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Monday, March 7, 2011

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Chair

The Honourable Shawn Murphy

Standing Committee on Access to Information, Privacy and Ethics

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• (1535)

[English]

The Chair (Hon. Shawn Murphy (Charlottetown, Lib.)): I will call the meeting to order.

Mr. Easter.

Hon. Wayne Easter (Malpeque, Lib.): Mr. Chair, I hate to disrupt the witnesses, but there is an urgent matter, and that is the motion that I tabled before the committee. I'd like us to deal with the motion, which reads:

That the Standing Committee on Access to Information, Privacy and Ethics call Mr. Kasra Nejatian, former Director of Multicultural Affairs to the Minister of Immigration, Hon. Jason Kenney, and that Mr. Nejatian be instructed to appear on Wednesday, March 9, 2011; and that the purpose of the meeting be to examine the issuance by the office of the Minister of Immigration of the letter dated March 3, 2011 on the matter of the circulation of the presentation entitled "Breaking Through—Building the Conservative Brand in Cultural Communities".

The Chair: I know you have this motion, but we have witnesses, so would you consent to putting it off until the end of the meeting?

Hon. Wayne Easter: No. I think this is an urgent matter, Mr. Chair, because what's happening here is this seems to be a strong-arming tactic by the Minister of Citizenship and Immigration.

The Chair: Thank you, Mr. Easter.

We do have a witness. He's coming via teleconference from Canberra, Australia, and it is 7:30 a.m. in Australia. What I would like to do—and I'm your servant, not your master—is hear the opening statement from the witness, and then come back to you.

That is what I'll do.

I'm going to call upon Professor McMillan. I want first of all to welcome you to the meeting. I want to thank you for coming.

I'm going to ask you now for your opening comments.

Mr. John McMillan (Australian Information Commissioner, Office of the Australian Information Commissioner): Thank you very much, Mr. Chair.

Good morning to the members of the Standing Committee on Access to Information, Privacy and Ethics. It's a pleasure to speak to you about Australian experience.

Australia has been in the fortunate position over the years of being able to learn a great deal from Canada in the area of freedom of information and privacy protection. Indeed, Canada was ahead of Australia in combining both areas into a single framework. And I hope we have some experience that may be of interest and assistance to you, as well.

Australia is currently going through the most substantial open government reform process to have occurred for nearly three decades. Since the Freedom of Information Act was first enacted in Australia in 1982 and the Privacy Act in 1988, there's been steady development in those areas of information rights and information management. But there was a common feeling in Australia that the process had stalled and that there was need for substantial improvement.

Currently we have, as I say, a substantial reform program that has both a legislative reform element and a policy reform element. The legislative reform element consists primarily of a law at the national level to amend the Freedom of Information Act and a law to establish a new office, which I head, the Office of the Australian Information Commissioner. I'll come back to that in a moment.

The policy reform element arises from a number of reports that have been commissioned by the national government in recent years to look at all aspects of information management, with a particular focus on electronic records management and on creating a culture of open government through more innovative use of technology. It's often coined the Gov 2.0 initiative because of the heavy reliance on the use of the Web 2.0 tools. And my office has a role to play in that area. Indeed, the members of the committee may be aware that one of the first activities of my office was the publication of an issues paper called "Towards an Australian Government Information Policy", which drew together all the themes of the policy reform process that had occurred in recent years.

But the office I head, the Office of the Australian Information Commissioner, is a key element in the national reform process. A distinguishing feature of the office is that it brings together three areas: freedom of information, privacy protection, and information policy. There are three commissioners to head the office. They include me—the Information Commissioner—as well as a Freedom of Information Commissioner, and a Privacy Commissioner, which is an established position that's been merged into the office.

The office has a significant range of powers to undertake, from complaint investigation to tribunal merit reviews of individual agency decisions on document access. It also has an extensive role in monitoring agency practice in FOI and privacy, undertaking legislative reviews, advising the government, publishing guidelines, conducting training, and the like.

