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Chair

Mr. Pat Martin

Standing Committee on Access to Information, Privacy and Ethics

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• (1105)

[English]

The Chair (Mr. Pat Martin (Winnipeg Centre, NDP)): Good morning, ladies and gentlemen. We'll convene our meeting.

Welcome to the Standing Committee of Access to Information, Privacy and Ethics meeting number 22. We're gathered today for clause-by-clause consideration of Bill C-520, which began its life as a private member's bill sponsored by Mr. Adler.

Welcome, Mr. Adler. I see that you're subbing in to join us today.

Mr. Mark Adler (York Centre, CPC): I am. It's great to be here, Mr. Chair.

Thank you.

The Chair: It's our great pleasure to have you here.

We can begin if people have their papers in order.

The first thing I would say is that we'll stand aside the title and the purpose and deal with them at the end, if that's agreeable. That's the normal practice.

Pursuant to Standing Order 75(1), we commence our consideration of clause 1. The short title is postponed, so the chair moves to call clause 2.

(On clause 2—*Definitions*)

The Chair: Everyone has the bill in front of them.

We have an amendment under the name of Mr. Ravignat, NDP-1.

Mr. Ravignat, do you choose to move your amendment?

Mr. Mathieu Ravignat (Pontiac, NDP): I do indeed, yes.

The Chair: Would you care to speak to your amendment?

Mr. Mathieu Ravignat: I would, and in order to give a full context for our discussion today, it is clear that there have been many problems with this particular bill. This has been pointed out by experts across Canada and particularly the various commissioners who are targeted by this bill. We've heard from them briefly and, of course, there has been a reaction on the government side that perhaps the bill should be significantly changed.

That's a good sign, but the public should know that certain commissioners contacted you and this committee again, Mr. Chair, by letter, which is kind of unprecedented. It's the second time that commissioners have written to the chair of this committee on this particular bill, and I think it's important to go through what they have to say, for the public record.

The Commissioner of Official Languages wrote the chair on May 8, 2014. That's really not too long ago. He expressed further concerns with the bill. Mr. Fraser wrote that he fully and continues to endorse the views expressed in a letter that was jointly signed by the agents of Parliament, and that he also endorses the messages in the submission from the Information Commissioner of Canada and in the presentations that the committee heard on February 25 from Marc Mayrand, Michael Ferguson, and Madam Dawson.

He continues to say that he's particularly concerned about the bill's apparent conflict with the Public Service Employment Act and the values and ethics codes of the public sector. Some of the amendments that the NDP will be bringing forward today address this very point.

He continues to think that the bill could have an impact on the hiring process, that there are issues of procedural fairness, that he is concerned about the impact from the lack of definition of partisan conduct and the potential impact that an examination of an employee's conduct may have on investigations following an allegation of partisan activity.

He goes on to note more personally that his years as a journalist taught him the importance of not only fairness but also of the appearance of fairness, and that throughout his career, when he covered governments of different political stripes, he had a reputation of treating them all fairly. He wants to make clear that this isn't a partisan attack by him, but that he has a non-partisan view and that he is still fundamentally concerned about what this bill represents.

He goes on to say that he respects the public service and its independence and objectivity. He also recognizes that the public service has a right to engage in political activity, as defined by the Public Service Employment Act, and that we should be careful when considering those political rights.

He goes on to say that many who have worked for a minister or a member of Parliament have subsequently chosen to join the public service and that he's always considered this as a positive move. Some of Canada's most distinguished deputy ministers first came to Ottawa as political aides, for example.

He's concerned that the bill implies that "...partisan experience is something to be ashamed of—a liability rather than an asset." He's worried that "...the provisions in the bill would discourage talented people who are committed to the ideal of linguistic duality from coming to work for the Office of the Commissioner of Official Languages." It's a good point. He is obviously concerned that those with the most merit should be working for our public service despite perhaps having partisan political affiliations in the past—always within the standards, of course, imposed by the Public Service Employment Act, which in part 7 defines very, very clearly what public servants are expected to do with regard to political activity and partisanship.

Mr. Fraser goes on to mention the sponsor of the bill and quotes him: "In his appearance before this committee, [Mr.] Adler...said that agents of Parliament "sit in judgment on members of Parliament." But Mr. Fraser says that in his case, that is just completely untrue, because the Official Languages Act does not actually cover parliamentarians. He goes on to say that he would say the reverse is true; that members of Parliament sit in judgment of him; and that during that session they questioned him on his qualifications for the job before voting on his appointment. They can summons him to appear, cross-examine him, criticize him, and vote basically the budget that he receives. He says: "I report to you on whether federal institutions have lived up to their responsibilities under the Act."

He continues to believe that it is his job to ensure that his staff "...interprets the Official Languages Act in an appropriate fashion, neither too broadly nor too narrowly, but, as the Supreme Court has put it, in a generous, purposive fashion." He says that he is responsible for striking the balance between laxity and zeal and finding the most effective way to achieve these results, and that as an agent of Parliament, he could be called upon at any time to justify the positions that he has taken.

He goes on to say that during the seven and a half years that he has been carrying out this responsibility, partisanship has never been a factor in his work, and that there have been vigorous internal debates over many issues: whether or not a complaint is admissible or recommendations would be most effective, and whether or not he should intervene in a court case, for example. He says he is proud of the dedication that his staff consistently demonstrates to their mandate.

What I find impressive about this, Mr. Speaker, or Mr. Chair, rather—I will get it right this morning—is the heartfelt cry of the commissioner with regard to this bill, expressing himself in such a candid way. For those of you who know Mr. Fraser, it's kind of out of character. It is clear that, to say these things, he is fundamentally worried about this piece of legislation.

He's under probably personal attack by this bill to say this: "I am proud of the dedication that my staff consistently demonstrates to their mandate." He says that those who work in the Office of the Commissioner of Official Languages do so because they are committed to the principles embodied in the act, and that he witnesses that commitment every day. He says that not once has he felt that these internal debates were affected by partisan considerations. On the contrary, he says, they were honest, candid exchanges of opinion on how the act should be interpreted and applied, how he should meet his responsibilities as a commissioner, and how he

could achieve positive results. Ultimately, he says, the final decision on these questions was his, and his alone.

● (1110)

Again, the tone of this letter is amazing, Mr. Chair, for its candidness, its defensiveness with regard to his role. He's defending his record as being an objective agent of Parliament. It goes on to say:

As a small organization, the Office of the Commissioner needs people with a wide variety of experience, whether in regional issues, investigations, policy, corporate services, legal work, communications or parliamentary affairs. Political experience, in my view, is an asset rather than a liability.

If a parliamentarian feels that his decisions have been or appear to have been affected by partisan considerations, then he says he would be happy to appear before the committee or any other to explain the reasoning behind his decisions. He ends it by thanking you, Mr. Chair and the committee. What a remarkable letter it is at this point of the discussion.

● (1115)

[Translation]

It is a cry from the heart, as they say in French. He fears the consequences this bill might have. He had fears before the amendments moved by the Conservatives and by the NDP, and he is still right to have fears.

We unfortunately have only the amendments brought forward here today. That is the nature of the process. He obviously had not received this information before reading his letter. The fact nevertheless remains that it was very important for me to talk about it.

[English]

The Chair: There's no translation coming through.

[Translation]

Mr. Mathieu Ravignat: I am bilingual, but not to that extent.

[English]

The Chair: It's now working. Thank you.

Proceed, Mr. Ravignat.

[Translation]

Mr. Mathieu Ravignat: All right.

Thanks to the interpreters.

