were doing your research, were you able to find any other countries that might have comparable legislation in place?

Mr. Mark Adler: Yes. In fact, Australia has very similar legislation, as do the United States and Britain. We're heading toward a world of more transparency. I can't understand why anybody would be against more transparency. I think it's a good thing, and so, too, do most members of Parliament.

The Chair: On that accountability, we have to conclude this five-minute round.

For the NDP, Charmaine Borg, for five minutes.

[*Translation*]

Ms. Charmaine Borg (Terrebonne—Blainville, NDP): Thank you, Mr. Chair.

Mr. Adler, thank you for coming today to speak to us about the content of your bill.

To begin, I would like to come back to a question that my colleague, Mr. Ravnat, asked regarding the absence of definitions. You kept referring to the definition of political staff, which is not the same thing. Section 9 of your bill says that alleged partisan conduct may be examined. However, "partisan conduct" is not defined in your bill, Mr. Adler.

Let us suppose that the Chief Electoral Officer starts an investigation into a candidate of a political party. You decide that that would be partisan conduct because it focuses on one specific political party.

This is a very serious concern, and you have to clarify that part of the bill and define partisan conduct. One wouldn't want to create a system that would start a witch hunt targeting all those within the government whose responsibilities involve disclosure.

Mr. Adler, why wasn't "partisan conduct" defined? I would like you to tell us what you mean by that.

• (1155)

[*English*]

Mr. Mark Adler: If a member of Parliament or senator suspects there was partisan motivation behind an investigation or some kind of query, the member of Parliament can request, as you were so right —

[*Translation*]

Ms. Charmaine Borg: Which criteria will be used? Are there criteria or can one simply decide that a given type of conduct is partisan and therefore an investigation can be undertaken?

That is the question that most Canadians are asking.

[*English*]

Mr. Mark Adler: Well, in answer to your question, which I was getting to, it's clear in the bill that the head of the agency may conduct an investigation.

The head of the agency would determine whether or not an investigation is worthy based on the evidence provided by the member of Parliament. It's quite clear that, given the definition in the bill of what partisan activity is, and given the power of the head of the agency to conduct an investigation based on the evidence before him or her, an investigation could or could not be conducted. It's as simple as that.

[*Translation*]

Ms. Charmaine Borg: Mr. Adler, I do not think it is too late, as you seem to believe.

Regardless, I am going to move on to another question because we do not have much time.

I absolutely agree that those who are appointed to important positions must be transparent and impartial. In that regard, based on this Conservative government's record and that of previous Liberal governments, there have been too many partisan appointments.

I am going to refer to a very recent case. Mr. Chuck Strahl was appointed to a very sensitive powerful position, but he would not be subject to the bill that you are putting forward. That is a double standard. Mr. Strahl, who was a lobbyist for Enbridge, was appointed as chair of SIRC but would not have to be impartial nor undergo the process that you are proposing for agents of Parliament, who, in fact, must already be impartial under the Public Service Employment Act.

[*English*]

Mr. Mark Adler: Thank you, Ms. Borg.

As a point of clarification, I don't know the specifics about those other incidents you mentioned.

I am here to talk about Bill C-520. Bill C-520 clearly enumerates who would fall under the purview of this bill. It's the nine agencies of Parliament that stand in judgment of members of Parliament and senators. These agents are held to a higher standard because they stand in judgment. In fact, the Chief Electoral Officer can't vote; that's how high the standard is.

[*Translation*]

Ms. Charmaine Borg: Thank you, Mr. Adler. I believe you are becoming quite repetitive. I've already heard that answer.

I would like to ask another question regarding the Public Service Employment Act. I would like to know if you read that act before drafting your own bill. There are some parts that risk being quite problematic. You are proposing the implementation of two measures that are not always consistent with each other. In fact, section 7 is not consistent with section 6 in your bill, regarding volunteering activities.

Did you at least look at the Public Service Employment Act in order to make sure that it is consistent with what you are proposing?

[*English*]

The Chair: We're over time.

Do you have a brief response, Mr. Adler? Otherwise, we're going to move on.

Mr. Mark Adler: Yes, I have read it.

The Chair: Thank you.

I think we've almost concluded.

I'd like to ask for one point of clarification, Mr. Adler. You say that what you have defined clearly in the bill is partisan positions. You don't have a clear definition of what partisan activities or partisan conduct might be. We can understand partisan positions if you're a staff representative and you ran for office, etc., but what are other partisan activities or partisan conduct? What are you getting at there?

• (1200)

Mr. Mark Adler: What is covered by this bill is clearly partisan positions as they are defined within the bill.

The Chair: You also make reference to "activity and conduct" elsewhere in the bill but there is no such—

Mr. Mark Adler: That follows from holding those partisan positions. For example, if you're an electoral candidate, it follows that you are running for office. If you are president of a riding association, that's clearly a partisan activity.

Quite frankly, at the end of the day, it's really up to the head of the agency to decide, on reference from a member of Parliament, whether or not that activity is considered to be partisan.

The Chair: Okay.

Sadly, we don't have any more time to examine this bill at this stage. Thank you for coming before the committee, Mr. Adler. We appreciate it.

We're going to suspend briefly and invite our next round of witnesses.

• (1200)

_____ (Pause) _____

• (1200)

The Chair: Ladies and gentlemen, we'll clear the room of media and reconvene the meeting.