Indeed, the office itself is an innovation in government oversight. The practice in Australia, and I know to some extent in Canada, is to distribute all those oversight functions—complaint handling, merit review, training, promotion of open government—among different oversight bodies. But here they have been all collected together in a single office.

The office commenced operation on November 1 last year. Our early experience is that the open government and information policy reform process have strongly taken root in Australia.

• (1540)

The chief objective of the government was to initiate a process of cultural change within government. My clear impression is that cultural change is occurring. There has been a strong commitment among government agencies, particularly in the middle levels, to introduce the new reforms. Agencies have been committed, in a way we have not seen in the past, to ensuring the smooth processing of FOI requests. Indeed, hardly a day passes now when there are not articles in national newspapers that are rooted in FOI requests. They're not necessarily of the scandal, shock, or horror variety, but just routine reporting that relies heavily on freedom of information requests.

The other marked change is the cultural change at the senior levels within agencies. One of the first things I did was indicate to agencies that I was happy to address the senior management of all of the major departments on this open government reform process. I've been invited to meet the senior management of nearly all agencies now.

That kind of senior-level engagement about freedom of information and open government reform has simply never occurred before in Australia. Freedom of information was hitherto regarded more as a peripheral irritant by the leaders of many agencies. They now regard it as a responsibility of senior management to drive the cultural reform process within agencies.

The connection between freedom of information and all other aspects of information management has also been well established. For example, my office is now engaged in a whole range of projects concerned with electronic records management and destruction, freeing up copyright controls on government information so it's more available to others, cross-portfolio integration of data sets, promotion of greater publication by agencies, and the like. So freedom of information now has a firm connection to the policy reform process that's an integral feature of ensuring a proper well-based system of open government.

There's considerable talk in that space about the idea of creating a national information policy. There's considerable interest, in particular, in ten draft principles for a national information policy on reuse of government information. That was promoted by my office in the issues paper I mentioned earlier.

Members of the committee, thank you for the opportunity to make those initial remarks. I look forward to further discussion.

I understand that there is an issue before the committee. I perhaps should say that I unfortunately have to leave by 8:30, which is in just over 40 minutes. I have to open a conference in Canberra at nine this morning, but I'll look forward to further discussion.

Thank you.

• (1545)

The Chair: Thank you very much, Mr. McMillan.

You're right that there is an issue before the committee. I've no idea how long it will take, but hopefully we'll be back to you. We all realize in the committee that you only have an hour allotted and available for this session, so we certainly want to thank you very much for getting up so early this morning to present to this committee.

I urge cooperation, members. Let's try to deal with this as quickly as possible.

Mr. Easter, please very succinctly put your motion. You've already read your motion, so you don't have to read it again.

Hon. Wayne Easter: Thank you, Mr. Chair.

The Chair: There is a point of order from Mr. Siksay.

Mr. Bill Siksay (Burnaby—Douglas, NDP): Do we not have to change our agenda to have discussion on this motion? It seems that we have an agenda that allows for committee business at the end of the meeting. If Mr. Easter wants to do it now, I suggest he needs to seek to change the agenda. That must require a motion and probably unanimous consent.

We have an agreed-upon agenda, so I'd like you to rule on that. I believe we should continue with questions for our witness.

The Chair: Mr. Siksay, that's probably the normal way we do it, but the clerk has informed me that he does have the right to bring it at this point in time.

Hon. Wayne Easter: I'm more than willing to do it at 4:30 if that's more satisfactory, Mr. Chair. Then we can question this witness.

The Chair: It probably isn't, Mr. Easter, because we have another witness coming at 4:30.

Mr. Abbott.

Hon. Jim Abbott (Kootenay—Columbia, CPC): Mr. Chair, if I may interject, as a courtesy to our friend in Australia it is only right and proper that we have our time with him. The other witnesses—and their testimony will be very, very, valuable—are based here in Ottawa, and should we run into a problem it would be relatively easy to reschedule. As a courtesy to our friend in Australia, we should go ahead with Mr. Easter's suggestion.

The Chair: Okay.

I've heard the submissions. Do I have consent to go to the questioning of Mr. McMillan and go back to the Easter motion at 4:30?