He obviously had not read the amendments before writing his letter. Consequently, we do not know his opinion on the amendments introduced by the government and the NDP. However, it is very important that we begin debate on this bill knowing the commissioners' full opinions. They have come and testified before the committee and have since had occasion to reflect and speak once again to the bill. I commend them for doing that. I believe the public and journalists must know that the commissioners have written to you, Mr. Chair, and that they were very concerned before this meeting to give clause-by-clause consideration to the bill.

This time I am going to cite the opinion of the Commissioner of the Public Service Commission of Canada, who also expresses reservations about the bill. Then we will be up to date. There are deficiencies in the process being used to analyze this bill. We could have heard from many more witnesses, such as various groups in Canadian society that are concerned about this bill. Whatever the case may be, that is where we stand. At least we will know the commissioners' opinions.

Here is what the commissioners of the Public Service Commission wrote in two letters dated February 17 and May 9, 2014. The letter of February 17 reads as follows:

Dear Mr. Martin,

We are writing with respect to "Bill C-520—An act supporting non-partisan agents of Parliament", which has been referred to the Standing Committee on Access to Information, Privacy and Ethics for a clause-by-clause review.

In the letter of May 9, 2014, we are told the following:

The Public Service Commission (Commission) wishes to reiterate that it has a keen interest in the proposed legislation and will support any effort to safeguard the merit principle for appointments to and within the public service and the non-partisan nature of the public service.

I believe the majority of Canadians agree that public service appointments should be based on merit. The most qualified Canadians must work for the government. I understand the concern of the Public Service Commission, which is responsible for ensuring that the merit principle is applied within the public service, and the reason why it spoke out first on this fundamental issue.

Several clauses in the bill would jeopardize this basic principle, which probably dates back to Confederation, or even before it. According to that principle, the appointment of a person to the federal public service or to any other level of government should be based on merit. The hiring of an individual at any level of government, but especially in the public service, should be based on merit.

• (1120)

The officials who work on the Hill demonstrate very clearly that this principle is always applied. We are well served. The work that analysts and clerks do is proof that the merit principle is not dead in the public service. I thank them for their work, by the way.

The commission adds that it also wants to protect the impartial nature of the public service. It remains concerned "about the Bill's effect on the merit-based appointment system and the impact of the overlap with the Public Service Employment Act provisions for managing non-partisanship and political activities of public servants, which could have an impact on employees and their rights."

These concerns are cited in a letter accompanied by a document prepared by the commission and sent to our attention, Mr. Chair, on February 17, 2014, as a constructive contribution to the study of this bill.

In the conclusion, the commission says it is prepared to continue discussing with us protection of the merit principle and the political impartiality of the public service.

These two letters express the commissioners' concerns. They did not have enough time to inform us of their views or to express their

concerns. They clearly felt compelled to speak to us once again about this bill.

• (1125)

[English]

I'm switching to English now, if that may help the interpreters.

Clearly the NDP has brought forward a number of amendments today that are in the spirit of the commissioner's worries, and I think the government has done so as well. I'll remind Canadians that this was done under some heavy pressure, both from the commissioners and the public, and also from the opposition.

This bill was basically about claptrapping, I would say, muzzling the independent agents of Parliament. My mind is open, as are probably all of my colleagues, in making sure that agents of Parliament can do their jobs objectively. We have to say that the record of this government with regard to the independence of agents of Parliament to express themselves has not been good. We can think about Mr. Page as being a prime example of this government's inability to listen to independent voices.

Having said that, I'd like to refer to my first amendment, which would delete lines 11 and 12 on page two of the bill, basically the line that say:

(j) any other position added by the Governor in Council in accordance with section 5

The Chair: If I could interrupt you, Mr. Ravnat, just for information, to say that there is a relationship, I believe, between NDP-1 and NDP-5. In fact, should NDP-1 carry, NDP-5 would also carry, and the inverse is also true. Should NDP-1—

Mr. Mathieu Ravnat: That is correct, yes.

The Chair: —be voted down, that would have a consequential effect and defeat NDP-5 as well.

Proceed, you have the floor.

Mr. Mathieu Ravnat: Okay, thank you.

There are a lot of amendments; we want to make sure that we're on the right page here.

"Any other position" is just an example of how badly crafted the original bill was, in terms of some of its openness with regard to what could occur under this particular bill. We these lines were superfluous and could be removed. So it's a pretty simple amendment and doesn't seem to be particularly controversial.

As the chair indicated, there is a relationship between two of our amendments, so perhaps I can speak, just briefly, to.... Actually, I don't need to do that. They're pretty self explanatory, so there's no reason why we can't go ahead with other speakers on this amendment.

The Chair: Thank you, Mr. Ravnat.

We have a list of speakers developed. Charmaine Borg is next.

Are there any other people interested in speaking to this?

•(1130)

[*Translation*]

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

I would like to add my voice to that of my colleague and to support this proposed amendment. Several agents of Parliament have expressed their concern with this bill. They fear it could lead to a witch hunt in which those agents who are responsible for overseeing members and who have the power to tell parliamentarians that they have broken the rules might be attacked. There would be a witch hunt and attacks would be directed at the people responsible for enforcing the House Standing Orders and regulations respecting elections, official languages and so on.

Lines 11 and 12 on page 2 of the English version would enable the government to add anyone's name to this list of persons who would be subject to the provisions of this bill. This is extremely problematic. Agents of Parliament have previously said they were concerned about this potential witch hunt. These two lines would make it possible to extend the possibility of witch hunts to include other persons as the government wishes. This is extremely problematic.

We could rule out that possibility by deleting these two lines. Despite the fact that we are fundamentally opposed to the principle of this bill, we nevertheless want to improve the fate of our federal public servants. By deleting these two lines, we could rule out the possibility of a future witch hunt and thus avoid the problems associated with the possibility of including anyone in future. We want to ensure that these types of provisions cannot be added to bills. One never knows what that can lead to or the scope it can have.

Perhaps other people would like to speak, but I would like to repeat once again that I support this amendment and to recall that it is necessary.

[*English*]

The Chair: Thank you, Madam Borg.

Is there any further debate on amendment NDP-1? Seeing none, we'll call the vote, then. All those in favour, please signify in the usual manner.

(Amendment negatived)

The Chair: The amendment does not succeed. NDP-1 is struck. That will also have the effect of defeating NDP-5.

We have further amendments to clause 2. Amendment NDP-2 calls for Bill C-520, in clause 2, to be amended by adding after line 31 on page 2 the following:

“partisan manner” means conducting one's duties and responsibilities in such a way as to constitute a political activity that would be disallowed under Part 7 of the Public Service Employment Act as impairing or being perceived to impair the ability of an individual to perform his or her duties in a politically impartial manner.

That's in the name of Mr. Ravnat.

Mr. Ravnat, do you have any comments on your amendment?

[*Translation*]

Mr. Mathieu Ravnat: Yes, of course. Thank you, Mr. Chair.

I believe the amendment is clear and specific enough. The fact is that the definition of partisan activity in the Public Service Employment Act is very clear. Every public servant is required to comply with that act.

The amendment would also ensure a kind of standardization of that definition in all circumstances relating to partisanship. I think that is the definition that should be used.

It is well known to the public service and the commissioners. As you know, I just read their opinion and the Public Service Commission has adopted the same position. Basically, any definition of what is partisan should be consistent with the Public Service Employment Act.

If you look a little more closely at that act, unless I am mistaken, the provisions are in part 7. The clause clearly states when persons may take leave without pay in circumstances in which they wish to be politically active, in what circumstances they may be members of a political party and how they may express partisan political opinions.

I suggest that my Conservative and other colleagues look at that part. It is something that should perhaps have been done before this bill was drafted.

