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Mr. Pierre-Luc Dusseault

Standing Committee on Access to Information, Privacy and Ethics

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● (1530)

[*Translation*]

The Chair (Mr. Pierre-Luc Dusseault (Sherbrooke, NDP)): Good afternoon, everyone. Welcome to the 62nd hearing of the Standing Committee on Access to Information, Privacy and Ethics.

We will continue—

[*English*]

Mr. Charlie Angus (Timmins—James Bay, NDP): Excuse me, Chair. I have a point of order.

[*Translation*]

The Chair: If this is a point of order, go ahead.

[*English*]

Mr. Charlie Angus: I'm very glad that we have our witnesses here with us today.

As you see, we have committee business regarding the breach of data on 580,000 Canadians who've had their private financial information breached. I don't know about my other colleagues, but we've certainly been getting lots of calls in our offices from people whose data has been breached, and they're very concerned.

I would think it might be useful for us to actually just move that up in business so that we can get that dealt with, so that we can bring witnesses on this issue.

I'd like to move that up first, and then we can hear from our witnesses.

[*Translation*]

The Chair: You want to change the agenda?

[*English*]

Mr. Charlie Angus: Yes. I would like to move it up because of the seriousness of the breach and the fact that it is affecting one in 60 Canadians across the country. We need to know what's being done with people's data and what kind of steps are being taken to ensure their protection.

[*Translation*]

The Chair: We have to obtain unanimous consent.

Is there unanimous consent? Do you want to continue the debate, Mr. Warkentin?

[*English*]

Mr. Chris Warkentin (Peace River, CPC): Thank you.

I think the clerk may have something to—

[*Translation*]

The Chair: Just a minute. Ms. Borg had the floor first.

Ms. Charmaine Borg (Terrebonne—Blainville, NDP): Thank you very much.

It is extremely important that we study this matter. We are indeed the Standing Committee on Access to Information, Privacy and Ethics. At Human Resources and Skills Development Canada, information concerning over 500,000 Canadians was lost. We have to know what happened and how we can prevent this from happening again.

We must study this in the near future. We must do this for Canadians, especially those who were affected and who have questions. They want to know how this happened and if this will happen to them again. It is extremely important that we put this forward and that we study this issue properly. That is the responsibility of our committee.

The Chair: Do you want to continue on the point of order, Mr. Warkentin?

[*English*]

Mr. Chris Warkentin: Thank you. I do appreciate the opportunity.

Obviously those of us around this table find this incident to be absolutely unacceptable, completely unacceptable. I can tell you that the minister has made that clear. Obviously Canadians know that.

The Office of the Privacy Commissioner has been contacted with regard to this and has been made fully aware of it. As well, every one of the clients whose information was involved in the breach has been contacted. They have been offered all kinds of protection in terms of Equifax protection and the rest.

It's an important issue. I don't think anything is going to change in the next hour and a half, so I'd like to see that deferred to the end of the meeting. I think this is an important discussion that we need to undertake, but we do have witnesses waiting here, and I think it would be appropriate that we hear from them.

In an hour and a half's time, I think we can move to deal with this in future business, as it was pertaining to our committee's schedule. At that time I think we'd be able to have a good discussion, but be able to first honour our witnesses who are here. They have taken time out of their day to be here, and I don't want to squeeze them out.

[*Translation*]

The Chair: Since there is no unanimous consent, we are going to respect the agenda as it stands.

Today, we are beginning our review of the Conflict of Interest Act. We have two witnesses, first of all Mr. Greene, from York University.

Thank you for being here.

We also will be speaking with Mr. Gregory Levine, via videoconference. I thank Mr. Levine also for being here.

We will move on to testimony immediately. In keeping with our usual practice, each presentation will last 10 minutes, and afterwards we will have a question and answer period.

I yield the floor to Mr. Greene, who now has 10 minutes.

[*English*]

Professor Ian Greene (University Professor, McLaughlin College, York University): Thank you very much. *Merci beaucoup.* It's a great pleasure to be here today. I really appreciate the invitation. I'm particularly pleased, because there are at least two members of this committee from my home province of Alberta. I recently discovered that my dad was dentist for the member for Red Deer, as well as for me.

Advancing ethics legislation is a bit like pulling teeth. It almost always comes as a result of a scandal. Sometimes it comes as a result of thoughtful deliberation. I'm really hoping that the recommendations that are discussed today can be proactive and can prevent future scandals as a result.

I spent four years working for the Alberta government—three years as a middle manager for social services, and one year as an assistant to a cabinet minister. During these four years, Peter Lougheed was the premier. He set an example by having unimpeachable ethical standards. He was in large measure part of my inspiration for the study of ethics in the public sector.

There are two points I want to make today. First of all, the conflict of interest regimes in Canada that work the best are those that require elected members to meet in person with the Ethics Commissioner or someone in the commissioner's office on an annual basis to discuss the member's disclosure statement. Secondly, I think it's important for this committee to re-examine the recommendations of part III of the Oliphant commission report that are within the jurisdiction of this committee, and to consider implementing the recommendations that haven't already been implemented.

First of all, compulsory meetings with the ethics commissioner—what became known as the Canadian model of the prevention of conflicts of interest involving elected members—began with the creation of the position of an independent conflict of interest commissioner, now referred to as the integrity commissioner, in Ontario in 1988. The Ontario legislation provides that all MPPs must submit a confidential disclosure statement to the commissioner within 60 days of an election, and that they have to meet in person with the commissioner to discuss that statement within another 60 days. Usually it's a lot quicker than that on both counts. The disclosure statements have to be updated annually, and there are required annual meetings, once again, with the commissioner. The commissioner also has the power to investigate complaints about alleged violations of the rules. On average, there has been an inquiry about once every two years.

From its inception, the Ontario approach was meant to be primarily educative, and thus preventive, and only secondarily investigative. The approach has been highly successful. The number of serious allegations of breach of conflict of interest rules dropped on an average annual basis by 90% after the new regime came into effect. Because it has worked so well, it has been copied in every jurisdiction in every province and territory across Canada, and now for the Senate and the House of Commons with some varied approaches. Now we are getting into the municipalities as well.

In every instance where this Canadian model has been instituted, there has been a drop in the number of allegations of conflict of interest. The least successful regime in terms of reducing the need for inquiries about allegations of breach of the rules is unfortunately the House of Commons and the cabinet. More allegations of breach of the rules are investigated by the Conflict of Interest and Ethics Commissioner per member than for any other legislative body in Canada. I think this is because there is no requirement to meet with the commissioner or someone in the commissioner's office. Between 2004 and 2010, the commissioner conducted annually, on average, four inquiries into credible allegations of breach of the rules. This is far too many. It leads to negative publicity about the person being investigated. This isn't the fault of the commissioner. It's because of the weakness in the preventive part of the Conflict of Interest Act.

● (1535)

In my experience, the great majority of the elected members in every party are honest. They enter into politics to serve the public good.