Some hon. members: Agreed.

The Chair: Thank you very much for your cooperation.

We'll now start with the first round.

The first round is to you, Dr. Bennett. You have up to seven minutes.

Hon. Carolyn Bennett (St. Paul's, Lib.): Thank you very much.

As you know, David Eaves has testified and I think quite enjoyed his experience with the Australian 2.0 project.

You've said that open government or access to information was previously viewed to be a minor irritant and is now a responsibility. That's quite a seismic shift. I would love you to tell us a little bit more about how that happens. How do you effect that kind of culture change, and what kinds of directives, what happened that you got on with it?

• (1550)

Mr. John McMillan: Thank you very much.

I think for the cultural change to be fully effective, probably four elements are required. First is a strong government commitment to and sponsorship of open government reform. That has occurred at both the national and the state or provincial levels within Australia.

Over the past 12 months, the national government has been strongly committed to driving a cultural shift. For example, the minister in charge of this area wrote to the heads of all government agencies, saying that the government expected them to lead this change. I think it's significant to have that dialogue between a senior government minister and the heads of all agencies. Government commitment and strong messages are important. As part of that, I might say the government, in July last year, through the minister for finance, issued a declaration of open government that was unqualified in the commitment to change.

The second important change is to have an effective oversight body. The lesson of the past 30 years is that freedom of information reform had qualified success because there was no personal body with responsibility for ensuring that freedom of information reforms were effective. There was no FOI commissioner. By contrast, the privacy act that was enacted a few years later had, from the start, a privacy commissioner who led a strong program in ensuring privacy protection. The difference between the two was marked—privacy protection took root in a way that freedom of information never did. Indeed, it became a growing problem for open government that privacy protection was so strong and was frequently used by government agencies as an excuse for non-disclosure. The creation of a new body—the Office of the Australian Information Commissioner—was important. It means that there is a body with greater prominence, and with a commitment, a program, and resources committed to open government reform.

The third essential ingredient for the cultural change is a sign-on at the senior levels within individual agencies. One of the first things I did was to ask the secretary of our Prime Minister's department whether I could briefly address the secretaries board—which is the board of the heads of the major government departments—to ask for the opportunity to meet individually with their agencies. That was taken up, and nearly all of the major government agencies have invited me in.

I've generally stressed to them that there's no point in my appearing unless the secretary of the department, the head of the department, is there along with the other senior officers. My clear experience is that if the head of the agency is there, the other senior executives know it's important and they all turn up. I've noticed that if the head of the agency is not there within the hour or two before my appearance, a third or more of the other senior executives decide

that it's not a high-priority issue. Just having that meeting with the senior executives has been important in being able to talk frankly and robustly about the challenges, the advantages, and the problems with freedom of information reform.

The fourth element for successful reform, which we're keeping an eye on, is the need for effective electronic records management in agencies. FOI was created in an era of hard-copy documents. As we know, technological change is having an unrelenting effect on government and society, and government itself has to latch on to technological change in all aspects of the information cycle. It's happening, but that's the big challenge now facing us and the government.

Hon. Carolyn Bennett: Your office has both privacy protection of personal information and freedom of information. In your view, in setting up your position, was it considered better to have those two separate, or to have them all in one office?

• (1555)

Mr. John McMillan: My view is it's better to have it all in one office. Privacy and FOI have grown separately for over 20 years. A tension has developed between them, understandably. One is more concerned with openness, the other is more concerned with protection and at times confidentiality. Bringing them together creates a better framework within which the tensions can be addressed. But importantly too, it means that my office starts with the benefit of the considerable experience of the Privacy Commissioner and that office over the last 20 years.

One of the first things I realized was the considerable talent that was in the privacy office, and creating this merged office has been very important. It sent a strong message to government agencies too that all these different aspects of information management are connected and need a central focus and strong leadership within the agency.

The Chair: Thank you, Dr. Bennett.

Thank you, Mr. McMillan.

We are going to now go to Madame Freeman.

Madame Freeman, for seven minutes.