I think that what is fundamental is that we make sure we reduce political conflicts of interest across the public service as far as possible. How can we do that without defining what partisan activity is?

If we leave this definition open to the government's judgment, the regulations will be clear for no one. Abuses will inevitably occur in the absence of regulations. We should avoid abuses at all costs. I believe it is up to the government, and perhaps to Mr. Adler as well, to comment on that subject.

I would like to ask Mr. Adler a question since he is here among us. May I do that, Mr. Chair?

•(1135)

[*English*]

The Chair: No, not really.

Mr. Mathieu Ravnat: Okay.

The Chair: Mr. Adler can have the floor after you, I suppose.

[*Translation*]

Mr. Mathieu Ravnat: All right. That is good to know. I did not know that.

So going back to what I was saying, I believe that if Mr. Adler had examined the act at the start, we could probably have avoided a lot of confusion. Some of my Conservative colleagues probably share that view given the changes they have made.

When we consider the amendments, we will see whether the members of the government party support an opposition amendment. If I had to advance arguments as to which amendment is most essential to support, I think it would probably be this one, but I may be somewhat biased since I introduced this amendment myself. The fact remains that, if we do not examine the definition of what is partisan in this bill, I believe the bill will fail in its scope.

I will stop there. I think I have said enough about the importance of defining partisanship and of systematically linking this question, which appears in the bill, to the Public Service Employment Act.

Thank you, Mr. Chair.

• (1140)

[English]

The Chair: Thank you, Mr. Ravignat.

Ms. Borg.

[Translation]

Ms. Charmaine Borg: Thank you, Mr. Chair.

The bill before us comes directly from the witnesses, even though there were very few of them. We did not have an opportunity to hear testimony from all agents of Parliament. We nevertheless heard from two who expressed their concern over the fact that the expression "partisan manner" was not defined.

I simply want to remind the committee that Michael Ferguson emphasized in his testimony that, since the term "partisan manner" was not defined, an agent of Parliament would have to do it, which could cause problems. Mary Dawson said the same thing. These people said they were concerned about the idea that a definition of the term "partisan manner" is not included in the act. Once again, that could lead to a witch hunt that would be based on a vague and ultimately undefined notion.

I also recall the letter that came from all the agents of Parliament and that was submitted to the committee. It read as follows:

[English]

For instance, in the absence of the definition of partisan conduct, it is unclear how this notion would differ from the definition of political activity contained in the Public Service Employment Act (PSEA).

[Translation]

In this amendment, we are asking that the definition correspond to what appears in the Public Service Employment Act. That will therefore be a direct response to the concern expressed by those individuals. I believe that is entirely wise. I also think it is our responsibility, during clause-by-clause consideration of the bill, to consider what the witnesses expressed and to respond to their concerns. That is precisely what the amendment does. I hope that all my colleagues will support this amendment so that we can improve what is basically a bad bill.

[English]

The Chair: Thank you, Ms. Borg.

The next speaker is Mr. Andrews.

Mr. Scott Andrews (Avalon, Lib.): Thanks, Mr. Chair.

I shall offer just a couple of words, related to this particular clause as a whole.

This amendment highlights how deeply flawed this bill is. We see from time to time, in our conflict of interest codification, that sometimes having two competing pieces of legislation becomes quite confusing. The agents of Parliament, the commissioners who were here, highlighted the ways in which the political activity description in the Public Service Act is not in line with this particular piece.

More broadly, we're being dragged down a road in this place whereby being involved with a political party, no matter at what level, is some sort of bad thing whereby your involvement with a political party mars your judgment.

I think this bill is in search of a problem when none exists. People's choice to become involved in a political party is their constitutional right; they're allowed to be involved with a political party. Somehow we're making it seem like a bad thing to be involved with a political party.

We had a discussion here about the merit principle. People should be getting jobs based on merit not based on whether they were or were not involved with a political party, as is the case here.

I think this amendment just highlights exactly how flawed this particular bill is as a whole and I won't be supporting the amendment or the bill at this time. We'll see where other amendments will bring us.

The Chair: Thank you, Mr. Andrews.

(Amendment negated)

The Chair: The next amendment, still on clause 2, is amendment NDP-3. It is moved by Mr. Ravignat.

I'll leave it up to you to explain what it seeks to achieve, Mr. Ravignat.

Mr. Mathieu Ravignat: Thank you, Mr. Speaker—I mean, Mr. Chair. I am having a lot of difficulty. Maybe it is because I was up until midnight at the take-note debate for the Nigerian girls that I still have "Mr. Speaker" echoing in my head. I didn't get that much sleep.

• (1145)

The Chair: I understand.

Mr. Mathieu Ravignat: I didn't get that much sleep. Mr. Chair, I apologize for that.

I think this is a rather clear amendment. I'll just read it out so it's clear:

The provisions of this Act apply only to the extent that they are not inconsistent with existing federal legislation, including the Public Service Employment Act and its regulations.

It's kind of a kitchen sink amendment as far as I'm concerned, Mr. Chair.

It seems to me that when drafting such a bill, you have to make sure that it doesn't contradict existing regulations but takes them into consideration, particularly when we're dealing with partisanship in the public service and the Public Service Employment Act, which I spoke to in my early amendment.

When we're dealing with the public service we have to make sure that we're very clear with them regarding what rules govern them concerning partisan activity. The piece of the legislation that is most important to them is the Public Service Employment Act.

So it seems logical that they should know, and that we should make it clear, that the Public Service Employment Act supercedes the bill when there is an inconsistency with regard to partisanship. This is both so that they know and so that there is clarity and consistency across the entire public service.

Inconsistencies can lead to chaos and to misunderstandings around the management/employee/employer table. They can have negative consequences for collective bargaining, in this case negative consequences for the right of free speech of our public servants, both within and outside management. So a basic amendment that makes it clear that the Public Service Employment Act is going to apply in cases of inconsistency seems to me to be completely reasonable.

The fact that it wasn't present in the original bill is worrying, because it probably means that the Public Service Employment Act wasn't considered at all, or that the possibility of there being any inconsistency between this bill and various other pieces of legislation and other rules and codes that exist in the public service was not taken into consideration. With all due respect to Mr. Adler, that to me is just a matter of basic research done before one drafts a bill of this magnitude and importance for the public service, for the commissioners, for the agents of Parliament.

So it's in that spirit that the NDP is bringing forward this amendment. We have two strikes and if we're talking about baseball it's two strikes, but we'll see about this third one. I'm always hopeful that something this reasonable may actually be supported by my colleagues on the other side of the table.

The Chair: It's probably a bunt.

Mr. Mathieu Ravignat: A bunt.... Okay, it could be very well be. Provided it gets me to a base, I don't mind.

I'm going to leave it there, Mr. Speaker, I mean Mr. Cheese, Mr. Chair, and perhaps there are other speakers that might want to take it up.

The Chair: You can call me Mr. President, but you can't call me Mr. Cheese.

Some hon. members: Oh, oh!

Mr. Mathieu Ravignat: No, no.

The Chair: Charmaine Borg.

Mr. Mathieu Ravignat: My brain must be tired.

[*Translation*]

Ms. Charmaine Borg: Mr. Chair—and not Mr. Cheese—I still want to support the amendment of my colleague Mr. Ravignat.

We have been informed on several occasions of concerns related to the fact that this bill might contradict the Public Service Employment Act. There are definitions that differ in certain respects, and certain provisions of Bill C-520 are redundant because they already appear in the Public Service Employment Act.

Although we did not have a chance to hear from all agents of Parliament, I would like to remind committee members that the Auditor General, Mr. Ferguson, said that there were questions about aspects that are defined in this bill but that are also defined in other acts and that could cause confusion.