Most of us think we're ethical so we don't need to pay close attention to the rules, but conflict of interest is not always an easy concept to understand in some situations. That's why it is useful to obtain the personal advice of the Ethics Commissioner or one of her staff. As well, once personal contact has been established, it's more likely that an elected member will go to the commissioner or the commissioner's office for advice when unusual situations arise.

In Ontario, MPPs request advice from the Office of the Integrity Commissioner five to seven times a year on average. From what I can understand from Commissioner Dawson's report, it might be once or twice a year for the House of Commons. These informal inquiries are part of the preventive approach of the Canadian model, and they're more frequent once you have these compulsory meetings that not only help prevent conflict of interest in individual situations but create a rapport, trust, and a willingness to use the system.

Up until 2012, Commissioners Shapiro and Dawson between them had issued 19 reports resulting from investigations into allegations that MPs or cabinet ministers had violated either the code or the act. I've read all of the reports that resulted from these inquiries, and I've concluded that many, if not most, of these 19 inquiries would have been unnecessary or would have been much shorter had there been a previous personal meeting between the commissioner and a cabinet minister or a staff member and the MP.

My second recommendation is with regard to the recommendations of the Oliphant commission. Part III of the commission's report contained a number of recommendations for the Conflict of Interest and Ethics Commissioner, Mrs. Dawson, who has implemented all of them, for the Prime Minister's Office, and for this committee. I contacted the Prime Minister's Office to find out if they are contemplating implementing these recommendations. I got an acknowledgement, and they said they would get back to me, but I'm still waiting.

A number of recommendations affect this committee and its jurisdiction. I'm not sure if any of the recommendations have been implemented yet, but if not, I'd like you to consider them.

With regard to the educational role of the commissioner, the commissioner's office runs voluntary training sessions on the Conflict of Interest Act and Code. Only about half of the MPs attend, according to Mrs. Dawson's annual reports. Very few ministers attend. Oliphant recommended that attendance at these training sessions be compulsory for ministers and that party leaders should make them compulsory for their MPs.

It was recommended that after the filing of disclosure statements under the act and the code, there should be compulsory in-person meetings between the staff in the commissioner's office and the ministers and MPs, as is the case in most Canadian jurisdictions, including the Senate. To date, there haven't been any inquiries conducted by the Senate Ethics Officer. I think it's because the required annual in-person meetings have an effect in terms of preventing behaviour that could lead to allegations of conflict of interest.

The conflict of interest and lobbying rules have improved greatly in Canada since 1993-94. They are now amongst the most rigorous in the world, but there are still some loopholes that I think need addressing.

What Oliphant recommended was that the definition of employment in the Conflict of Interest Act should be clarified:

> employment shall mean...any form of outside employment or business relationship involving the provision of services by the public office holder, reporting public office holder, or former reporting public office holder...including, but not limited to, services as an officer, director, employee, agent, lawyer, consultant, contractor, partner, or trustee.

In regard to the Conflict of Interest Act, Oliphant recommended that the definition of conflict of interest should be broadened to include an “apparent conflict of interest”. For example, this is the case in British Columbia and some other jurisdictions. It simply ensures that the legislation goes a little bit further to require members to observe the highest standards.

● (1540)

The Conflict of Interest Act should be amended so that post-employment provisions clearly refer to work done in Canada or anywhere else, according to Oliphant.

The Conflict of Interest Act should be amended to prohibit public office holders from awarding contracts or benefits to persons who may be in violation of the code, and if these public office holders are uncertain, they must check with the Ethics Commissioner.

The act should be amended to make it a non-criminal offence to fail to meet disclosure obligations.

As well, there should be an appropriate appeal mechanism regarding post-employment decisions of the commissioner that involve procedural fairness and transparency.

In conclusion, I think the Conflict of Interest Act has done a lot of good. It's always a work in progress. In Ontario, the legislature, every once in a while, acts proactively to tighten up the rules, instead of doing that because of scandals. I very much hope this committee will consider doing the same thing.

I look forward to your questions.

● (1545)

[*Translation*]

The Chair: Thank you very much for your presentation.

We will now be joined via videoconference by Mr. Levine, who is in London, Ontario.

You have 10 minutes for your presentation.

[*English*]

Mr. Gregory J. Levine (Lawyer, Ethics Consultant, Social Scientist, As an Individual): Thank you.

The first thing I'd say is that I would endorse and echo what Professor Greene has just said to you. His recommendations make abundant sense to me.

Thank you for the chance to speak to you today.

The enactment of the Conflict of Interest Act was an important step in the evolution of an integrity and ethics system. While it's significant and welcome, there are ways in which it could be enhanced. Today I'd like to talk about a few of those ways in which it could be enhanced, including: the insertion of “apparent” conflict of interest; tightening post-employment restrictions; ethics education; and whether or not the enhanced use of administrative monetary penalties recently called for by the commissioner will transform the nature of the legislation, and whether or not that's appropriate.

Before looking at those issues, I'd like to make three general comments. One already has been made by Professor Greene. The first is that the Oliphant commission made several recommendations specifically aimed at the Conflict of Interest Act. To my knowledge, none of them have been implemented. I'll touch on two very briefly, but I think they all should be implemented.

The second general comment I have to make is about the approach of the act to the role of the commissioner. The commissioner is an adviser, a monitor, and an investigator. Unlike most of the provincial, territorial, and municipal commissioners, the commissioner has considerable power to order compliance, but not to penalize, except with administrative monetary penalties.

In her written submission as it appeared on her website, the commissioner now seeks enhanced penalty power, albeit in limited circumstances. As the act now stands, though, she's really more of a specialty ombudsman and is so as well under the members' code. In both contexts, this role is as a specialty ombudsman, similar to most other ethics commissioners in the country. As a general comment, I'd just say that if you're going to transform that role you ought not to do it lightly. I'm going to come back to that in a second.

The third broad observation is that the act deals with much more than conflict of interest. It's called the Conflict of Interest Act, but it deals with behaviours that are beyond conflict of interest: influence of office, misuse of insider information, inappropriate acceptance of gifts, and so on. Conflict of interest, classically defined, is about an opportunity, a potentiality, that is the opportunity or potential to make a decision in one's public role that will further one's private interests.

The act describes ways of avoiding that and so on, but other things, such as improperly influencing an action, for instance, are well beyond conflict of interest. It's misbehaviour. This goes to one of the things the commissioner has called for, and that's an enhancement of the purpose section of the act, which I would support.

I'd also suggest that it would be useful to do as Ontario's Members' Integrity Act does, which is to have a preamble that clearly states the need for ethical behaviour in government and the aspirations to which the act applies. I don't know if it's necessary to change the name of the act, but I do think that guidance is useful.

I'd like to now comment on specific areas. The first, Professor Greene has already dealt with. The recommendation of the Oliphant commission that "apparent" conflict of interest be adopted and placed in the act I think is very important. I understand that there has been an argument which suggests that because perceptual language occurs in other parts of the Conflict of Interest Act, you need not define apparent conflict of interest. That's not correct, I respectfully submit.

We've had two commissions at the federal level, the Parker commission long ago, and the Oliphant commission, which have dealt with this and have called for the inclusion of this kind of standard. At the municipal level in Ontario now, both the Bellamy and Cunningham commissions have also called for it. I think it's just time to do it.