[*Translation*]

Mrs. Carole Freeman (Châteauguay—Saint-Constant, BQ): Good afternoon, Mr. McMillan. Thank you for your presentation. I have a few questions for you regarding the implementation of a transparent government in Australia.

Here, in order to withhold information, people often bring up issues related to copyright, to national security and to the management of personal information when information is disclosed.

In Australia, how do you deal with the constraints often brought up by witnesses at this committee?

[*English*]

Mr. John McMillan: Those legal constraints are strong and important in Australia. As you say, the obstacles to a climate in which there is much greater disclosure and re-used circulation of government information include the privacy act, the copyright principles, national security, and other secrecy provisions.

All of those legal constraints still exist, but I suppose what is occurring is two things. One, we now have a climate in which we're addressing more directly the obstacles those can pose to more transparent government. For example, there is active discussion between my office and the Attorney General's department—which has policy responsibility for copyright protection—on the need to move more to a creative commons kind of licensing framework so that government agencies, when they publish information online, publish it without any copyright restrictions on the re-use of that information by others.

A simple example is government has to understand that when it publishes all its social demographic data, commercial organizations like Google will be well poised, if there are no copyright restrictions, to download that and then upload it onto iPhones and Google Maps and the like in a way that enables much better integration of government information into commercial programs.

The other big change, I suppose, is that it's as much an attitude as well as the legal constraints that hold back transparent government. It's the tendency of government to grasp a privacy justification for not disclosing, or a tendency to grasp a national security justification or a copyright justification for not disclosing. Often the case is overstated.

Because there is this commitment to open government—

• (1600)

[Translation]

Mrs. Carole Freeman: Pardon me, Mr. McMillan...

[English]

Mr. John McMillan: —that cultural attitude is being addressed better.

[Translation]

Mrs. Carole Freeman: Pardon me for interrupting, Mr. McMillan. Back home, who exactly decides what information will be disclosed with regard to national security or personal information? Who acts as a filter? How do you handle such issues back home, in Australia?

[English]

Mr. John McMillan: I suppose there are two points. First, under the Freedom of Information Act any person can request access to any document, and if they're denied access they can appeal to my office. My office now has a determinative power, much like a court or a tribunal, to decide whether the documents are exempt or not. We apply the FOI exemption criteria, but at the end of the day we have the determinative power. The ultimate say on document disclosure no longer rests with any government agency or minister; it now rests with an independent office—my own. That's one aspect.

The other change is that there is a whole range of government agencies responsible for different aspects of information management, such as copyright, national security, privacy, electronic management, document retention and destruction—

[Translation]

Mrs. Carole Freeman: Hold on a second. I understand what you are trying to tell us, but you cannot possibly proceed on a case-by-case basis when deciding whether to allow access to a document or

not. You must have rules that have been established to determine what documents concern national security, personal information, and so on. There must be some sort of information release mechanism. You cannot use the case-by-case approach each time and make decisions arbitrarily. You must have a mechanism that has been pre-established or prescribed.

[English]

Mr. John McMillan: No, it's not. There are any number of rules on security protection. There are security classification processes. There are any number of guidelines on protection of personal information.

In the first instance it rests with the government agency to apply those rules and decide what to release. While the government has urged agencies to publish far more and be more proactive, substantial discretion and initiative rest with the agencies.

That's where freedom of information becomes important, because it confers the legal right on members of the public to request any document they want. So it enables an individual to drive the question about whether an individual document should be disclosed. Now the individual can come directly to my office, free of charge, for an independent review on any document disclosure issue.

[Translation]

The Chair: Thank you, Madam Freeman.

[English]

Mr. Siksay, you have seven minutes.

Mr. Bill Siksay: Thank you, Chair.

Thank you, Commissioner McMillan, for taking the time this morning to be with us. Sorry about our distractions, but we'll move along.

I wonder if you can let me know where things are at now with the Government 2.0 taskforce document. It was a very extensive document. There were lots of recommendations and detail in that. Did the Australian government accept the document in its entirety? Where are we with implementation of all the detailed recommendations in that?