Now I am going to speak in English.

● (1150)

[*English*]

The Association of Justice Counsel said, and I quote: “Blais said the bill is unfair and “redundant“ because the public service is already governed by an “elaborate regime” of statutes, codes, and processes to safeguard the political neutrality of Canada's public service.

[*Translation*]

He thinks it is redundant because an act is already in place.

This amendment will clarify matters, in confusing or ambiguous situations, as to whether the provisions of the bill may invalidate what already appears in the Public Service Employment Act. This amendment states that what is understood in the Public Service Employment Act takes precedence.

In addition, the Public Service Commission of Canada has reiterated its concerns over certain instances of duplication between this bill and the Public Service Employment Act and over the potential consequences for employees and their rights. We know that Bill C-520 opens the door to various systems of supervision and enforcement. So it is highly problematic.

For the third time, and this time may be the right one, I ask all my colleagues to support this amendment. It is very important to do so in order to provide clarification for agents of Parliament and all those who will be directly affected by what Mr. Adler is proposing in his bill. It is our duty as parliamentarians to clarify somewhat matters that concern them, and that is what this amendment does.

That is what I had to say on that subject.

[*English*]

The Chair: Thank you, Ms. Borg.

Is there any further debate on amendment NDP-3?

(Amendment negated)

The Chair: We'll move on. We're still in clause 2. The next proposed amendment is CPC-1 from the Conservative party under the name of Ms. Davidson, I believe.

Ms. Davidson, would you care to propose your amendment?

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Yes, thank you. Do you want me to read it?

The Chair: I think it's good to read it to start.

Mrs. Patricia Davidson: Thanks, Mr. Chair.

I move that Bill C-520, in clause 2, be amended by adding after line 12 on page 3 the following new subclause 2(3):

(3) Nothing in this Act is to be construed as authorizing a person who works in the office of an agent of Parliament to occupy a politically partisan position or engage in political activities.

May I speak to it?

The Chair: Please.

Mrs. Patricia Davidson: I'm very pleased to bring forth this amendment. Certainly, we heard from the witnesses—and thanks very much to our excellent clerk and analysts who serve us so very well on this committee, because all of the committee members absolutely have all of the correspondence that has been sent through. I know that everyone on this committee is very capable of reading that correspondence and understanding it, and I think that this amendment addresses the concerns that we heard, as will the further amendments that I'll be proposing.

• (1155)

The Chair: Thank you, Ms. Davidson.

Is there any further debate?

I see Mr. Ravnignat.

Mr. Mathieu Ravnignat: Perhaps I could ask a question before....

Sorry, Mr. Chair, I think it's clear enough.

The Chair: You're certainly free to ask the clerk for any interpretation.

Mr. Mathieu Ravnignat: No, I think it's okay. I thought I had a question. My apologies.

The Chair: Not at all. Do you wish to speak to the amendment then?

Mr. Mathieu Ravnignat: No, I don't.

The Chair: Okay, next on the list is Madam Borg.

[*Translation*]

Ms. Charmaine Borg: Thank you, Mr. Chair.

Although the amendment in question is not really a problem for me, I would like to repeat my concern that this is somewhat redundant. I believe that the people affected by this act understand that we are not encouraging them to occupy a partisan position. Furthermore, I do not believe that this practice of seeking partisan positions is a common one. I think it is already understood that this is not encouraged. The Public Service Employment Act states that as well.

However, I simply wanted to say that the amendment was somewhat redundant, although I do not consider it a fundamental problem.

[*English*]

The Chair: Is there any further debate?

Mr. Andrews.

Mr. Scott Andrews: Mr. Chair, let me ask our legislative clerk whether this amendment is in conflict with anything else in this bill. Does this amendment flow with this particular piece of...?

I think this amendment seems a little out of place, because it may be in conflict with some of the other parts of this bill.

Is my reading of it correct?

The Chair: Actually, Scott, that question is more properly put to the legal counsel from the legislative drafting people. It's not really for the clerk to make that kind of judgment about the relative merits of the clause; he's here to deal with the procedural side of things.

Mr. Scott Andrews: Okay, that's a fair comment.

Would it be of some use to have the legal department here during this bill? I know that it has been the case with other bills that some people from the legal department have been before committee to answer certain technical questions.

I'm just asking. I don't know whether there's a...

The Chair: I don't think it is any kind of normal practice to have the legislative drafting people here. You might have a question for the analysts along those lines, as to their opinion.

Is this something the analysts here would like to intervene on—the appropriateness?

I really think it's a judgment call on the part of committee members whether they feel it's redundant or ambiguous. You can make that point, but you can either vote for or against the amendment as proposed by Ms. Davidson. It was deemed to be in order. I think if it were wildly out of place, the legislative drafting people probably would have advised the author of the amendment and have said that this really isn't an appropriate amendment.

But it is here properly before this committee, so I suppose the options are to vote in favour or against.

(Amendment agreed to)

The Chair: Are there any further amendments to put in clause 2 before we call the question on clause 2?

Seeing none, I shall put the question on clause 2 as amended.

(Clause 2 as amended agreed to)

(On clause 3—*Partisan activities*)

The Chair: The first amendment proposed to clause 3—of which we've had notice, at least—is Conservative Party amendment CPC-2, again under the name of Ms. Davidson.

Would you like the floor to explain your amendment and defend it?

Mrs. Patricia Davidson: Okay. Thank you very much, Mr. Chair. The amendment I am proposing is that clause 3 be amended by replacing lines 13 to 17 on page 3 with the following: The purpose of this Act is, in conjunction with any other applicable rule of law, to avoid conflicts that are likely to arise or be perceived to arise between partisan activities and the official duties and responsibilities of any person who works in the

office of an agent of Parliament

The difference is a couple of new words—“in conjunction with any other applicable rule of law”—and the deletion of “an Agent of Parliament or”. Those words are deleted. That again, as I said in my previous remarks, is in response to the testimony we heard as we went through this bill.

• (1200)

The Chair: Thank you, Ms. Davidson.

Mr. Ravignat.

Mr. Mathieu Ravignat: In the last clause, the amendment talked about political activities and a partisan position; this new amendment talks about partisan activities.

My question is, what is the difference between a political activity and a partisan activity or a political position and a partisan position? Does the government have a clear answer about that?

It seems to me, when we're considering this type of clause or any type of clause, that we need to be consistent in the vocabulary we use and also that we have at least an idea of what we mean by these different categories of human activity, whether it be a “political position”, a “political act”, “political activities”, a “political expression” or a “partisan expression”.

I'd be interested to understand whether the government has actually wrapped their heads around any of these terms. If they're not going to refer to the very clear terms defined the Public Service Employment Act, then who is going to interpret all of this?

The Chair: Have you concluded, Mr. Ravignat?

Mr. Mathieu Ravignat: That was my question.

The Chair: Next on the speakers list is Mr. Calandra.

Mr. Paul Calandra (Oak Ridges—Markham, CPC): Mr. Chair, I would refer the member to page 2 of the bill where it clearly outlines what they are: electoral candidate, electoral district association officer, member of a ministerial staff, member of parliamentary staff, member of a political staff, chief executive officer, appointed auditor, or a financial agent. It's actually clearly defined on page 3 of the English, in subclause 2(2), under “Interpretation”. It defines what that is, Mr. Chair.

So I suggest the member might want to re-read the second page of the bill. It might help him. I know that he had a late night last night, but page 2 might help him out a great deal—not only on that particular clause, but also on all the clauses and amendments that the Conservatives have brought forward. It's not only on this one, but going forward, which I know he has in front of him. So he might want to take a look at that in that context.