● (1550)

In terms of post-employment restrictions, again, Professor Greene has discussed this so I won't canvass it, but I think the definition of employment is one area that should be dealt with as Oliphant recommended.

The third area I wanted to talk about, which has been canvassed by Professor Greene much better than I could, is education and training. I would just say that I support the notion that there should be mandatory training. A requirement for public office holders to undertake ethics training and annual review of such training is not unreasonable.

I've dashed along here, but I'd just like to talk about administrative monetary penalties for a second. In general, there are limited consequences for breaching the rules in the act. It does contain administrative monetary penalties. It also contains order powers for the commission to enforce compliance, but it does not have any specified penalties for failure to meet the key substantive rules.

One senses that this is the case for two reasons. The commissioner is to report breaches to the Prime Minister, and it is presumed that the Prime Minister of the day would act in some way to deal with the person who has breached the rules. Also, the reports become public, and the light of day is its own cleanser, if you will.

In her written submission, the commissioner has called for an extended ability to levy administrative monetary penalties in limited circumstances, but also asks you to consider penalties for a more substantive breach. Part of her argument is about whether or not these matters become public.

I respectfully submit that this is a separate issue of how and when and what types of penalties should be in the act. For substantive breaches, I think there should be something beyond limited monetary penalties. It should include a range of possible sanctions. Remember, we're talking about public office holders here, so it could include things ranging from apologies to dismissal. I think it's appropriate that the Prime Minister do that and not the Ethics Commissioner.

Having said all of that, I'll say that if you do want to go to a model whereby the commissioner becomes the enforcer and the commissioner becomes like a tribunal, you will have to enhance the procedural protections in the act for people who will be subject to her penalties.

That's a whirlwind view. I'll stop it there.

Thanks.

[*Translation*]

The Chair: Thank you both very much for your presentations.

We will now have our question and answer period.

Mr. Angus, you have seven minutes.

[*English*]

Mr. Charlie Angus: Thank you, gentlemen. This has been a very interesting opening session for us on the question of conflict of interest.

I think what we're all trying to get a sense of here is, how do we ensure that the rules are fair? Because in the day-to-day work of an MP, they could cross the line; it might not mean that they're setting out to do so, but they should be able to have a conversation. They should feel comfortable enough to be able to find out what the breach is and step back across that line. If Mr. Ford had taken advice of the commissioner the very first day that he stepped over the line, I think he wouldn't haven't been in the trouble that he was in. The commissioner was not out to bring him down but to say, "Listen, you might not fully understand the rules."

I understand the education element of it. I guess the question is what the commissioner is asking for in terms of the greater breach. It's the issue of trying to influence someone in how to vote and make decisions. That has to have consequences.

Mr. Greene, do you believe the commissioner should have greater power for administrative monetary penalties? Who do you see taking that up?

● (1555)

Prof. Ian Greene: I haven't thought about that aspect nearly as much as Greg Levine has. It really is important for the commissioner to have enforcement powers, but as Mr. Levine pointed out, there need to be appeal mechanisms and safeguards.

Also, I really agree with Greg Levine: with regard to cabinet, it really should be up to the Prime Minister to enforce.

Mr. Charlie Angus: Mr. Levine, in terms of that comment you made, that it's up to the Prime Minister, isn't there going to be a political cost in that the Prime Minister's going to protect his own? Shouldn't this be hands off so that there's transparency? If someone's broken the rules in a clear way and the commissioner's decided, shouldn't the commissioner be able to say that and make that decision as opposed to punting it to a political stage?

Mr. Gregory J. Levine: There are two thoughts on that. You've expressed one, that it's too political, that it's best to get it out of the political realm. I understand that view. I think the other argument, though, and it's what I would I say about the code for the members of the House, is that it's about taking responsibility, too. You encourage people to take responsibility.

If you see the Conflict of Interest Act as an educative tool, and you believe members and the Prime Minister and the cabinet ministers and all public office holders should take responsibility, then it's up to us to encourage a de-political approach to this.

I realize there's a certain level of idealism in that, but it seems to me you go one way or the other. If you're contemplating creating an ethics commission as opposed to having an ethics ombudsman who investigates and reports, you have to create a very different structure here. All I can say quickly is that you'll need to look at the models that exist in the United States, where you have essentially ethics tribunals. You will create a very, very different system that may not have the same value from an educational point of view, that may become cumbersome from an expense point of view, and so on. There's a lot to look at there if you go that route.

The other thing—

Mr. Charlie Angus: I guess the question here—

Mr. Gregory J. Levine: Can I just say—

Mr. Charlie Angus: I only have a few minutes here, and I just want to be really clear on this.

Mr. Gregory J. Levine: I'm sorry.

Mr. Charlie Angus: The idea of going to some kind of tribunal is excessive, to me, but when rules are breached, I never, ever hear someone taking responsibility.

For example, the finance minister breached section 9 of the Conflict of Interest Act. He did. The commissioner found that. Yet day after day in the House, we see them trying to dodge around it, that, well, he was just acting like a backbencher. Well, he wasn't.

Are we to expect that they're going to take responsibility, or...? It seems to me the commissioner is frustrated. She's saying she's not getting compliance. Nobody fesses up when they do something. It just becomes a political game.

So if she did it, then it wouldn't be a political issue. She would make the decision—whether it's a public apology, whether it's restitution, whether it's a financial implication. Otherwise, I mean, within the context of the Parliament that we live in, do you really think we're going to be able to work this out?

Mr. Gregory J. Levine: There is a multitude of questions there.

I'd just like to say that one thing you're clearly accepting is the need to have a range of sanctions. It seems to me that if you leave it at administrative monetary penalities, that trivializes the offence: "Okay, I'll pay $500. But I'll influence this action over here, so who cares? It's just the cost of doing business." That really trivializes the act, so I don't think you should do that.

I can't speak to the mood of Parliament. Sure I watch the news, and sure, I actually live in hope that our legislators will be responsible to each other.

● (1600)

Mr. Charlie Angus: Thank you.

I'd like to ask you about elements in terms of influence. Right now it's possible to lobby through sponsored trips. That's perfectly legal. We all get invited. You could get flown around the world by somebody on their dime, and it's perfectly legal as long as you write it down.

The question is in terms of the bigger issues, where people could actually be influenced, and the more trivial ones, where someone makes a mistake because someone offers to put something in their name and they think, "Wow. Great. I'm helping a girls' school." Then they get slapped for it because it's beyond the line. But someone else could get flown around the world for two weeks from some corporate interest or from some foreign power.

Do you think we need to look at the rules to assess things like lobbying, like sponsored flights? Do you think they have been slipping through?

Mr. Gregory J. Levine: Yes, I do, actually. I think that's a good point. I think you need to look at the range of potential influences and not accept certain gifts as acceptable. And on the whole idea of... I understand that there's a fact-finding element to accepting trips and so on, but I find that troubling, actually, because that's potentially influencing.

[*Translation*]

The Chair: Thank you.

Your time has expired, Mr. Angus.