Mr. John McMillan: The government issued a policy statement last year accepting most of the recommendations. The declaration of open government I referred to earlier is an example of the government implementation of one of the recommendations.

The government also established a steering group located within the Department of Finance, with representatives of different offices, including the Attorney General's department, the National Archives, the Australian Bureau of Statistics, and my own office. That steering group has been responsible for ensuring that all of the recommendations are implemented. The members of that steering group have been meeting fairly regularly. There has been no report published as such, but there is an update on the Department of Finance Gov 2.0 website.

At the end of the day—and this hearkens back to the earlier question—a large number of government agencies have a role to play in information policy. That will never change. So the responsibility will be distributed around government. The main challenge is to ensure greater coordination between all of the different agencies that have a role to play in this area. That's one of the things that the Government 2.0 steering group is trying to do. It's also one of the objectives of my office.

• (1605)

Mr. Bill Siksay: Have you seen any decline in the traditional request-and-respond approach to freedom of information since this open government policy went into place? Has there been any change in the number of those kinds of requests?

Mr. John McMillan: At the moment, the information is anecdotal only; we haven't received the early statistics from agencies. We do require agencies to report to us on a quarterly basis, but we're still at the anecdotal stage. The operation commenced on November 1.

Anecdotally, every one of the major agencies does report that there is an increase in requests, particularly from journalists. There's a noticeable increase in the number of articles in the national media that are sourced from information and disclosure requests. They are in quite routine reporting, as well. It's become a feature that journalists will mention if freedom of information disclosures have been an element in the development of their stories.

Now, whether that continues, it's hard to predict. One of the government expectations is that agencies will be publishing more, putting things online, and that will make it unnecessary for individuals to make requests. It's entirely speculative at the moment as to what trends will develop.

Mr. Bill Siksay: Commissioner, how do the Government 2.0 taskforce recommendations correspond with the major infrastructure project in terms of the broadband network that the Australian government announced? Are they interlinked? Is the broadband network infrastructure project crucial?

Mr. John McMillan: There's been no interlink there, at all. There are examples, I suppose, of policy initiatives in government that all have a common element, namely, information and technology, but there's been no connection between them. The national broadband network has been principally focused on a rollout of an optic fibre cable network around the country so that individuals have fast downloads from a fixed portal in their homes.

Mr. Bill Siksay: I know it's early, but has there been any analysis of the economic benefits of the publication of public sector information and any indication that it's done anything with regard to employment? Are people getting jobs as a result of seeing more freely available government information?

Mr. John McMillan: That's one of the large and substantial issues, the cost-benefit analysis, and in particular the economic and social utility of information that is published online—does it, as it's often said, stimulate innovation?

One of the recommendations of the Government 2.0 taskforce is that a project be initiated to develop a methodology for measuring the social and economic utility of government information that is released to the public. The taskforce recommended that my office develop the methodology, and we're currently in that process.

Again, you can pick some individual examples. One interesting one is a government website initiative called My School, which has collected all of the information held by government on school funding, student performance, curriculum development, and the like. When you look at the figures on the number of downloads that occur within the 48 hours after there's an update to the site, it's quite staggering. You see the national debate it initiates at school level, parent level, teacher level, and at national planning level on school performance in Australia.

It's a great case study in the extraordinary value and interest that government information has to all aspects of national life when innovative steps are taken to assemble it and make it available to the public.

• (1610)

Mr. Bill Siksay: Thank you.

The Chair: Thank you, Mr. Siksay.

Mr. Albrecht, for seven minutes.

Mr. Harold Albrecht (Kitchener—Conestoga, CPC): Thank you, Mr. Chair.

Thank you, Mr. McMillan, for agreeing to meet with us so early in your day. It's certainly appreciated.

I'm wondering if you could give our committee some insight into what types of data sets have been the most popular in terms of the requests you're seeing and in the downloading of information. You just mentioned the kinds of articles that are being printed. Could you tell me what types of data sets are most popular?

Then, in terms of prioritizing, how did your government decide which types of data sets or which information to prioritize in terms of its early implementation?