Mr. Angus.

Mr. Charlie Angus: At the outset, I'd like to welcome our guests, the Auditor General, Elections Canada, and Ms. Dawson.

I think this is a very good beginning to this set of hearings, because these people have the trust of Canadian voters. I want to thank them and welcome them to our committee.

The Chair: That's not really necessary, Mr. Angus.

As the chair, I was going to welcome our witnesses to the committee, but thank you for your enthusiasm.

We appreciate the three officers of Parliament who have made themselves available on very short notice to come and discuss Bill C-520. As committee members, we have received written correspondence signed by seven agents of Parliament, and we appreciated that input as well. We have one thin hour to deal with the situation, unfortunately.

We'll welcome your opening remarks as you see fit to use them up to a maximum of perhaps 10 minutes each, or as a combined effort, as you see fit.

Mr. Mayrand, Madam Dawson, and Mr. Ferguson, welcome.

The floor is yours.

• (1205)

Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General of Canada): Mr. Chair, thank you for this opportunity to present my perspectives on Bill C-520.

At the outset I would like to assure you that my employees and I are committed to carrying out our duties in a fair, independent, impartial, and non-partisan manner. Along with several other agents of Parliament, I recently signed a letter that emphasized this point.

[*Translation*]

The letter also makes several observations of a technical nature regarding the interaction of the provisions of this bill with the current regime that governs political activities of public servants. The letter provides a description of aspects of the bill on which we would appreciate some clarification.

Section 6 of the bill requires an agent of Parliament who intends to occupy a politically partisan position while still holding his or her position as an agent of Parliament to make a written declaration of intent as soon as possible, before occupying the political position. Currently, under section 117 of the Public Service Employment Act, I am not permitted to engage in any political activity other than voting in an election. The situation described in section 6 could never occur, and I would not like people to get the impression by reading the bill that it could.

[*English*]

Other aspects of the bill may produce unintended consequences.

Under the current legislation, I appoint employees to my office in accordance with the Public Service Employment Act, PSEA. Employees are hired based on the merit principle.

Subclause 7(1) of the bill requires an applicant for employment to provide, as soon as possible in the hiring process, a declaration as to whether or not they have occupied a politically partisan position in the past 10 years. Consideration of prior politically partisan positions would not be permitted to influence the current selection process.

Under the PSEA, if an individual had declared prior politically partisan positions, and for reasons of merit was unsuccessful in obtaining a position, that individual could challenge the decision not to hire on the basis that his or her declaration influenced the hiring process. Moreover, the publication requirement of this personal information could discourage individuals from seeking employment with our office.

Clause 9 of the bill states that I may examine allegations made by a member of Parliament or a senator that an employee has carried out their duties and responsibilities in a partisan manner. If an examination of such allegations is carried out, a report must be sent for tabling in both Houses. The proposed examination power would benefit from clarification as to what constitutes partisan conduct and the threshold of evidence required to request an examination.

Under the PSEA, the Public Service Commission investigates allegations of political activity on the part of public servants. Political activity is defined very broadly in that act, and in my view, it could include partisan conduct.

In addition, there is no confidentiality mechanism to protect the reputation of the employee whose conduct was examined and found to be appropriate and non-partisan. It may be worthwhile to consider whether the investigation provisions of the PSEA are a more effective method for independent oversight. Given the apparent overlap with the PSEA, a witness from the Public Service Commission would be of assistance in the committee's deliberations.

• (1210)

[*Translation*]

There is a third aspect of this bill that I would recommend to the committee for further study, and that is its impact on the privacy of individual employees. I have mentioned some possible consequences in connection with hiring and investigations. I would now like to touch on other possible impacts.

Upon coming into force, the law requires written declarations from all employees in our office as to whether or not they occupied a politically partisan position within the 10 years prior to joining the office, and a declaration from those who may have occupied such a position that they have been carrying out their employment duties in a non-partisan manner. The fact that some employees would be required to make a declaration could have adverse consequences. The public disclosure of this past activity also causes the individual's current place of work to be known. Furthermore, over the past 10 years, the employee may have changed political allegiance. Factors such as these may give an employee incentive to withhold information about past political activity rather than to disclose it. For these reasons, employees may be reluctant to make a declaration.

[*English*]

The bill applies to all employees no matter what duties they carry out. The committee may wish to consider whether the objectives of the bill could still be met by restricting its application to those senior managers and employees with authority, influence, and supervision over the work of the office.

In closing, I'd like to say a few words about the processes and declarations that are currently required of the employees in our office to ensure they comply with professional audit standards, our code of values and ethics, and current legislation.

[*Translation*]

Each year, every employee completes a Conflict of Interest Declaration, acknowledging, among other things, the obligation to act in a non-partisan, independent and impartial manner. At the start

of every audit, every individual who participates in the audit must complete a comprehensive declaration of their independence. Any cases that give rise to a real or perceived threat to independence are reviewed by senior managers and our office's specialists for values and ethics.

Mr. Chair, I hope that these comments will be of assistance to the committee as it undertakes its review of Bill C-520. I would be happy to answer any questions you may have.

[*English*]

The Chair: Thank you, Mr. Ferguson. That's very helpful.

Next we'll hear from the Chief Electoral Officer, Mr. Marc Mayrand.

[*Translation*]

Mr. Marc Mayrand (Chief Electoral Officer, Elections Canada): Thank you, Mr. Chair, for inviting me to address the committee today.