I now give the floor to Mrs. Davidson, who has seven minutes.

[*English*]

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you very much, Mr. Chair.

Thank you, gentlemen, for being with us this afternoon. This is very interesting, and I think it's going to be very beneficial for us.

I want to start with you, Professor Greene, if I could, please. You made a couple of comments about definitions. You talked about employment being one of them that you thought perhaps should be....I'm not sure if you said it should be broadened or changed, but you thought that at any rate there should be some alterations. Could you talk a little more about that, please, and tell us if you feel that there are other definitions that are too broad as they are in the act now or maybe too narrow?

Prof. Ian Greene: Yes. This isn't actually my recommendation. It comes from Oliphant. It deals with the definition of employment and the Conflict of Interest Act. There's no clear definition right now. In my brief, if you have a copy of it there, I've quoted from the Oliphant commission.

Mrs. Patricia Davidson: Apparently it's being translated, so we will get it.

Prof. Ian Greene: You will get that there. I've quoted from the Oliphant commission in terms of what they think the definition should be.

Just so it's clear for everybody, another part is that post-employment provisions should clearly refer to work done in Canada or anywhere else, not just in Canada.

Also, in terms of enforcement, once again, they've recommended that failure to meet disclosure obligations should not just be punishable by a fine but should be an offence. They went into some detail as to whether it should be a criminal or non-criminal offence, and they settled on non-criminal because the prosecution would be more straightforward.

Mrs. Patricia Davidson: One of the words that jumps out at me when I'm reading the act is “friend”.

Are you comfortable with the way it's defined? Or do you think that needs a better definition or a clarification of some sort?

Prof. Ian Greene: If you look at the decisions of the various ethics commissioners across the country, plus the annual reports of the ethics commissioners, which really summarize in such a way so as not to violate confidences, you'll get, from the advice they're giving to people who come to them for advice, I think a pretty good idea of what is meant by “friend”. It is someone who is more than an acquaintance, someone who you'd like to assist in terms of “you scratch my back, I'll scratch yours”. I think it would be kind of dangerous to go into a clearer definition of what a friend is, because it could lead to unnecessary loopholes.

● (1605)

Mrs. Patricia Davidson: Okay.

One of the other things you talked about, Professor Greene, was the requirement to meet in person annually. I think there's probably some merit to that. I think that probably if we have the opportunity to sit down and discuss in person, it's easier or maybe better than the way we're handling it now, with a written declaration, and then if there's an issue there's a phone call or whatever it may be. Did you want to talk more about that? Is that a common practice in many places? You talked about Ontario.

Prof. Ian Greene: In terms of the provinces and territories, there are eight jurisdictions now that do require these meetings. There may be more, but as of a year or two ago, there were eight. There are two reasons this was not made part of the system for the House of Commons and the cabinet. You have 308 members, and you are going to have more in the future. That's three times as big as the Ontario legislature. How do you have these meetings within 60 days? It's a huge load. Then, the other reason is that the commissioner is responsible for about 3,500 other public office holders outside of Parliament. That's a huge scope of responsibility that most other commissioners don't have.

How do you deal with this? What occurs to me is that you could have the commissioner, who would meet personally with all of the cabinet ministers, and two deputy commissioners, who could be staff who are currently in the office, who would meet with the other MPs. Then there could be an assistant commissioner to handle all of the public office holders outside of Parliament. There are ways of doing it, but I think those are the reasons why it didn't get into the system in the first place.

Mrs. Patricia Davidson: I think you both referred to broadening conflict of interest to take in apparent conflict of interest. Could you explain that a little more clearly, please? What you do mean by apparent conflict—apparent to whom?

Prof. Ian Greene: We mean apparent to the reasonable person informed of all the relevant facts. That's a legal concept. Basically it means that people, under the act, need to take additional precautions to ensure that the reasonable person doesn't perceive them to be in a conflict of interest situation. For example, a number of years ago in British Columbia, the minister of municipal affairs was about to approve some housing projects that were actually controlled by one of his friends. The way the rules were written, it was okay for him to do that because he wasn't personally gaining anything, but anyone else would say that really doesn't look good whatsoever. That's why in British Columbia they have that provision, and it has worked. The commissioner is there to advise how to avoid apparent conflicts of interest. If you get into an apparent conflict of interest, obviously the penalty wouldn't be as great as it would be for a real conflict of interest. It is good to have that extra level. It gives the whole system more credibility.

Mr. Levine may have some comments as well.

Mrs. Patricia Davidson: I would like to hear from Mr. Levine if I could, please. You also made the comment that if we were going to transform the role of the commissioner that we should not do it lightly. Could you comment on that as well?

Mr. Gregory J. Levine: I don't have a lot to add on apparent conflicts of interest. The way Justice Oliphant defined it was that apparent conflicts of interest are understood to exist if there is a reasonable perception, which a reasonably well-informed person could properly have, that a public office holder's ability to exercise an official power or perform an official duty or function will be or must have been affected by his personal interest. I have it in my notes as well, which hopefully you will get.

Ian Greene's description of how that works in the municipal affairs case that he described is correct.

You asked about what would happen if you switched the model.

● (1610)

Mrs. Patricia Davidson: It was about transforming the role.

Mr. Gregory J. Levine: My concern is that you've essentially set up a system in which somebody monitors and investigates and then reports to somebody else, either to the House, the Prime Minister, the public, or somebody, and also has an advisory role. That is essentially what I would call a specialty ombudsman kind of role. Ombudsmen typically investigate and then try to persuade whoever it is they're reporting about to make a change. They don't usually have order power. They don't have the power to levy fines and penalties. It's true that the Conflict of Interest Act has created a kind of hybrid, because in this you do have a commissioner who can levy some penalties for some circumstances.

But I think if you go the full route and if you say the commissioner can now levy significant penalties in relation to substantive breaches of the rules, you're going to need to set up a system that allows greater protection of the person's rights about whom the breach has been alleged and found to have occurred. You may see us go down the road that the American jurisdictions have gone down, which is to create essentially ethics commissions that are forms of administrative tribunals only they're more powerful than the average administrative tribunal. They can order fines and in some cases order people into jail.

[*Translation*]

The Chair: Thank you. I am going to have to stop you here, as you have gone over your time quite a bit.

Perhaps you could come back to that question during another round.

Mr. Andrews, you have the floor.

[*English*]

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

Thank you, gentlemen, for coming in.

I want to go back to Ms. Davidson's question about the Oliphant commission and about changing the definition of conflict of interest.

Did the Oliphant commission recommend only those two changes of "apparent" and "potential" in relation to the conflict of interest definition or did it also define any others, Mr. Greene?

Prof. Ian Greene: There were a number of recommendations, about 20 of them that were spread across, recommendations to this committee, to the Prime Minister's office, and to the commissioner's office.

Mr. Scott Andrews: I mean just in relation to the definition of conflict of interest.

Prof. Ian Greene: In terms of the definition of conflict of interest, it is to broaden it to include apparent conflict of interest, because that was the one recommendation.

Mr. Scott Andrews: The commissioner is recommending that the definition not be changed, because the "apparent" and "potential" are implicitly included in other aspects of the act.