Mr. John McMillan: We're at a very early stage in that aspect of open government, of collection of government data sets for publication.

Up until now there has been a lot of activity, but it has been fairly fragmented. Our feeling is that we've had a lot to learn from other countries. Some of the best examples are collected in a chapter in this issues paper that's available on our website called "Towards an Australian Government Information Policy". One example I've just given is the My School website, which has simply brought together all of the information held by government on school funding, individual student performance at different schools, and the like.

Another big innovation is through an organization called Geoscience Australia. In earlier days, it was our Bureau of Mineral Resources, which simply mapped where minerals were located under the ground throughout Australia. This organization, Geoscience Australia, has now developed a much broader focus on publication of spatial data; that is, collecting together all the information held at different levels in Australia about the spatial data on what's under the ground, on the ground, or can be observed from above the ground. That's bringing together information about minerals, maps, water-courses, planning, and the like. That's been an innovation.

Just as a digression, it is sometimes said that over 80% of all government information has an address on it. It's a good example of how you can simply collect together all information held by any government agency with an address and all of a sudden have a different picture of the country.

There are other examples referred to in the paper on the collection of information, for example, about heritage, the heritage information held by government agencies. That's at the early stage. The Australian Bureau of Statistics, I might say, has also been a national and international leader in making available, not just in the download form but also in a form that can be reused, all the information that it has collected through its different census-raising activity.

The other example I might mention as a final example is that the Australian Taxation Office is developing a national business register. Now, as you can imagine, the Australian Taxation Office has an unrivalled collection of data about every taxpayer and business in Australia, where they're located, what they're doing, what their performance has been over the years. And currently on a restricted but soon on an open basis, it's making that information available so that, for example, a local government organization can go into the national business register held by the taxation office and find all the anonymized data on economic activity within its own local government area, and that all of a sudden stimulates different planning activity in that area.

• (1615)

Mr. Harold Albrecht: You may just be in the early implementation stages, but you are ahead of us not only in your time this morning—or tomorrow morning—but also in the implementation. I'm just wondering if you've found any commonality in your studies for the Government 2.0 initiative or other research that your government did prior to implementing the open government initiative.

Was there commonality across countries and across different government levels in terms of the types of data sets that were available so that a country like Canada, for example, could say that given the experience of countries from one to twenty, the likelihood of a commonality emerging is quite great?

Mr. John McMillan: Unfortunately, I'm not in a position to give a very informed answer on that question.

Perhaps I can say that when my office was created, bringing together FOI privacy and information policy, our skills and our expertise was in the FOI and privacy space, but I think the thing that has struck me most of all is that much of the interest within government and in the community is in the information policy space. So nearly all the questions and nearly all the invitations to speak that I get are all about the information policy space.

The other thing we've learned is just how fragmented the whole system was. There were quite a number of agencies, all with considerable expertise, all working individually. I know I've mentioned the Archives office, our Australian Government Information Management Office, the Bureau of Statistics, Geoscience Australia, and so on, but there was very little integration between them. So it's been very hard for us, both in my office but also nationally, to kind of measure how we match up.

But there are some very promising initiatives. For example, there's a government website, called data.gov.au, under which governments are expected to load all of their data sets. So that in itself will drive that common practice element.

If I could just give one example of that, one of the responsibilities of my office is to implement what is called the information publication scheme, which is a scheme requiring all government agencies to publish the same information about their structure, their organization, their personnel, their data sets. It's an extraordinary but unique exercise in a whole-of-government exercise.

The information publication scheme really is the first time that anybody has said that if all 220 government agencies have to publish similar information, this is how you should do it: on your website, this is the icon—the link you should have—so any member of the public can go in there and find their way in, and these are the minimum requirements for every government agency. So it's only now, through this new scheme, that we're really in that process of establishing uniform, consistent, whole-of-government practice and principles.

The Chair: Thank you very much, Mr. Albrecht.

Mr. John McMillan: It's the advantage of having an office such as mine, if I may say so.