Let me start by saying I am in agreement with the remarks that have just been made by my colleague, the Auditor General. He has identified several important aspects of Bill C-520 that I also believe are worthy of careful review by this committee.

I can assure you that I too, as an agent of Parliament, am deeply committed to the principle and the practice of political neutrality. This principle is fundamental to the administration of the Canada Elections Act and is absolutely central to the performance of my mandate.

Each agent of Parliament is unique. In my case, given my role of administering electoral events and regulating the activities of political participants, the need for political neutrality is particularly acute.

Indeed, the Elections Canada Code of Conduct imposes on employees an obligation to observe strict political neutrality at the federal, provincial and territorial levels, not only in the exercise of their functions and duties, but also in their activities outside work. Letters of offer to employees detail these conditions of employment regarding political neutrality. These stringent requirements reflect my conviction that everyone working at Elections Canada, no matter their position, must remain and be seen to remain neutral at all times. The objective of maintaining neutrality in the organization would not be achieved by allowing even a small number of employees to engage in political activity, no matter how limited, at the federal, provincial or territorial level.

I believe it is consistent with what Canadians would expect of the people who work for the country's national electoral body. We can take no risks in threatening the confidence of electors and political stakeholders in the administration of the electoral process. Similar conditions have been placed on employees at Elections Canada since long before I became Chief Electoral Officer, and to my knowledge, there have never been any concerns expressed inside the organization about this.

In light of our code of conduct, the restrictions on political activity imposed by Bill C-520 would not have much effect on Elections Canada employees, with one significant exception. The obligation in clause 11 of the bill to publish on our website the past “politically partisan positions” of staff over the last 10 years would be new. I see this unnecessary requirement as a serious infringement of the privacy of employees and incompatible with the principle of merit when hiring staff.

• (1215)

[English]

It is unclear from my reading of Bill C-520 whether it is intended to apply to contractors with agents of Parliament as well as employees. The bill refers to a person who “works” or “occupies a position” in the office of an agent of Parliament.

In any event, in cases where Elections Canada directly procures services, and where delivery of those services might raise a reasonable concern regarding political impartiality, contractors are subject to an obligation to avoid political activities for the term of the contract. In fact, suppliers who cannot certify their ability to adhere to this obligation will not be issued a contract.

Finally, you should be aware that key election officers are also severely limited in their ability to engage in political activity. The Canada Elections Act itself makes it an offence for a returning officer to engage in “politically partisan conduct”. Of course, this is not surprising.

In addition, clause 5 of the code of professional conduct for election administrators restricts returning officers from engaging in political activity at the federal, provincial, and municipal levels. This is different from employees and contractors, who are not restricted from political activity at the municipal level, but in light of the work being conducted by returning officers locally, I felt it was important to add this additional restriction for them.

As a last point, I would also like to comment on clause 9 of the bill, which would allow members of the Senate and House of Commons to make a complaint regarding political behaviour on the part of my staff. The Auditor General already touched on this provision in his remarks. It should be noted that even without this bill anyone who wishes to make a complaint about political activity on the part of those who work for an agent of Parliament can do so. There are mechanisms in place to deal with such complaints. For my part, I would like to underline my accountability for the conduct of those in the organization I run. Should there be any concern regarding the conduct of my staff, it is my role to appear before Parliament to account.

That concludes my introductory remarks, Mr. Chair. I have also provided the clerk copies of the Elections Canada code of conduct, as well as the code of professional conduct for election administrators. I would be happy to take your questions.

Thank you.

The Chair: Thank you, Mr. Mayrand. Yes, the code of conduct has been circulated to committee members.

Next, we welcome the Conflict of Interest and Ethics Commissioner, Ms. Mary Dawson.

[Translation]

Ms. Mary Dawson (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Mr. Chair, thank you for inviting me to appear before you today. I am pleased to contribute to the committee's study of Bill C-520.

During my opening remarks, I will share some general observations, with reference to relevant practices in my own office. I will also comment briefly on several specific elements of the proposed legislation.

[English]

Unlike the others covered by Bill C-520, my office is part of Parliament itself. As an officer of Parliament, my office is a separate employer that is not subject to the Public Service Employment Act. It is for this reason I'm not a signatory of the letter which I believe has been submitted to the committee by the others. However, I do agree in large measure with the views they have expressed.

Although Bill C-520 does not appear to have been introduced in response to a problem that requires fixing, there is certainly no argument to be made against greater transparency. In fact, I am a strong believer in transparency, as I have noted on many occasions, including in previous appearances before this committee.

I am satisfied that given the checks and balances already in place, my office could withstand any scrutiny contemplated by Bill C-520. However, I do note there could be some technical challenges that might arise from the way the bill is currently structured, and I will briefly refer to some of them later.

I acknowledge the importance of non-partisanship. I believe that non-partisanship is essential to the ability of all agents and officers of Parliament to fulfill their mandates. They and their staff must perform their duties in a fair and politically impartial manner and be perceived to do so. I note that non-partisanship is likely already being taken into account in the appointment process for agents and officers of Parliament. The Conflict of Interest and Ethics Commissioner, for example, is appointed under the Parliament of Canada Act. That act requires that the Governor in Council consult with the leader of every recognized party in the House of Commons, and the appointment must be approved by resolution of the House of Commons.