Prof. Ian Greene: I see.

Mr. Scott Andrews: Is that something we should really look at or is there something else in the definition that he suggested that we should change?

Prof. Ian Greene: My view is that it's good to make it as clear as possible. If you include "apparent" in the definition itself, it's clearer than it would be if implied elsewhere. Members are less likely to accidentally breach the rules if it's clarified in the definition.

Mr. Scott Andrews: There's something else you mentioned in your opening statement about the number of reports the commissioner has done with regard to members of Parliament. She's also requesting a change in addressing this information relating to her work, because sometimes statements arise and comments are made. She doesn't have the authority to address these comments and this misinformation. Is that something for which her mandate should be clarified so she can address this misinformation rather than letting it fly out there?

Prof. Ian Greene: That's a very good point.

Over the years there's been a lot of misinformation, particularly in terms of what Dr. Shapiro did but also in terms of some of the things Mary Dawson has done. That's harmful. It's not good for the reputation of the office. Right now, you're right—her hands are tied and she can't reply.

A lot of thought would need to be given to how that information could be corrected while her reputation for being independent and impartial is maintained.

● (1615)

Mr. Scott Andrews: Mr. Levine, do you have any thoughts on that last question?

Mr. Gregory J. Levine: Yes—on both, if I may.

On the speaking out, yes, I agree with that last point that Ian Greene made. I mean, part of this goes with the territory, doesn't it? She's not a debating club, she's an investigator who will provide a report at a certain point in time and speak her mind about it.

In terms of broad education, about how the act works, she has the opportunity to do that anyway. I would be kind of uncomfortable if she were seen to be getting drawn into debates and losing her objectivity. I think that's the point that Professor Greene just made.

On the apparent conflict of interest, there was only the one recommendation. It was recommendation six in the Oliphant recommendations. On the point that the commissioner has made several times, that this appears in other parts of the act, it sort of does. Again, I think that goes to the point of clarifying and making it clear that this is dealing with conflict of interest, which is one particular form of rules. The places that it comes up, in other parts, are about the actual, substantive misbehaviours. I think they're different.

So there are different sets of things that need to be dealt with.

Mr. Scott Andrews: That was one of my questions for you about administrative monetary penalties. I found your comments very interesting that the penalties that are there now are so small that one would say, okay, yes, it's the cost of doing business.

I agree with that, but let's talk about those substantive branches. I think you said that these should be put into some different categories of breaches of the act. What different categories would you look at, and what would be the corresponding penalties?

Mr. Gregory J. Levine: Sorry, I was probably unclear. I think there are actually two categories. One is a set of misbehaviours: misuse of information, inappropriate acceptance of gifts, and so on. These are actual misbehaviours. If you do them, you've done something wrong. You're not merely in a conflict of interest.

If you step back conceptually, conflict of interest is different from those rules. Conflict of interest is about the potential to do something wrong. You have a private interest that could be furthered. Now what do you do? Do you step back or do you act on it? If you act on it, then you've crossed the behavioural line. So in the act there actually are two different sets of things.

In terms of the substantive penalties, I think there should be a range of penalties, ranging from apology to—for public office holders and cabinet ministers—dismissal. There needs to be, in a way, progressive discipline. There needs to be a range of things.

Now, there could be fines, but I think if you leave the fines the way they are, it's not going to amount to much.

Mr. Scott Andrews: One of the things we notice is that those people who leave public office and are not here anymore...whether they be a public office holder or someone else who falls under the act. We saw Mary Dawson just recently write up someone for using their interest while they were in a public office after their...post-employment.

Basically you get written up and that's the end of it. There's no penalty for that individual. There's no enforcement. There's nothing that can be done because that individual has already left.

● (1620)

Mr. Gregory J. Levine: Right. That's a good point.

Probably the only way you can deal with post-employment is by fine—or imprisonment, I guess, but the act prohibits criminal offences being created, so you couldn't really assume—

Mr. Scott Andrews: So you'd look at a criminal offence?

Mr. Gregory J. Levine: Maybe, yes; I can—

[*Translation*]

The Chair: Thank you.

I now give the floor to Mr. Carmichael, who has seven minutes.

[*English*]

Mr. John Carmichael (Don Valley West, CPC): Thank you, Chair.

Thank you to our witnesses.

Maybe I'll start with you, Mr. Levine, and then I'll move to you, Mr. Greene. I'd like to ask you both the same questions.

I guess I'm wrestling with the definition at this point of apparent versus definitive conflict of interest, as currently defined, to the best of my understanding.

When the commissioner is asked to contemplate any type of investigation, launching an investigation into a conflict situation, there's the potential for public or external factors to create a presumption of guilt prior to her conclusions being determined. I wonder if there is a way, from your perspective, that you could advise us: do you see any way to mitigate attacks on reputation for purely partisan purposes?

Mr. Levine, could we start with you on that one? I want to give you first crack here to get your word in edgewise.

Mr. Gregory J. Levine: Thank you. It is a problem if any of these codes or any of this conflict of interest legislation across the country are used for partisan purposes. I think the commissioner has to have the ability to refuse to investigate things. In most statutes across the country there are sections that allow refusal of an investigation for matters that are trivial or vexatious or frivolous, and I think that's a useful tool.

I am mindful that frivolity, for instance, is in the mind of the beholder. One person's frivolity can be another's great sin or problem, but nonetheless you have an objective person looking at it. So that is a way to deal with that.

Prof. Ian Greene: In the first couple of years in the Ontario system, the first commissioner, former Chief Justice Evans, in one of his reports said he didn't like the number of petty complaints that were coming from members on both sides of the legislature. So he recommended that the parties have their own system whereby they go to the whip and the whip decides which allegations really are not trivial and ought to be raised publicly. That system seems to have worked, so that's something that might be tried here as well.

I think Commissioner Dawson has been very good at looking at complaints she gets to make sure they reach a certain threshold. There's a certain amount of information that has to be provided by the complainant before she will investigate, and a number of allegations she has refused to investigate because there was just not enough information. I think that's very helpful too, but I think working through the parties and the whips is a very good system to make sure that just the serious ones get through.

But to me, the most important part is preventive. Let's not talk about what we should do once the cat's out of the bag. Let's try to keep the cat in the bag in the first place and make sure that members understand the rules including if they are amended to include apparent conflict of interest. If every member had to meet with the commissioner or a deputy commissioner, they could ask what an apparent conflict of interest is and how, in their situation, they could avoid that.

Mr. John Carmichael: I think your position on that is a good one. That, incidentally, is my concern with “apparent”. As soon as you introduce an element of subjectivity, you've opened the door, I think, to the potential for more of the vexatious type of approaches, and we all want to avoid those.

My colleague opposite was addressing the penalties. On the administrative monetary penalties versus something a little more definitive such as apologies and dismissal, he talked about former public office holders. I wonder if, once an individual has left office and still falls within the five-year timeline of responsibility, the fact that the individual may be found in conflict—as my colleague stated—would not create a clear precedent for active public office holders that would be more valuable than going after that former public office holder.