The Chair: Is there any further debate?

Madame Borg.

[*Translation*]

Ms. Charmaine Borg: I thank Mr. Calandra for his willingness to head us in the right direction. However, I just want to mention that partisan activities are still not defined.

[*English*]

The Chair: Thank you.

Mr. Ravignat.

[*Translation*]

Mr. Mathieu Ravignat: I want to point out that Mr. Calandra did not really answer my question. There is a difference between a political position and a political activity. He is right in a way. It defines the positions, but, when you are in that kind of position, there are all kinds of activities that a public servant may consider and take part in.

I do not think it is as clear as Mr. Calandra would like to suggest.

[*English*]

The Chair: Thank you, Mr. Ravignat.

Mr. Calandra, again.

Mr. Paul Calandra: I'll read it slower for the member.

“electoral candidate” has the same meaning as “candidate” in subsection 2(1) of the Canada Elections Act.

“electoral district association officer” means a person who occupies any of the following positions in an electoral district association, within the meaning of subsection 2(1) of the Canada Elections Act, namely (a) chief executive officer or any other officer; (b) appointed auditor; or (c) financial agent.

“ministerial staff” means those persons, other than public servants, who work on behalf of a minister of the Crown or a minister of state.

“parliamentary staff” means those persons, other than public servants, who work on behalf of a senator or a member of the House of Commons.

“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.

It continues:

“political party” means a registered party as defined in subsection 2(1) of the Canada Elections Act.

“political staff” means those persons, other than public servants, who (a) work for a political party; (b) work in the office of the Official Leader of the Opposition—

presumably in Ottawa, not Montreal—

in the Senate or in the House of Commons; or (c) work in a political party research office.

So that would be on page 2 and page 3, Mr. Chair.

• (1205)

The Chair: Thank you, Mr. Calandra.

Is there any further discussion or debate?

Madame Borg.

Ms. Charmaine Borg: Again, we are very capable of reading, Mr. Calandra, but I would thank you, again, for reading those out loud. I would actually ask you to perhaps re-read it and try to find the definition for partisan activities.

I understand that we have a bunch of other definitions relating to positions, great. We have “parliamentary staff”, great. We have “ministerial staff” and what a political party is, fine. But we do not have a definition for partisan activities, and that is our concern here.

The Chair: Is there any further debate or discussion on CPC-2?

(Amendment agreed to on division)

The Chair: Good enough. That concludes the amendments. Are there further amendments to clause 3 before we move on?

(Clause 3 as amended agreed to)

(On clause 4—*Positions*)

The Chair: The first amendment to clause 4 is CPC-3, in the name of Ms. Davidson.

Ms. Davidson, you have the floor.

Mrs. Patricia Davidson: Thank you very much, Mr. Chair.

My amendment is that clause 4 be amended by replacing lines 19 and 20 on page 3—again in the English and French version side by side—with the following:

This Act applies to any person who

The rest of lines 19 and 20 would be removed, so the final clause 4 would read:

This Act applies to any person who applies or is selected for a position in the office of an agent of Parliament.

The Chair: Okay, we've heard the amendment.

Mr. Andrews is opposed.

We have another amendment under clause 4, which is NDP-4 in the name of Mr. Ravignat.

Mr. Ravignat, would you like to propose your amendment?

Mr. Mathieu Ravignat: Yes, thank you, Mr. Chair.

I think this is rather straightforward, ensuring that:

applies or is selected for a position in the office of an agent of Parliament that includes decision-making responsibilities or is a position of influence.

I think it provides greater clarity. A clearer definition would potentially ensure fewer conflicts of interest and allow the bill to be strengthened with regard to certain transparency and accountability issues, so I happily propose this kind of common sense amendment.

The Chair: Thank you, Mr. Ravignat.

Next on the list, Madame Borg.

[*Translation*]

Ms. Charmaine Borg: Thank you, Mr. Chair.

I wanted to draw the committee's attention to one point.

Several witnesses have expressed their concerns over the fact that this bill would really apply to all employees, regardless of their positions in the line structure and regardless of their responsibilities within a given agency. I want to share what they said. Since I unfortunately received it in English only, I will therefore share it in that language.

The Auditor General wrote this.

• (1210)

[*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.

[*Translation*]

The letter we received from agents of Parliament reads as follows:

[*English*]

Finally, the coverage of this Bill is very broad. It applies to all employees at all levels. The Committee may want to consider whether the Bill should be limited to employees with decision making power or in positions of influence.

[*Translation*]

In addition, the Conflict of Interest and Ethics Commissioner, Mary Dawson, stated the following:

[*English*]

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.

[*Translation*]

Consequently, we can see from the letter signed by all agents of Parliament that this is what they all request, that this apply only to persons who are in a position of influence and who really have decision-making responsibilities. They are concerned that this may affect all employees.

I am of the view that this amendment in fact directly addresses the concerns raised by the witnesses who are directly affected by this bill.

I therefore believe it is our duty to consider and adopt it.

Thank you.

[*English*]

The Chair: Thank you, Madame Borg.

Is there any further debate on NDP-4?

(Amendment negated)

The Chair: Are there any further amendments to clause 4?

(Clause 4 as amended agreed to [*See Minutes of Proceedings*])

The Chair: We have notice of an amendment by the NDP to clause 5, which has already been dealt with because it was consequential to NDP-1.

Are there any further amendments to clause 5?

(Clause 5 agreed to)

(On clause 6—*Declaration of future intent*)

The Chair: Are there any amendments to clause 6?

Madame Borg.

[*Translation*]

Ms. Charmaine Borg: Mr. Chair, I have no amendment to introduce, but may I speak to the clause?

[*English*]

The Chair: Absolutely.

[*Translation*]

Ms. Charmaine Borg: Clause 6 requires an agent of Parliament to make a written declaration.

[*English*]

The Chair: You have a point of order?

Mr. Paul Calandra: No, forget it.

The Chair: Every clause is debatable, whether there are amendments to the clause or not.

Mr. Paul Calandra: That's fine.

The Chair: Ms. Borg has the floor.

[*Translation*]

Ms. Charmaine Borg: Thank you.

Clause 6 reads as follows:

(1) Every agent of Parliament who intends to occupy a politically partisan position while holding his or her position as an agent of Parliament must make a written declaration of their intention to do so as soon as possible and before starting in the politically partisan position. The declaration must indicate the nature of the position, as well as the period of time during which the agent intends to occupy it.

(2) The declarations referred to in subsection (1) must be posted on the website of the office of the agent of Parliament within 30 days after the date of each declaration.

The fact that agents of Parliament would have to make a written declaration is a real concern.

Here I would like to share the comments that Michael Ferguson made because they very clearly explain the reason why we are opposed to this clause.

I apologize, but I only have the English version.

[*English*]

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.

● (1215)

[*Translation*]

This provision is extremely redundant.

[*English*]

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.

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.

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.

[*Translation*]

I know that we have indeed adopted the Conservatives' amendment, which implies that this does not encourage agents of Parliament to occupy partisan positions or to want to occupy such positions. However, section 117 of the Public Service Employment Act clearly provides that that is not possible for them. I therefore do not understand the intent or necessity of this clause. It is redundant, and it provides for something that does not even correspond to reality.

The Auditor General said in his testimony that he could not occupy a political position. It is good that that is the case because we do not want agents of Parliament to be able to occupy such positions. I do not think they intend to run in the next election or to be president of an electoral district association. Then why propose this provision, which is completely redundant and implies something that does not at all correspond with reality under the Public Service Employment Act?

We are therefore entirely opposed to this clause because it is redundant and illogical.

[*English*]

The Chair: Is there any further discussion on clause 6?