Indeed, the principle of non-partisanship is one that underlies my approach to my role. As is the case with the others covered by Bill C-520, I have implemented a code of values and standards of conduct in my office, again, copies of which I have tabled with the committee. This document specifically and extensively addresses political activity and impartiality. It notes the importance of employees maintaining their independence from political interference and discharging their responsibilities in an impartial way. It also recognizes the effect that employees' actions and comments outside the office could have on the reputation of the office as it relates to impartiality and independence.

In addition to prescribing desired behaviours and actions, the code of values and standards of conduct for my office specifically prohibit certain actions. Employees may not participate in any political activities. They are not allowed to share publicly any political allegiance during election campaigns, for example, by posting lawn signs. Also, they must refrain from making any written or verbal comments, including in the media or on social networks, that favour or could be perceived as favouring one political party over another.

During the more than six years that I have been commissioner, there has never been a case where the work of an employee in my office has been influenced or has appeared to have been influenced by political opinions or beliefs. If such a case were to arise, it would contravene our standards of conduct and the employee would be subject to disciplinary measures up to termination of employment.

A few of my employees have previously worked in political offices of various party affiliations. As professionals, however, they perform their official duties and responsibilities in a strictly non-partisan manner. I also note that their knowledge and experience of the workings of Parliament have been very helpful in fulfilling their duties at the office. It would be an unfortunate consequence of any initiative if it became an impediment to qualified people taking on positions in the office of an officer or agent of Parliament.

As I mentioned earlier, I believe there are changes to the bill that should be considered. For example, it does not establish a clear threshold for launching an examination, such as requiring the person making the request to set out the reasonable grounds for the belief that the staff member conducted his or her duties and responsibilities in a partisan manner. Nor does it provide a process by which an employee has the right to respond to the allegation being made. As well, the bill does not define what constitutes partisan behaviour. It does not set out provisions for conducting an examination in private.

I note that both the Conflict of Interest Act and the “Conflict of Interest Code for Members of the House of Commons” contain such provisions, ensuring the application of principles of procedural fairness and natural justice.

Finally, the bill is very broad and applies equally to all employees regardless of level or whether they are in a position to make or influence decisions.

•(1220)

In short, while I have no issue with the principle of transparency that underpins the bill, I'm not convinced that the bill is necessary. I believe that the current draft could be improved. I hope, if this bill is enacted, that the final version clarifies these matters.

•(1225)

[Translation]

Again, I thank the committee for this opportunity to discuss Bill C-520.

Mr. Chair, I look forward to answering your questions.

[English]

The Chair: Thank you very much, Ms. Dawson, for the very helpful presentation.

We'll go right to questioning. The first round goes to the NDP, Mr. Charlie Angus.

You have seven minutes, Mr. Angus.

Mr. Charlie Angus: It's a real honour to have the three of you here today.

In order for those who are watching back home to understand what we're talking about, your collective responsibility is to ensure accountability from the elected members of Parliament and from the bureaucracy in this country and to ensure, Mr. Mayrand, in your case that the electoral process is conducted in a fair manner.

Mr. Adler told us that it was “imperative”—he used that word a number of times—to bring this bill forward. We asked him if he could find any examples of any partisan abuse, but he was unable to answer that.

Are any of you aware of any allegations that would warrant this bill against any of your staff or any of the agents of Parliament? Has this issue been raised prior to this bill?

Mr. Michael Ferguson: There have been no allegations in the case of the Office of the Auditor General.

Mr. Charlie Angus: Mr. Ferguson, as the Auditor General you have a very specific and important role in ensuring accountability to Canadians. You take an oath as part of this work.

Mr. Michael Ferguson: Yes.

Mr. Charlie Angus: Right now you're investigating the Senate; I understand there's a Senate audit going on. According to a February 13 article, some senators did not seem to want to comply, but I don't want to get into the details of that audit. Whether it was the sponsorship scandal with your predecessors, whether it's the misspending on the F-35, you sometimes have a very politically hot role to play because you expose the powerful.

Under clauses 9 and 10 of this bill, it would be extraordinary because now the people who are being investigated would be able to demand investigations of you and your staff. Is that your reading of clauses 9 and 10 of this bill?

Mr. Michael Ferguson: Clause 9 and clause 10 give the right for somebody to bring to my attention any accusation of these types of activities. Again the term “partisan manner” is not defined, so that's something that as an agent we would have to determine. My colleagues have also made the comments that there's no definition of what would be reasonable grounds and that sort of thing.

There are ways already for people to come forward and bring forward any concerns they might have if they feel any of our people are not acting objectively in any way. As my colleague said, we very much have processes in place as well to make sure that's how we operate.

Mr. Charlie Angus: This bill has no threshold for what would launch an attack, no investigation, no definition of what the partisan activities would be.

Mr. Ferguson, in light of the roles of the auditors general in the provinces and other jurisdictions, are you aware of any other jurisdiction where those who may be under investigation would be able to publicly denounce the work of an auditor general who's investigating them?

Mr. Michael Ferguson: People can always raise questions about any aspect of the work we do. Again, our processes and the way we have done the work for more than 100 years has stood the test of time.

Mr. Charlie Angus: Yes. So this bill adds the ability of a Conservative member or senator to demand an investigation with no threshold.