I know we want to have rules and regulations that are administratively manageable, but I'm concerned that if we put it too far out there, we create so much disincentive to participating as a public office holder, let alone what happens after that.... You want to create rules and regulations that are going to apply within the framework of being here.

Would you have a comment on that? Am I off base or on base?

● (1625)

Prof. Ian Greene: No, no, I think you're on base.

Would you like Mr. Levine or—

Mr. John Carmichael: Why don't you go first this time, Mr. Greene?

Prof. Ian Greene: Okay. One thing that was recommended by Oliphant is that if people violated the rules and were no longer public office holders, then current MPs and cabinet ministers should not be allowed to arrange for contracts with them. So they're blacklisted, and they have to check with the commissioner to find out who is blacklisted.

I think that makes a lot of sense. It would be an incentive not to do that once you're no longer a public office holder, not to get on that list, and an incentive for the current MPs to find out who these people are.

Mr. John Carmichael: I don't think you want to be on the list.

Prof. Ian Greene: No.

Mr. John Carmichael: Mr. Levine, do you have any comments or have we covered it?

Mr. Gregory J. Levine: Yes, I think so. I agree with....

Mr. John Carmichael: Have I got time...?

[*Translation*]

The Chair: Unfortunately, your time is up, Mr. Carmichael.

[*English*]

Mr. John Carmichael: Thank you very much.

[*Translation*]

The Chair: We will now move on to five-minute rounds.

We will begin with Mr. Boulerice.

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you, Mr. chair.

I thank our two witnesses for being here. This is very interesting.

I want to address the issue of private meetings with the commissioner, her assistants or her employees. I must admit that I am favourable to this recommendation. I have been a member for close to two years. I know that when we arrive on Parliament Hill, we are given a mass of new information, paperwork and forms that appear on our desks, a considerable pile. So that is only one thing among others. Those meetings could allow the new members of parliament to get a better grasp of the rules. This could help them to avoid making blunders or foolish mistakes.

Also, there is another aspect to this matter. When we have been here for a long time, we may get a little too comfortable, and we may think that we are sheltered from criticism.

Of course, this means we will have to meet a lot of people, there will be a lot of meetings. My question is addressed to both of you. Do you think that the commissioner has, at this time, the necessary human resources to do good awareness-building work and to monitor what is going on?

[*English*]

Prof. Ian Greene: That's a very good question.

I think I understood most of what you were asking. It seems to me that it's more efficient to prevent a breach of the rules from happening than it is to investigate afterwards and try to pick up the pieces.

When Greg Evans was the first ethics commissioner in Canada, I think his meetings with cabinet ministers were about half an hour long, sometimes longer if something was really complicated in terms of their business, and sometimes shorter if their personal holdings were very straightforward. The meetings were very quick. The great thing about them is that they created a rapport. The commissioner was seen as someone who was there to help them stay out of trouble, not someone who was there to investigate them and punish them afterwards, so they wanted to take advantage of that advice.

In the end, there wasn't a lot of work to do or a lot for the commissioner to investigate, so it seems to me that with an average of four investigations per year, which are time-consuming, expensive, and take a lot of staff time...if you could cut down on those, then there is going to be enough staff time available to have these personal meetings.

[*Translation*]

Mr. Alexandre Boulerice: Mr. Levine, did you have something to add?

[*English*]

Mr. Gregory J. Levine: I do have a sense that you could be dealing with a fair number of people. While I think the person-to-person meeting makes sense, it makes a lot of sense from an educational point of view. It may be that it's more efficient—not likely more effective, but more efficient—to have training sessions of some sort so that you're dealing with this. When I look at the definition of public office holders, it seems to me that it includes quite a few people, so you may need to have a different kind of system for most of the public office holders.

● (1630)

Prof. Ian Greene: Yes, I was thinking of MPs and cabinet ministers, but there needs to be a different system, as Mr. Levine has pointed out, for the other public office holders.

[*Translation*]

Mr. Alexandre Boulerice: Mr. Levine, earlier you talked about a somewhat different model for the application of the Conflict of Interest Act, and that was the American model. Could you, Mr. Greene and Mr. Levine, tell us what you think about the fact that the Canadian Parliament might seek inspiration from another way of doing things? What other method, what other approach rather than the current one could be more effective and could inform our work, in whole or in part?

[*English*]

Mr. Gregory J. Levine: If you want just a myriad of examples of different ethics commissions, every state, every city, and the federal government in the U.S. has a commission. So there are a lot of models out there. I have a concern about them, though, which I tried to raise before. It seems to me that if you want to move towards a model where the ethics commissioner leaves the kind of investigative reporting, educator model that you seem to have, then you really do need to look seriously at the various ethics commissions in the U.S., in New York, in California, and so on. The bigger states have very elaborate apparatuses to deal with ethics violations, and I would do that.

If you want to maintain the kind of model you have, I think it's actually better to look at the provinces, because their models are working and they have good legislation in place.

[*Translation*]

The Chair: Thank you.

I am going to give Mr. Greene a little time so that he may answer as well.

[*English*]

Prof. Ian Greene: I very much agree with Mr. Levine on this. The American systems are highly partisan. They're not seen as being objective as ours are. I think the key is ensuring that the commissioner is always seen as someone who is non-partisan and objective and competent.

With regard to that, I think in future the system for choosing the commissioner could take a lot from the provinces. In any of the provinces, an all-party committee of the legislature advertises for the new commissioner when there's a vacancy and makes the recommendation to the cabinet for the appointment. So everybody agrees on it, and everyone trusts the person who's chosen. In the Senate they informally sort of follow that model here too.

That's something to think about for the future, not currently. Maintaining impartiality is really important. This is why in our system for the really serious breaches—let's say the commissioner finds that a member or cabinet minister has been in a real conflict of interest, and it's not trivial but a serious situation—it's left up to the House of Commons to decide what the punishment should be, because, in the end, we have a system of legislative supremacy.

[*Translation*]

The Chair: Thank you.

I now give the floor to Mr. Warkentin, who has five minutes at his disposal.

[*English*]

Mr. Chris Warkentin: Thank you very much, Mr. Chair.

I want to thank both witnesses for being with us today. We appreciate your testimony.

The commissioner had intended to bring testimony to this committee at our last meeting, and unfortunately she wasn't able to do that, but she left her notes as to what she intended to say. Having read that testimony, I guess she believes that the system currently is functioning relatively well. She believes she has a system that's working well and that Canadians can trust, but obviously she has recommended some tweaks to assist in her work. Obviously, you gentlemen have some suggestions regarding that as well.

You've made some broad suggestions about post-employment for public office holders. Of course, when we're talking about public office holders, we're talking about staff members, MPs, former ministers, a whole host of folks, so we have to discuss the issues of what we're going to do to them when they're seeking employment after they've ended their public service. You made some suggestions with regard to post-employment, but it seems to me that the major issue is covered under the Lobbying Act. Obviously, there's a prohibition with regard to certain communications that they can undertake. In addition to limiting their ability to communicate—and the rules are provided in the Lobbying Act—what other provisions do you believe would be necessary? Or does the Lobbying Act cover the concerns you have? There have been some suggestions, and I'm not sure we've articulated what those would be.