I see Mr. Ravignat.

[*Translation*]

Mr. Mathieu Ravignat: I agree with my colleague's analysis of clause 6. Even the process of appointing an agent of Parliament partly excludes this possibility. Furthermore, the code of conduct of agents of Parliament and the law governing the political activities of public servants sufficiently cover that possibility. I see only bitterness on the government's part in this clause.

As for Mr. Page and the other individuals who had the audacity to criticize the government, some of my colleagues have said they were subjected to a witch hunt. I would not go so far as to say that, but the fact remains that I do not understand the logic of this amendment since we already have an act that limits the political activities of agents of Parliament.

Why does the government need this kind of provision? Can anyone imagine asking commissioners to come and testify about their political activities before a committee?

[*English*]

We will cross-examine these persons on their political opinions, on whether they have or have not been members of a particular party, whether they will be in the future, whether they intend to be, whether or not their wives will be, and whether or not their kids have actually engaged in any form of partisan activity.

It seems to me what this article is to give a beating stick or a flail to a government. With future governments, we'll have to live with their ability to smear the name of an independent agent of Parliament on a whim, or on an ill-defined partisan definition. I think it doesn't have its place in a democracy, where we have agents of Parliament who actually watch the government and do their job. Also, we're not the only ones saying so. As my colleague, Madame Borg pointed out, the commissioners themselves don't understand why this was put into this bill and what it's supposed to cover.

At one point, Mr. Chair, we have to understand that this has never occurred in the past. There has not been one incident of partisan activity in the various commissioners' offices. So, you solve a problem when there is a problem. You don't create a solution which causes problems.

It seems to me there has to be some form of evidence-based legislation-making, and this is clearly a failure on that account on several levels. So, if it hasn't happened, why are they wanting to drag out the commissioners on their partisan opinions? I don't understand it. The commissioners don't understand it. The Canadian public doesn't understand it.

It's too bad I can't ask questions of the drafter of this bill, because it would be interesting to know what motivated the inclusion of this particular article. But the fact that the government actually wants to keep it in here is really worrying, and it would be interesting to understand why. Why do they feel this is actually necessary? I'm not going to get that answer. It will probably go to a vote, but it would be interesting, indeed, to have it, because I'm sure there are a lot of people asking the same questions that I am.

So, I'll keep it there, Mr. Chair, and I thank you for your diligence.

•(1220)

The Chair: I should remind the member, thank you, that Mr. Adler, as the sponsor of the bill, was a witness before this committee and testified, gave his rationale, and was available for questions. You are free to put questions to any committee member. They just have no obligation to answer. But that opportunity was when he was a witness before the committee.

Seeing no other speakers on clause 6, shall clause 6 carry?

(Clause 6 negated)

The Chair: It must have been a very compelling argument you made. I don't think I've ever seen that happen before, actually.

(On clause 7—*Position in the office of an agent of Parliament*)

The Chair: We have notice of four amendments by the NDP to clause 7.

We are on NDP-6, under the name of Madame Borg. Madame Borg, would you like to introduce your amendment and speak to it?

[*Translation*]

Ms. Charmaine Borg: Thank you, Mr. Chair.

My colleague has raised some concerns about the fact that we would be asking agents of Parliament to change the hiring process.

My amendment aims to restore the situation. I am referring to clause 7. This specific amendment requests that the provisions of this bill be limited to persons who have decision-making power or who have influence. I have previously mentioned my concerns on this matter.

Now I would like to share something that we have not yet had an opportunity to discuss. This is in the letter that we received from the Office of the Information Commissioner of Canada. By the way, they did an excellent job. They divided all the various problems or improvements they wanted to make by individual clause.

The letter reads as follows: Declarations of past political positions raise privacy concerns in that it requires the disclosure of personal information without any nexus or connection between this disclosure and their ability to perform their functions.

In doing this, we would really be asking everyone to make these disclosures public when this is not really necessary in such cases.

I previously outlined my concerns over the excessive scope of the provisions and mentioned that we should limit them, particularly clause 7, solely to individuals who have decision-making power. We have concerns about privacy, but also about the fact that this might undermine the ability of these individuals to make a request in future given that, in any case, they do not have decision-making power. That is the purpose of this amendment.

I do not know whether other people want to speak to this amendment. I would be pleased to hear their comments.

•(1225)

[*English*]

The Chair: Thank you, Madam Borg.

Are there any further speakers on NDP-6?

Mr. Ravnat.

[*Translation*]

Mr. Mathieu Ravnat: Once again, I think the proposed amendment could significantly improve the bill. I think it is important to be very clear in each of the clauses. The way my colleague moved this amendment significantly clarifies clause 7 as a whole.

I believe we are doing it in good faith. We are moving common sense amendments. These amendments are an attempt to improve a bill that, I would recall, had a lot of deficiencies. They are deficiencies that Ms. Borg's amendments address.

In short, I encourage my colleagues to vote for this amendment.

[*English*]

The Chair: Thank you, Mr. Ravnat.

Is there any further comment on NDP-6?

(Amendment negated)

The Chair: Still on clause 7, we have NDP-7, again in the name of Ms. Borg.

Would you like to introduce it and move your amendment, Ms. Borg?

[*Translation*]

Ms. Charmaine Borg: Thank you, Mr. Chair.

The purpose of my next amendment is to amend clause 7 of Bill C-520 by replacing line 16 on page 4 of the English version with the following: "possible after being hired, provide the".

Clause 7 provides that, during the hiring process, the person in question must prepare a list of his or her partisan activities, which are not defined. According to some witnesses we heard and the letters I will be reading in part later on, people are concerned about the way this clause is presented in Bill C-520. They think it will undermine the merit-based hiring process. It could undermine the current process already used by the offices of the agents of Parliament.

Once again I am going to refer to the table that the Office of the Information Commissioner of Canada sent us, where it reads as follows concerning

clause 7: Asking candidates to disclose past political positions may jeopardize the merit-based appointment process under the PSEA in that it may be perceived that such information will be considered in the appointment process. This goes against s. 30 of the PSEA requiring that appointments be made on the basis of merit and "free from political influence".

As you can see once again, there are subtle differences between what the bill proposes and what is already in the Public Service Employment Act, which establishes a merit-based hiring process.

My amendment is very simple. Its purpose is to have agents provide the list of previously occupied political positions only after hiring, which is entirely legitimate. This would make it possible to determine whether there is a risk that a decision might be considered political. An individual's application could be set aside during the hiring process, because that person previously occupied a political position, in contravention of the Public Service Employment Act, which provides that appointments must be free from all political influence.

I would also like to share what the Public Service Commission of Canada said in its letter dated May 9, 2014:

The Public Service Commission (Commission) wishes to reiterate that it has a keen interest in the proposed legislation and will support any effort to safeguard the merit principle for appointments to and within the public service and the non-partisan nature of the public service.

The commission reiterates that it is very important for it to protect the merit principle. However, clause 7, if not altered by the amendment I am moving today, could vastly undermine the merit-based appointment process.

There is also a letter from the Commissioner of Official Languages, who states appreciably the same thing. It reads as follows:

I am particularly concerned about the Bill's apparent conflict with the Public Service Employment Act and the Values and Ethics Code for the Public Sector, its impact on the hiring process, the issues of procedural fairness, the lack of a definition of partisan conduct...

The commissioner says he is concerned that the provisions will undermine the merit-based hiring process.

This amendment is relatively simple, but it thoroughly addresses several concerns. I could cite several other passages. I have at least three pages of testimony, but I will spare you that because you have heard the same thing as I have.