Mr. Mayrand, to put it on the record, this past month your staff insisted that one of my volunteers from the 2008 election sign a compliance agreement on having left a bank account empty but open. Were you acting in a partisan manner when you decided to look at my campaigns in 2008 and 2011?

• (1230)

[Translation]

Mr. Marc Mayrand: Neither the employees nor myself have done that.

[English]

I should point out again. We have strict procedures in place. We have a piece of legislation that prescribes in much detail and that's our guidance in administering the legislation.

Mr. Charlie Angus: The rules are the rules. Politicians get their backs up pretty easily. They don't like getting questioned, but the rules are the rules.

You're there to enforce the rules whether it's me, whether it's Dean Del Mastro. You do not wear a team jersey.

[Translation]

Mr. Marc Mayrand: No. Absolutely not.

[English]

Mr. Charlie Angus: The spectre of a team jersey was raised by my colleague, Mr. Zimmer. He's repeating what sounded very much to me like a smear for Mr. Poilievre, that they were having to rewrite the Elections Act to ensure that Elections Canada isn't wearing a team jersey when it launches investigations.

Are you aware of any allegations that Elections Canada has been wearing a "team jersey", and that we need to not only rewrite the electoral laws, but now we also need to allow people such as Mr. Zimmer to demand investigations of you?

Mr. Bob Zimmer: I have a point of order.

The Chair: On a point of order, Mr. Zimmer.

Mr. Bob Zimmer: Yes, it's just to challenge Mr. Angus to state the facts when he's quoting something that I've said. Stick to the facts, Mr. Angus.

Mr. Charlie Angus: That's not a point of order—

The Chair: I'll decide whether it's a point of order or not.

Voices: Oh, oh!

Mr. Charlie Angus: Yes, sheriff.

The Chair: It's not a point of order.

Carry on, Mr. Angus.

Mr. Charlie Angus: Mr. Mayrand, the allegation that's being laid out is that your office is wearing a team jersey; we have to rewrite the entire Elections Act; we're having to rewrite it so that colleagues, whether it's Mr. Zimmer or Ms. Tilly O'Neill Gordon, can demand investigations.

Does Elections Canada wear a team jersey when it enforces the electoral rules of this country?

[Translation]

Mr. Marc Mayrand: In my opinion, no.

[English]

As I mentioned in my opening remarks, anyone in this country may file a complaint with the office regarding the activities and the way the activities are carried out. If they feel these are tainted by political activities, they can always file a complaint. Such a complaint will be duly examined and investigated, and the plaintiff will be informed of the outcome.

Mr. Charlie Angus: Mr. Dean Del Mastro, who is now under investigation by Elections Canada, stood up in the House and accused your office of a breach of privilege against him for investigating whether or not he broke the laws of Canada. He said that he felt violated and betrayed by an agency in which he and every member of that place put their trust, and that this was conducted with malice and contempt for Mr. Del Mastro and his family.

When you investigated whether Mr. Del Mastro was breaking the laws of Canada, was there any team jersey, or were you simply following the law?

The Chair: Provide a very brief response, please, Mr. Mayrand.

Mr. Marc Mayrand: Again, I won't comment on any matter that's before the courts. As you know, there are proceedings now pending before the courts.

The Chair: That concludes your time, Mr. Angus.

Next, for the Conservatives is Mr. Paul Calandra.

Mr. Paul Calandra: This is for each of you individually.

Mr. Angus has indicted in his comments that this bill would allow Conservatives to launch a complaint against each of you. In your read of the bill, can you point to the section that allows only Conservatives to launch a complaint against the work that you're doing? I've missed it, so if that's in there, could you guys, any one of you, point it out to me?

Ms. Dawson, do you see that anywhere in the bill?

Ms. Mary Dawson: No, it's not in the bill.

Mr. Paul Calandra: What about you, Mr. Mayrand?

Mr. Marc Mayrand: My understanding is that any member of the House or the Senate can file a complaint. In fact, any member of the Canadian public could do it under other instruments.

Mr. Paul Calandra: Mr. Ferguson.

Mr. Michael Ferguson: I would just agree with what Mr. Mayrand said.

Mr. Paul Calandra: Thank you.

Mr. Ferguson, am I allowed to say congratulations on your French? I've been studying for a bit and have had a difficult time. You seem to be doing a lot better than I am in a much shorter time period, so congratulations on that, sir.

I want to pick up on something you said. I think it was in regard to the bill applying to employees no matter what duties they carry out. You said that the committee may wish to consider whether the objectives of the bill could still be met by restricting its application to those senior managers and employees with authority. What you're saying, in essence, is that perhaps people who are doing administrative work in your office shouldn't be necessarily subject to the entire force of this bill.

In terms of bringing it forward to senior managers or people who are in control of particular files, would that be a good idea? Is that something we should seriously consider?

We're just trying to make what you consider a not necessarily spectacular bill better by looking at ways of improving it.

● (1235)

Mr. Michael Ferguson: I think, as I pointed out in my opening comments, there are a number of parts of the bill that could be problematic and need to be improved.

One of the overall concerns is that if this bill is going to go forward, is it really necessary to apply it to every single person who comes into our employ?

I'm equally concerned with clause 6, which I think implies that as an agent of Parliament I could undertake some sort of partisan activity while occupying this position, whereas currently, under section 117 of the Public Service Employment Act, I already cannot do that. That causes some confusion.