Either of you can answer.

Mr. Levine, you can jump in.

● (1635)

Mr. Gregory J. Levine: I have just a quick thought on that. Sorry, I can't find it, but at the time of the Oliphant commission, there was concern that there was a disjuncture between the Conflict of Interest Act and the post-employment requirements under the Lobbying Act. All I can do is highlight that right now, because I can't find it, but I do recall that as an issue.

If I find it, is it all right if I send it to you?

Mr. Chris Warkentin: That would be appreciated, because at this point I'm not sure that anybody has articulated specifically what changes would be undertaken in this act that aren't already covered under the Lobbying Act. If something comes to mind, we'd be interested.

I think that whatever we do, we have to ensure that it be charter-compliant in addition to.... We have some very good people who are spending some time in public service, and we need to ensure that the public interest is protected but also that we protect the interest of the charter provisions for any former public office holder. I think there's some clarification we would seek if you have specific suggestions on that.

In terms of public office holders, there has been some concern with regard to former public office holders going to work for non-partisan agents or officers of Parliament. I wonder if you have any suggestions or thoughts with regard to folks who are considered to have been public office holders and who seek employment within the non-partisan offices of officers or agents of Parliament.

Do you have any thoughts, suggestions, or concerns with regard to this movement of a public office holder, post-employment, going to seek positions in those non-partisan, or what need to be maintained as non-partisan, environments?

Prof. Ian Greene: My first reaction is that I'm not as concerned about that as I am about them going to work in an agency where they could make really a lot of money from knowing what they know from their previous employment—

Mr. Chris Warkentin: Well, I'm not sure we can suggest that they don't make money.

Prof. Ian Greene: Maybe they are making a lot of money, but the key is this, I think. What the Americans have done is to have really detailed rules about everything. It's hard to understand them because they're so lengthy and so detailed. Also, because they're so detailed, there are a lot of loopholes. For us, what is really important, I think, as Mr. Levine mentioned, are statements of principle.

What we're basically trying to do is prevent undue influence. Now, once again, undue influence is a vague term. It really refers to some people having an unfair advantage, so—

Mr. Chris Warkentin: Okay. I appreciate those comments. You articulated them earlier.

My concern, and what the specific question was related to, is former public office holders moving into non-partisan offices.

Prof. Ian Greene: Yes.

Mr. Chris Warkentin: You are not certain that you have concerns with regard to that.

Mr. Levine, do you have concerns with regard to that?

Mr. Gregory J. Levine: Yes, I can see a concern there. It depends on the level they're moving into, I think, but even so, if they are a public office holder in a senior position or a partisan position and they move into a non-partisan office, and they do it without a significant cooling-off period, you raise an issue of the objectivity of the non-partisan office.

Yes, I think there's an issue there. I don't know how I would quantify the length of time, but I think I do see an issue there.

● (1640)

[*Translation*]

The Chair: Thank you.

Your time is up.

[*English*]

Mr. Chris Warkentin: Thank you, Chair.

Thank you, gentlemen.

[*Translation*]

The Chair: I now give the floor to Ms. Borg, for five minutes.

Ms. Charmaine Borg: Thank you very much.

First of all, I want to thank Mr. Greene and Mr. Levine for being with us today.

You testimony really highlighted some important points. I only have one question, because I am going to yield the rest of my speaking time to my colleague Mr. Angus.

Mr. Levine, my question is addressed to you.

One of your recommendations is to allow the public to file complaints. As we know, complaints are sometimes very partisan, given that we are the only ones allowed to file them.

Can you give us further details on the advantages of putting such a system in place?

[*English*]

Mr. Gregory J. Levine: Thanks.

I don't recall saying that explicitly, but it's an idea I very much like, so if I did, I heartily endorse it.

Voices: Oh, oh!

[*Translation*]

Ms. Charmaine Borg: I saw that during my research.

[*English*]

Mr. Gregory J. Levine: I do think it is important for the public to have a means of seeking redress about the behaviour of public office holders. I don't know why it wouldn't be. The public has the greatest interest in what our representatives do and what our public service does. I can't think of a good reason why the public ought not to be able to. I do understand that people will talk about vexatious complaints and trivial and frivolous complaints. I think you can create a mechanism to deal with those.

I don't want to take all of your time, but I act as an integrity commissioner for three municipalities in Ontario. I have had a number of complaints that I thought were trivial, or they weren't on point, or they weren't within jurisdiction. I just dismissed them. It's really not that hard to do that.

[*Translation*]

Ms. Charmaine Borg: Thank you very much.

[*English*]

Mr. Charlie Angus: Mr. Levine, I think that was a very interesting way for us to end. I think it's a very interesting discussion.

Thank you, Mr. Greene as well.

With my time left, I would like to move my motion:

> That the Committee invite Minister Diane Finley to appear before the Committee before March 7, 2013, to explain how the privacy breach at HRSDC affecting 583,000 Canadians occurred, what actions have been taken since to ensure security of personal data throughout the Department, and what long term solutions for affected Canadians will be put in place to protect their identity.

I believe you will find that the motion is in order, so I would now like to speak to it.

[*Translation*]

The Chair: In fact, there are witnesses here and some more time has been set aside for later. I don't know how you wish to proceed, but if I have your consent, I am going to suggest that we continue the meeting and that this motion be debated once the witnesses have withdrawn, as was originally planned.

Do I have your consent on that?

[*English*]

Mr. Charlie Angus: I just talked to your clerk who told me that Ms. Borg was the last witness. My understanding was that if she was the last witness, it was time for us to move on to business.

[*Translation*]

The Chair: In fact, Mr. Dreeshen still has five minutes of speaking time left. However, if you give me your consent, we could close this question period with Mr. Dreeshen and proceed according to the agenda following that.

You have priority, since you have just introduced your motion. However, I remind you that there are witnesses present and that the discussion may last a few minutes.

Do you agree to proceeding with our hearing as planned?

Some hon. members: No.

The Chair: Very well, we do not have unanimous consent. We are going to have to debate the motion.

Mrs. Davidson, you have the floor.

● (1645)

[*English*]

Mrs. Patricia Davidson: Mr. Chair, I move that we go in camera to discuss committee business.

Mr. Charlie Angus: I had the floor. I said that I still have the floor, and I'd like to speak to it.

[*Translation*]

The Chair: I can let you continue, but the next person on my list is Mrs. Davidson.

[*English*]

Mr. Charlie Angus: Just to be fair, I had clearly said I had the floor.

[*Translation*]

The Chair: Go ahead then.

[*English*]

Mr. Charlie Angus: Thank you. This doesn't need a long, drawn-out discussion, because all of us, regardless of our political stripe, recognize the seriousness of what happened at HRSDC. It was not just one breach but two breaches of personal data.

Having come through our committee study on the implications of losing personal data, our committee is probably in a better position than any other committee to understand the implications of losing financial and personal information on 583,000 Canadians, which is actually one in 60. We need to look at this because of the failures to protect the public interests, which happened here when it was realized that the data was missing in November and no steps were taken at that time to contact citizens whose data could have been breached.