• (1230)

I know this was a very important part of the testimony, letters and communications that we received from the agents of Parliament, various associations and the Public Service Commission. I do not believe we have a duty to amend the hiring process, nor do I believe that is the member's intent. Perhaps he would like to comment on that point. This is already provided for in another act. I repeat, I believe that this is extremely important and the witnesses have asked us for this.

This is a sensible amendment. I hope we will show some common sense today.

[English]

The Chair: Thank you, Madame Borg.

With further debate on amendment NDP-7, Mr. Ravignat.

Mr. Mathieu Ravignat: Obviously I'm going to speak in favour of the amendment for one particular reason: what is the assumption with this article? One is that commissioners can't do their job at hiring their own staff to ensure that they are non-partisan. It's hard to see this as anything else but an insult to the commissioners and their management acumen, their ability to ensure that their own staff is non-partisan. We selected and we'll continue to select these people for a very good reason: because they're professionals. They do an amazing job at what they do. I remind the committee that there has been no case of blatant partisanship on behalf of any of the offices of the commissioners. What are we telling them? Here is this great position of responsibility, and, oh, by the way, you can't do your job. You're not capable of weeding out intensely partisan staff or keeping your staff and your shop professional, objective, and non-partisan.

Also, fundamentally there's no distinction in this between a position of importance like the commissioner and the administrative assistant who has no public profile at all. Are you going to expect the administrative assistant, the public servant, to essentially bare his or her partisan life for the entire hiring process? Hiring should be based on merit, and post-having been hired, that's another matter because then there are fundamental expectations that are in place with regard to the objectivity of your work as a public servant. Those expectations are very clearly made out in the Public Service Employment Act, as I mentioned before.

It's hard to see this as anything else but an attempt to screen non-Conservative public servants in the commissioner's office. Why would you want to know as a hirer what a person's political experience and activities were—let's take the administrative assistant, for example—before hiring that person at a commission if it isn't to screen out potentially critical people of a particular government, of a particular stripe? It arms a government with too much power, and it's useless and redundant because there are already rules in place. It's useless and redundant.

Mr. Adler, as the person who actually drafted this particular clause, what were your intentions? You have been given permission to answer if you would like. I wonder what your intentions were with regard to this particular article.

• (1235)

The Chair: Mr. Zimmer.

Mr. Bob Zimmer (Prince George—Peace River, CPC): On a point of order, Mr. Chair, isn't the member supposed to be asking the questions through the chair? I just want to clarify; he's speaking to the member directly, and I just wonder if that's correct.

The Chair: It varies from committee to committee, but I've always.... Even when we're interviewing witnesses, I don't ask the witnesses or the committee members to go through the chair. Unless we want to adopt that as a rule of this committee, it hasn't been our past practice

But Mr. Calandra is right that Mr. Adler has no obligation to answer any questions put to him. He can contribute as much or as little as he likes to this committee. He was here as a witness before, and that would have been the time you could have put questions to him and expected an answer.

Mr. Bob Zimmer: Thank you, Chair.

The Chair: Mr. Ravignat, are you finished?

Mr. Mathieu Ravignat: Yes, Mr. Chair.

The Chair: Thank you.

Is there any further debate on amendment NDP-7?

(Amendment negatived)

The Chair: Still in clause 7, we move to amendment NDP-8 in the name of Madame Borg.

Madame Borg, would you like to introduce your amendment?

• (1240)

[*Translation*]

Ms. Charmaine Borg: Yes. Thank you, Mr. Chair.

I have previously discussed the privacy implications of the website posting of previous political positions. Several agents of Parliament said they had concerns on this point because the declarations would really be online and accessible to everyone. I have already read these remarks by the Office of the Information Commissioner, but I am going to read them again because I find them even more relevant to the context of this amendment. They read as follows:

Declarations of past political positions raise privacy concerns in that it requires the disclosure of personal information without any nexus or connection between this disclosure and their ability to perform their functions.

We are obviously talking a little about redundancy here, but it is as though we had to post our CVs on the Internet. I am not even required to do that as a member. Yes, I discuss my experience on the Internet, but I do it willingly because I think it appropriate to tell my fellow citizens what I previously did. However, I think that asking agents of Parliament to put that kind of information online is going too far.

The purpose of my amendment is to ensure that this information does not have to be posted online and that it is provided in another way. That is what I am proposing. This is simply to address privacy concerns. There are consequences when you post information online. I do not think it is appropriate to require agents of Parliament to put their CVs online. As a result of their positions, they are not even entitled to hold partisan positions in any case. I believe we should consider the impact that situation would have on privacy.

That then is what I am proposing. I hope my colleagues will support it, but I believe it is already a lost cause. I have unfortunately lost my optimism.

[*English*]

The Chair: Thank you, Madame Borg.

Is there any further debate on amendment NDP-8?

(Amendment negatived)

The Chair: Still on clause 7, we are on proposed amendment NDP-9 under the name of Madame Borg.

The floor is yours.

[*Translation*]

Ms. Charmaine Borg: Thank you.

I would like to address more or less the same concerns.

The purpose of my last amendment was to eliminate the need to make these declarations online. I am asking instead that they be made to Parliament. This would rule out all privacy concerns. I have said it once and I will say it again: there may be serious privacy consequences for anyone who is asked to post a CV online. Furthermore, this process is not necessarily useful. We have said it once, but I will say it again: this bill causes problems where there are none. The question as to whether or not declarations are made online has never been a problem. Taking action to address these privacy concerns is simply a matter of common sense.

Whatever the case may be, that is what I am proposing. I hope we can secure the support of all members.

[*English*]

The Chair: Thank you, Madam Borg.

Is there further debate on amendment NDP-9?

Mr. Ravignat.

[*Translation*]

Mr. Mathieu Ravignat: It seems to me that the decision to post a CV online is up to that person. Preparing a bill that essentially provides that a CV must be published online leads me to ask the following question: Where do we stand? To what extent will the government control people's lives? My colleague knows a lot of things. He knows them far better than I. I believe that the violation of this person's privacy is a fundamental issue.

Mr. Chair, we are studying the subject. We realize how easy it is today to steal someone's identity. Many witnesses have told us that. We are living in a new digital age, which means that private information such as, for example, where we have worked, what our professional experience was, how long we were in a position at a given place, circulates. This is information that we normally find in a CV. Basically, all of it can be used to violate a person's privacy and steal his or her identity.

It seems to me that a government's first responsibility is to protect its citizens from wrongdoing, including identity theft and privacy violations. This is merely another example that shows us that Mr. Adler, working on the government's behalf, has unfortunately not considered the bill's consequences. Seriously, Mr. Chair, we cannot decide from one day to the next to interfere in the lives of public servants at any level whatever.

He should have done some thinking and probably heard the Privacy Commissioner's opinion on the bill. It would have been useful to know what she thinks of certain measures and their potential impact. That is why I support the amendment, which I consider well intended and which would help strengthen the bill.

•(1245)

[English]

The Chair: Thank you, Mr. Ravignat.

Is there further debate on amendment NDP-9?

Seeing none, I call the question.

(Amendment negated [See *Minutes of Proceedings*])

(Clause 7 agreed to)

(On clause 8—*Written Undertaking*)

The Chair: Moving on to clause 8, we have notice of a proposed amendment by the Conservative Party.

Ms. Davidson, on amendment CPC-4, for a statement....

Mrs. Patricia Davidson: Thank you very much, Mr. Chair. I would move that clause 8 be amended by replacing lines 1 and 2 on page 5 with the following: 8. Every person referred to in section

and then it would continue on as written.

The Chair: Thank you, Ms. Davidson.

Is there any further debate on amendment CPC-4?

(Amendment agreed to)

The Chair: Is there any further amendment or debate on clause 8?