Overall within the bill there are many of those types of things that would need to be improved for it to achieve its objectives.

Mr. Paul Calandra: Okay, thank you.

Mr. Mayrand, your presentation in point four says that the objective of maintaining neutrality in the organization would not be achieved by allowing even a small number of employees to engage in political activity, no matter how limited, at the federal, provincial, or territorial level. Point six refers to the obligation in clause 11 of the bill to publish on your website politically partisan positions of staff over the last 10 years. That would be obviously a new part. As you said in your opening comments, your organization already seems to have gone in the direction of doing everything you possibly can to try to remove partisanship entirely from it. I'm not sure...the provisions of this bill, then, would have almost no impact on your organization because of your position with respect to partisan activity, and the positions of previous chief electoral officers. Is that fair?

Mr. Marc Mayrand: First, there's a point I'd like to raise. My understanding about the declaration would be about partisan position, not partisan activity. I think it's two things.

Partisan positions are defined quite narrowly, and you're correct in saying that I wouldn't expect anyone currently performing any of the positions that are identified in the statute...that would be against our code of ethics. The issue becomes whether when you hire new employees, declaration prior to their employment should be declared. I think that, as I mentioned in my opening remarks, raises issues of privacy.

Mr. Paul Calandra: Ms. Dawson, when I've heard you before the committee before, one of the frustrations you've sometimes brought forward is that all members of Parliament, and I think we're all guilty—Liberal, Conservative, NDP, and Bloc, and I'm not sure about the Green—sometimes approach your office and make allegations against each other, knowing full well that you will likely reject that comment, but there's no—I don't want to say punishment—recourse to take on the person who makes a vexatious request of your office.

I don't want to make it sound like you're supportive of all the clauses of the bill, but is that something we should be obviously tightening up in this?

Ms. Mary Dawson: Yes, indeed. Actually, my act does allow for me to make comment on frivolous and vexatious...but there's always been a kernel of something in these things that are raised. My objection is usually that they're made public, and the person who is accused isn't even told about it, but that's another question.

With respect to this bill, the problem is deeper than just the frivolous and vexatious.... The problem is there's absolutely no test as to when somebody can make a complaint. At least in my act, you have to have reasonable grounds, and that's why usually there's not a frivolous and vexatious problem, because it just doesn't proceed if there's no reasonable grounds. But under this bill, nobody has to even think up any reasonable grounds. They could just fling mud.

● (1240)

Mr. Paul Calandra: Really briefly, it's also been suggested to me that potentially a cooling-off period between partisan activity and employment in your agencies might be something to consider. Are there any thoughts on that now?

Ms. Mary Dawson: Cooling-off periods work for a year or two. It's not something I would necessarily have thought of suggesting, but it's not offensive.

Mr. Paul Calandra: I guess it wouldn't apply to you, really, Mr. Mayrand, because of the nature of Elections Canada.

Mr. Ferguson.

Mr. Michael Ferguson: Again, certainly if the committee decided to add in something around a cooling-off period, particularly for the agent, I think that's a reasonable thing to consider.

Mr. Paul Calandra: I don't want to cut you off, Mr. Mayrand, but I don't imagine any partisan activity at all is something you would contemplate anyway.

All right, that's fine. Thank you.

Mr. Marc Mayrand: It would have to ensure that it would harmonize with the concept of merit that we are all bound to follow when we hire people. That's an issue that needs to be addressed if you go this route.

Mr. Paul Calandra: Thank you.

The Chair: Thank you, Mr. Mayrand.

Thank you, Mr. Calandra.

Next for the Liberal Party, Mr. Scott Andrews.

Mr. Scott Andrews: Welcome folks, and thank you for coming.

It's nice to point out and recognize that each one of the agents of Parliament often come from a long line of distinguished careers within the public service. They have been around government for many years. They have come up through the ranks of deputy ministers and come from outside government as well.

I'm not going to pick on you, Mr. Ferguson, but I'm going to ask you, because you are the rookie of the group here in the appointments process. Just out of curiosity, could you shed some light on how you were interviewed for the job of Auditor General, what processes you went through? Was there a disclosure during that time where you were asked about your political involvement?

I'm trying to get some understanding on how one agent of Parliament gets interviewed, or is suggested for their particular role. Was partisanship activity ever discussed during that type of process that led you to being recommended to Parliament?

Mr. Michael Ferguson: The process I went through lasted about a year, so it could take a while for me to describe it all. It included a number of interviews. It included testing both on language competency and psychometric testing, I guess, on my temperament essentially, and things like that. It involved a number of tests, questions, and interviews.

To the best of my recollection, at no time was there ever any discussion about any political activities, and I've not had any political activities.

Mr. Scott Andrews: It's one thing for the agents of Parliament to have to go through this and as much as you guys have stated, but your employees as well. We would be into, I guess, the hundreds to thousands of employees that this bill would encompass.

Mr. Ferguson, you talked about the overlap of the PSEA. Does that suffice? Does what the Public Service Commission have there suffice, do you think, for the overlap between what this bill is proposing? Is it strong enough wording in that process?

Mr. Michael Ferguson: Again, what we were pointing out is that there are some overlaps, and those overlaps, at least for me, are causing some confusion that's not there in the absence of this bill.

For example, section 6 under the current legislation is quite clear that the only thing I can do from a political point of view is to vote. That's the only right I have. Clause 6 seems to imply I can consider some partisan activity even while I'm an agent of Parliament.