There was a two-month lag. If this had been in the hands of hackers or fraudsters, Canadian citizens from across the country would have been subjected to unimaginable fraud. There were two months during which nothing was done. The citizens I have spoken to—and I'm sure that each of us has had citizens in our ridings calling us—are very concerned.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): A point of order, Mr. Chair.

[*Translation*]

The Chair: Mr. Angus has made a point of order.

Yes, Mr. Mayes?

[*English*]

Mr. Colin Mayes: I think it's totally disrespectful to the witnesses who are before us to start on a new part of our business unless we have formally finished the first section of our business, which is to talk to these witnesses who have been so gracious to come here to give us information on the topic we're studying.

Mr. Charlie Angus: He gave me the floor.

Mr. Colin Mayes: Why has the chair...?

Mr. Angus does not run this meeting, you run the meeting. You determine the order of business, not Mr. Angus.

Mr. Charlie Angus: He determined that I speak.

Mr. Colin Mayes: Mr. Chair, respectfully, you should have said to Mr. Angus at that time that you are running the order of business, that you have Mr. Dreeshen yet to speak to the witnesses, and that we'll then move on to the business of listening to the motion that has been forwarded.

You are the one who's running this meeting, not Mr. Angus.

Mr. Charlie Angus: But I moved a motion that was in order. I have the floor.

I'm sorry; you might not like the rules, but those are the rules.

Mr. Colin Mayes: The motion was not—

Mr. Charles Angus: I still have the floor.

[*Translation*]

The Chair: I am going to answer that.

Once the motion has been made, I do not have a choice: I must dispose of it. I asked for your consent so that we could continue the meeting and not hold up the witnesses, but some members of the committee were not in agreement. And so, I cannot continue. I can again ask for consent, at least to allow the witnesses to leave. I don't think anyone has any further questions for them. With your consent, we could at least allow the witnesses to leave and return to their work.

Mr. Dreeshen, you may continue with your point of order.

[*English*]

Mr. Earl Dreeshen (Red Deer, CPC): Yes, I do have questions that I was going to ask the witnesses.

I'm sure if you discussed it with the clerk, you would realize that this was the situation.

Perhaps Mr. Angus was mistaken when he thought that was the end of the discussion.

[*Translation*]

The Chair: As I said earlier, the standing orders require in principle that we dispose of the motion once it has been submitted, before we move to the next item on our agenda. And so we must deal with the motion. As I said, unanimous consent would at least allow us to free up the witnesses.

You want to go back to the same point of order, Mr. Andrews?

[*English*]

Mr. Scott Andrews: To the point of order, Mr. Chair, this is one the problems we have with our committee. As you know and the committee knows, I have a motion very similar to this that was submitted beforehand. As we go forward with these meetings, as soon as our motions are dealt with, the government will go in camera. That's the problem we're running into.

The only time we have an opportunity to deal with our motions is when we're actually dealing with witnesses, and that's a problem we have. There doesn't seem to be any goodwill on the government side to not go in camera when it comes to these types of motions. That's the problem we tend to run into, and that's what's causing this today.

It's very disturbing when a government wants to go in camera to talk about these motions in a secretive manner.

● (1650)

[*Translation*]

The Chair: I thank you for your comments, but they were not directly related to the point of order.

Perhaps Mr. Angus wanted to go back to Mr. Mayes' point of order.

[*English*]

Mr. Charlie Angus: Well, I think clearly I still have the floor.

I have no problem inviting the guests, who have been excellent guests, to leave at any time, but I still have the floor. I plan to continue speaking until we have the issue at least cleared, and then we'll go in the normal rotation.

[*Translation*]

The Chair: As we now have consent, I am going to thank the witnesses for having joined us and for having contributed to our study.

I will now suspend the meeting for two minutes so as to allow the witnesses to leave. We will then resume our discussion.

● (1650)

(Pause)

● (1650)

The Chair: We will now resume our hearing.

Mr. Angus still had the floor on the motion he had just submitted.

Mr. Angus, you have the floor.

[*English*]

Mr. Charlie Angus: Thank you, Mr. Chair. As I said, I think the issue of this motion is very important for our committee to discuss, because it's very rare that an issue of privacy and personal data affects.... Well, it's never happened in a way that has affected so many Canadians. This is the largest breach in our country's history. All of our offices—and I'm sure I am speaking for my Conservative colleagues when I say they're getting the same calls I am from people who are deeply concerned. I was just speaking with people from Matheson today, people from Englehart, people from Kirkland Lake, people from Timmins in my riding, all of whom have been affected.

I see my colleagues on the other side snickering about this. Well, the people who are calling me aren't laughing. They're taking this very seriously.

My colleague, Mr. Mayes, says he hasn't had one call. Well there are 583,000 Canadians. That's one in 60. So if he wants to diminish the concern of Canadians who are very concerned about what happened to their privacy data—and not just their own privacy data.... We're getting calls from people who are asking about their parents' data being affected, because they also signed on the loan applications.

We don't know. These are questions we are trying to reassure people about. I guess the issue here is that for two months the government sat on the breach. That is two months during which Canadians could have been exposed to all manner of fraud, because they can't assure us what happened to that data.

So when they finally admitted that there had been a breach, I know that, from talking to the many people in my riding and talking to other Canadians across the country who were phoning HRSDC, they were simply getting, “We're sorry it happened” but no commitments in terms of responding to the real threat that people faced.

I don't know how many people out there have been victims of identity fraud or have had their Visa cards compromised, but I have had mine compromised and it's a frightening situation, because you don't know how it happened and you don't know if it will happen again.

So it's incumbent upon government to be able to respond and to reassure Canadians.

Now we're at the stage of having four class-action lawsuits on this issue. This is serious business. This is what happens when you break trust with the public.

I think, given that our committee is the committee that deals with privacy and ethics, and given that we have been the committee that has looked at the issues of protecting personal privacy, and that we've just finished the social media study, we are the one committee that is in the best position to deal with what happened and to find out what steps were taken, what the internal culture was that allowed it to happen, whether there is a protocol—now that this has happened in one department—to look at other departments. Could this possibly happen at CRA? Is it possible that it could happen in other departments? We don't know, and that's who we need to hear from.

I think this is a motion we need to discuss.

I see that my honourable colleague from the Liberal Party has a motion with a number of names. I certainly think we can look at how we bring witnesses together, because it's in the interests of all of us to get to the bottom of this.

● (1655)

[*Translation*]

The Chair: Mrs. Davidson, you have the floor.

[*English*]

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

I don't believe there's anybody in this room who would argue with the fact that this incident is completely unacceptable. We all know that.

Having said that, I would make the motion that we move in camera to continue to discuss committee business.

Mr. Charlie Angus: Watch this one go down in flames.

[*Translation*]

The Chair: The motion has been made. A recorded vote has been called for since we cannot debate the motion. Mr. Clerk, you may proceed.

(Motion agreed to: yeas 7, nays 4. [*See Minutes of Proceedings*])

[*Proceedings continue in camera*]