Madam Borg.

[Translation]

Ms. Charmaine Borg: Once again, I would like to refer to the lack of definitions. This question has been addressed by many witnesses. Despite the Conservatives' attempts to make us believe that there was a definition of what constitutes doing something in a "partisan manner", there is none. This is very much a concern, particularly because there is already a similar definition. It may conflict with what appears in the Public Service Employment Act, and that concerns us.

The Conservatives would have us believe that the expression "partisan manner", or "façon partisane", is defined, whereas it is not. We tried to define it by means of our amendment, but it was unfortunately negated. That is why we will vote against clause 8 of the bill. We cannot simply support a measure that would permit a witch hunt because we have no definition of what constitutes something that is done in a partisan manner. That is our main concern, and we have tried to correct the problem by the amendments we have introduced. They have been negated. We will therefore vote proudly against clause 8.

•(1250)

[English]

The Chair: Thank you, Madame Borg.

Is there any further debate on clause 8 as amended?

(Clause 8 as amended agreed to)

(On clause 9—*Holder of a position in the office of an agent of Parliament*)

The Chair: Are there any amendments to clause 9?

Mr. Calandra.

Mr. Paul Calandra: Sorry, Mr. Chair, I have no amendments.

This is just to advise the committee that, on the advice of Mr. Adler, the Conservatives will be voting against clause 9 and clause 10.

The Chair: Okay, we'll have to deal with them as they come.

Thank you for that information.

Is there any further debate on clause 9?

Charmaine Borg.

[Translation]

Ms. Charmaine Borg: Thank you, Mr. Chair.

I have something else to say, but first I would like to let Mr. Adler give us an explanation of the reason why he wants to withdraw certain clauses. Why did he introduce a bill that included them? What has brought about his change of mind?

[English]

The Chair: Is there any further debate? Is that your comment or your question, Madame Borg?

[Translation]

Ms. Charmaine Borg: I asked him to respond.

May I continue speaking?

[English]

The Chair: Yes, you can keep the floor if you like, but seeing no response from the other side, you might want to just make a comment on clause 9.

[Translation]

Ms. Charmaine Borg: I believe that was a well-intended question, but let us move on.

I am pleased to know that the Conservatives will be voting against clause 9. We have also discussed a number of concerns, particularly with the fact that it might lead to a witch hunt. That thought does not come out of nowhere.

Mr. Del Mastro is being investigated by Elections Canada. The Hon. Pierre Poilievre attacks Marc Mayrand and several members seem to think that agents of Parliament are opposed to them for some unknown reason. Clause 9, like clause 10, could enable individuals who feel targeted—they would not be targeted; they would have violated the act and might perhaps have trouble believing it—to investigate allegations of vaguely defined partisan conduct. This is a major concern.

We risk promoting a situation in which individuals responsible for ensuring that parliamentarians, the government and election candidates obey the rules might be attacked because they have identified someone who may have broken the law. Consequently, we are completely opposed to clause 9. I am at least pleased to know that the Conservatives, despite their wish to reject all our other amendments, will be voting against this clause. I am very satisfied with that. Unfortunately, there are several other problems with this bill. We have not managed to correct them. Even if we had been able to make certain amendments, there are so many problems in this bill

[*English*]

The Chair: Excuse me, Madam Borg, we have a point of order.

Mr. Paul Calandra: On the point of order, the government members, on Mr. Adler's advice, have already identified that we will not be voting for clauses 9 and 10. Unless the NDP and Liberals are intending to support it and are making amendments—and I don't actually see that they have any amendments.... I'm confused as to why we're debating clauses that seem to have the unanimous consent of the committee to be withdrawn.

The Chair: That's not a legitimate point of order. All of the clauses are debatable, whether they're amended or not, prior to their going to a vote. I have to rule this as not a point of order.

Madam Borg still has the floor.

•(1255)

[*Translation*]

Ms. Charmaine Borg: Thank you, Mr. Chair.

I believe I actually have a right to explain my reasoning on this point and to explain the reason why I will be voting against the clause. That is my right as a parliamentarian and as a member of this committee.

Pardon me but I believe I lost my train of thought.

[*English*]

Hon. Laurie Hawn (Edmonton Centre, CPC): [*Inaudible—Editor*] a while ago.

[*Translation*]

Ms. Charmaine Borg: Pardon me, Mr. Chair, but that kind of comment is not productive in the context of parliamentary debate.

[*English*]

The Chair: I agree. Let's try to keep things civil.

[*Translation*]

Ms. Charmaine Borg: I was talking about the fact that we would potentially be creating a situation in which those people who are responsible for identifying violations of certain electoral acts, for example, would have to begin investigations based ultimately on very few tangible facts. This is a real problem.

I remember what I was saying before I was interrupted. There are many problems with this bill. We understand that there is obviously a desire to trigger a free-for-all witch hunt.

We are proud to vote against this bill. We wanted to make certain amendments to it. One amendment that we brought forward would

make it possible to withdraw this extremely problematic clause. I am pleased with it. However, that is not enough to correct the harm this bill will cause. The fact remains that there are several other problems with this bill.

I believe my colleague wants to add something.

Thank you.

[*English*]

The Chair: Thank you, Madam Borg.

Mr. Ravnat is next on the speakers list, but let me just say that it doesn't look as though we're going to conclude the clause-by-clause consideration of this bill by one o'clock. It would be my view that when one o'clock comes around, we should reschedule this for Thursday to continue, and we'll leave time for committee business on Thursday, should we be able to conclude the clause-by-clause consideration.

We have about three minutes left, Mr. Ravnat, if you'd like the floor on clause 9.

[*Translation*]

Mr. Mathieu Ravnat: I merely wanted to mention that I am in favour of the proposal. We should perhaps discuss it again on Thursday.

Mr. Chair, I believe Mr. Calandra wishes to raise a point of order.

[*English*]

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

Mr. Paul Calandra: Three minutes doesn't seem to be nearly enough time to hear Mr. Ravnat, so if he'd be willing to adjourn, we could have the full two hours on Thursday to hear his points on the rest of the bill, so as not to rush him. I know he didn't have a lot of sleep last night, as he said.

The Chair: Are you making a motion?

Mr. Paul Calandra: I can't move a motion on a point of order, but so that he doesn't have to be rushed in his two remaining minutes, we could get back to this on Thursday....

The Chair: Is it the will of the committee to adjourn?

Mr. Ravnat has the floor. That was a point of order, and he can't move a motion to adjourn under a point of order. It would have to be by agreement.

Seeing none, Mr. Ravnat, you have the floor.

[*Translation*]

Mr. Mathieu Ravnat: I think it is important to use all the minutes at our disposal to discuss this bill, which does not hold water. I will be pleased to use the remaining minutes to discuss clause 9.

This clause reveals this government's intention to control agents of Parliament. I find it very hard to understand that intent. I am pleased that the government and Mr. Adler have seen the light on this matter. However, the fact remains that this says something about the characteristic instincts of this government. It wants to use Parliament and its majority to silence agents of Parliament, to limit them in their duties and the excellent work they do.

I think that the trauma the Conservatives have suffered in recent years at the hands of agents of Parliament who were doing an excellent job has left them somewhat wounded. This clause is a reflection of the obviously serious injury that they have suffered and that reveals the deficiencies in their management, transparency and responsibility.

● (1300)

[*English*]

The Chair: Mr. Ravnat, I'm afraid I have to interrupt you there. It's one o'clock, and we have to conclude.

Clause 9 has not been voted on. When we resume on Thursday, we'll dedicate the committee to the consideration of Bill C-520 and begin where we left off.

This meeting is adjourned.

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