Clause 7 talks about a potential employee providing this information as soon as possible. Our concern there is if somebody provides information that says I've had this type of political partisan position in the past, and that person then is not successful in getting the job they are applying for, they might infer the reason they are not getting that is because of their past political position. It puts us in sort of a problem that's not there right now just based on the merit principles.

● (1245)

Mr. Scott Andrews: That was my next question. Talking about merit and their past involvement, what are the legal ramifications? We live in a free country and you're allowed to be involved with a political party and you're allowed to vote. If someone were to take it to that extent, this could really get into a legal casework.

Mr. Michael Ferguson: I'm not going to try and predict that, but certainly the way some of these clauses are written is adding some confusion that is not there already. It would then have to go through some sort of process to try to sort it out.

Mr. Scott Andrews: Mr. Mayrand, I have one question.

One of the things in Elections Canada legislation is that political parties who finish first and second in each riding in the country have to provide you with the names of DROs and returning officers. There's a format. It's a terrible process because it takes a lot of work that we shouldn't be doing anyway.

How does this bill reflect on the simple workers on the ground and conflict with Elections Canada?

Mr. Marc Mayrand: Again, that's provided by the legislation. I guess it's reasonable in the context that these workers work in pairs. They are appointed by... There is a check and balance built in.

I would point out something which I will raise in another forum. Bill C-23 goes much further. That's the bill that proposes to reform the Elections Act. That would be a concern for me because, from now on, under the new bill, poll supervisors will be appointed by the party that won the riding in the last election. Poll supervisors oversee what's happening at the polls, and they are resource persons to those workers who work in teams. Again, I'm not sure, in reading this in the context of this piece of legislation, how they would fit with one another.

On one hand, this bill requires the utmost non-partisanship on my part and the part of all agents of Parliament. On the other hand, another bill builds an element of partisanship into the system. I'm not sure how we're going to deal with that in the future.

Mr. Scott Andrews: Yes, absolutely. I didn't realize that with the other bill. That's something I'd like to get into at a different forum, because it's a very complex issue from a campaign point of view.

Ms. Dawson, it's a pleasure to have you here again. I just want to go—

The Chair: You have 30 seconds, Mr. Andrews, to pose the question.

Mr. Scott Andrews: Following on Paul Calandra's point of view, on investigations, the format for investigations for these things, and the partisanship of this place in making recommendations, in this bill, who does the investigations? Are you investigating your own department if a complaint is launched? Do you see that maybe some other agent of Parliament should do the investigation to have a bit of separation? I'm not quite familiar with that, if that's covered off in this bill or not.

Ms. Mary Dawson: Well, it's a strange provision, clause 9, because it is a bit odd that it comes to the person running the shop. I find that "may" in that clause a bit strange, because I can't imagine, if you got a complaint like this, people not saying that you had better look into it. In other words, I don't know how much discretion in practice there actually is, but that's another point.

I don't think it's necessary in the first place, but there could be another person who looks into it. It's not my bill.

The Chair: I'm afraid I'm going to have to cut you off, Ms. Dawson. Thank you very much.

Thank you, Mr. Andrews.

Ms. Davidson.

Mrs. Patricia Davidson: Thanks to each of you for being here with us this afternoon. I'm very anxious to hear your input as we study this bill. I also want to thank each of you for the role you play as agents of Parliament.

I must admit, Ms. Dawson, that I've had more contact with you than with the other two gentlemen, but I certainly have always found you to be very impartial. You've always given us good advice when we have asked for it as a committee.

One of the things we've been hearing about from the three of you—well, actually, from Mr. Mayrand and Mr. Ferguson more than Ms. Dawson—are the differences between the PSEA and this bill. One of the things I've been told is that the PSEA does talk a little bit about volunteer activities, but Bill C-520 does not.

Could either of you gentlemen comment on that?

• (1250)

Mr. Marc Mayrand: In our context, the code of ethics would prohibit volunteer activities for political parties or any campaign. Whether it's a riding association, a party, or a campaign, that would be prohibited, that volunteer work.

Mrs. Patricia Davidson: Under your code of conduct—

Mr. Marc Mayrand: Yes.

Mrs. Patricia Davidson: —or under the PSEA?

Mr. Marc Mayrand: In the case of the PSEA, it's in the context. It depends on the position you hold in the organization, the level of influence, and the visibility. In our case, I would say, it's a total prohibition. It's not acceptable for someone at Elections Canada to volunteer, for example, for a party. That's a sacrifice which the people who work at Elections Canada must make.

Mrs. Patricia Davidson: Mr. Ferguson.

Mr. Michael Ferguson: I can't speak to all of the aspects of the PSEA, but certainly one question I had when I looked at this bill was on the fact that it didn't seem to be covering volunteer activity. To the extent does that matter or not, I don't know, but I can't speak to exactly how the PSEA would cover that.

Mrs. Patricia Davidson: Ms. Dawson, you indicated that you are not subject to the PSEA, and therefore you weren't a signatory to the letter. The other agents of Parliament were subject to that act.

You also talked about some of the technical challenges that might arise. Could you elaborate on a couple of those? While you're doing

that, could you comment on the privacy issue of having to have employees declare?

Ms. Mary Dawson: I think the most serious technical issue is the one I just mentioned, that there is just no threshold for when somebody can put a complaint in. They can just put it in with no evidence at all. Then the commissioner involved there has to decide whether to launch an investigation. As I was saying, it's pretty hard for them not to launch it once the thing is raised, even though there is a "may" there, because the only way they can get a public airing of the thing is to put something out.

Now, as was just mentioned, I know the way the general rules work regarding whether you can be involved in political activities changes with the level you are at, so to apply them to some officer in your office who couldn't have had any effect on anything seems to be an unnecessary invasion of privacy.

There are concerns generally about people's privacy being invaded, but people's privacy is often invaded for a good reason, for example, in the case of MPs who are being investigated. There's always a balance and you have to have a good reason to infringe on privacy.

In all these cases, there may not be a strong enough reason, in my view, but it depends.

Mrs. Patricia Davidson: Okay.

Mr. Ferguson, in your opening remarks you said that each year every employee completes a conflict of interest declaration. Then at the end of that statement, you said that any cases that give rise to a real or perceived threat to independence are reviewed by senior managers and the office's specialist for values and ethics.

Have there been cases in which this has arisen, and what kinds of things would be involved?

Mr. Michael Ferguson: We often have cases of employees coming forward with a potential conflict. We may have employees who were previously employed in a given department but who are now auditors with us, so we need to make sure we're not putting them on auditing something they were doing before.

If we ask you about potential conflicts of interest, those run the whole gamut. They're not just political. From that point of view, the question is whether there is any reason that you or a member of your family has a connection to the organization that you are auditing that could cause somebody to question your independence to act on this audit.

We ask that on every single audit we do before we start the audit.

• (1255)

Mrs. Patricia Davidson: Do you think that Bill C-520 would complement what you're already doing, or do you think it's going to make any difference to your audits?

Mr. Michael Ferguson: I think we manage conflicts of interest extremely carefully. Our whole reputation is based on our independence, our objectivity, and the way we do our work, so we manage those extremely carefully.

I suppose what this whole exercise does is maybe make sure we are asking the question extremely specifically about partisan activity, but I'm more concerned that the bill itself could cause some opposite behaviour.

For example, now people will know that the information they are declaring will be on the web. That ends up disclosing an additional piece of information about them which is where they are working right now, at the office of the Auditor General, which otherwise would not necessarily be known.

The Chair: I'm sorry to have to interrupt you.

You're well over time, Ms. Davidson.

For the last four minutes we have Mr. Mathieu Ravignat.

Mr. Mathieu Ravignat: I have a really quick question for you. We don't have a lot of time left, unfortunately. Maybe just a simple yes or no answer would suffice on this one.

Could this bill potentially decrease and reduce your independence?

Ms. Mary Dawson: I think the one danger here is that if a spurious complaint came in, it might disrupt proceedings that were under way. It casts doubt on the decision-maker. I think that's the most serious concern in this bill.

Mr. Marc Mayrand: It may discourage people from seeking employment with our agencies, knowing that they could be subject to an examination that would be the topic of a report to Parliament, without knowing very precisely from the legislation what the parameters would be of any such examination and what would be the extent of confidentiality in looking at those matters. I think that would be a concern for employees.

Mr. Michael Ferguson: I don't think it would affect our independence, but I think the way it is drafted now, there are some irritants in it that really aren't necessary and wouldn't help our independence.

Mr. Mathieu Ravignat: I have a second, very simple question.

Could it potentially weaken existing rules in place, codes, acts, with regard to definitions of partisan activity within your different offices?

Mr. Michael Ferguson: It won't affect the way we define these types of activities or the way we manage conflict of interest. But I think, as I've said before, it raises some questions based on some things that are defined in other acts versus the way they're defined in this act. I think what it can do is just cause some confusion.

Ms. Mary Dawson: It's actually not defined in this bill, so I think it would have minimal impact on the other instances where there was a more fulsome definition.

Mr. Mathieu Ravignat: Were your offices contacted prior to the drafting of this bill for advice? Was there any form of consultation?

Mr. Marc Mayrand: No.

Ms. Mary Dawson: No.

Mr. Michael Ferguson: No.

[*Translation*]

Mr. Mathieu Ravignat: I have a few other questions to ask. They deal more specifically with the content of the bill.

[*English*]

The Chair: You only have one minute.

[*Translation*]

Mr. Mathieu Ravignat: Okay. I will therefore move quickly.

Do you know which criteria would be used to determine whether a person occupying a position at the office of an agent of Parliament has behaved in a partisan manner in carrying out their duties and responsibilities? In fact, is there even one single criterion that has been set out?

• (1300)

Mr. Marc Mayrand: In my opinion, that is a question that the committee must consider. As we have pointed out in our letter and in our remarks today, the bill does not contain a definition or any criteria concerning what partisan conduct is. Currently, we rely on the statements of the Public Service Commission and on our experience. Generally, it is based on political activities.

As for determining whether non-political activity could be partisan in nature, I think that that is one of the issues raised by clause 9 of the bill.

[*English*]

The Chair: That concludes your time, Mr. Ravignat.

That concludes the time we have for testimony and questioning.

Thank you very much to the three agents of Parliament who made themselves available to us today.

I remind committee members that submissions for future witnesses are to be in by the end of business day today.

Also, I remind committee members that the meeting on Thursday is cancelled because of the address to Parliament by the Aga Khan.

This meeting is adjourned.

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