The Chair: We only have a few minutes left, but there's one issue I want to get your comment on, Mr. McMillan. You indicated that in Australia, you, as information commissioner, have the power to order departments and agencies to produce documents. We don't have that in Canada. Can you just comment as to when that came into effect? Is it working well, and do you recommend it?

Mr. John McMillan: It's part of the scheme surrounding the creation of my office. Now, essentially we have simply been given the same power as the Administrative Appeals Tribunal, which, until now, heard all appeals on FOI access. We've been given the same powers as it, the same powers as a court, essentially, to require a government agency to provide any documents to us, to answer any questions that we ask, and then I can make the binding ruling on whether the document is exempt under the FOI framework.

Now, I think that is essential. One of the key elements of a true FOI reform process is that the ultimate decision on document disclosure has to reside outside government in an independent office. Of course, some decisions that I make are appealable firstly to the Administrative Appeals Tribunal and through that to the court system, so that ensures adequate safeguards and control on appropriate use of all these powers.

• (1620)

The Chair: Okay, thank you, Mr. McMillan.

We're down to the last few minutes. I will allow the official opposition two minutes and the government members four minutes, and that will conclude our time.

Mr. Easter, two minutes.

Hon. Wayne Easter: Somewhat along the lines of Mr. Albrecht, on the use of data sets, the U.S. representative talked about how they're able to add value because of the open data. The general public or entrepreneurs were able to take that data and add value to it and basically start some businesses and productivity in the public arena. Have you seen any of that in Australia as yet, and how have you managed to achieve greater cooperation? That's one of my biggest fears.

Mr. John McMillan: I think it is occurring, and it's fairly early for me and difficult to give examples, because it's mostly anecdotal. It's fairly clear to me from just the growth in industry, the government consultation industry around Canberra itself, how many organizations now feed off government information. Unfortunately, I can't give better hard examples of that.

Government agencies have signed on fairly easily to this Gov 2.0 proactive publication agenda because it's a good-news story for government. They see the benefits of better interaction with the community. They like the stories. Obviously, what they find harder is the freedom of information reforms, which give the right to individual journalists and the opposition to request any document they want to get access to.

I don't want to take too much time, but one big sticking point we're discussing is that if government agencies have to publish information online, they're meant to comply with web accessibility guidelines, which means the information is available to the whole of the community, including people with a disability, particularly a sight disability. That's posing a practical challenge for government agencies because of the added cost of making information available in multiple forms.

The Chair: Thank you very much, Mr. Easter.

Ms. Davidson, up to four minutes.

Mrs. Patricia Davidson: Thanks very much, Mr. Chair.

Mr. McMillan, thank you very much for starting your day with us. Certainly we're enjoying it here, and hope you are there as well.

You ended this last statement you made talking about added costs because of different ways of having information available. These are things I think we're interested in as well. You know, of course, that we have two official languages here, so we see that as a bit of an added cost as well. Perhaps you could talk about the added costs you ran into.

The other thing I wondered if you could address was the copyright situation. One of the issues we've heard about fairly extensively is copyright and the fact that to have truly open government we need to get rid of copyright. What did you do in Australia, what were the impediments that you found with copyright, what were the solutions, and so on?

Mr. John McMillan: In both areas the answer is that a balance is needed, because legitimate interests are at play.

First, on the cost issue, there is no doubt that the freedom of information and open government reforms impose an additional cost on agencies in dealing with individual FOI Act requests and also in moving information onto the web and making it available in different formats.

To some extent, government accepts that that's a program cost it necessarily bears. And were it not for FOI reform, technology would be driving these changes in any case, but technology also offers efficiencies.

Because it's such an early stage, we don't have any accurate figures on the costs. Government agencies, in my experience, are bearing it happily, though there are concerns. We've tried to take up those issues. For example, I've had discussions with our disability discrimination commissioner, who says if we are too rigorous in requiring that all information published be in PDF, HD, and now Word format, then government agencies will simply stop publishing. We've got to accept that some information will be available in different forms on request but there has to be varying practice. Open government's important enough that we need that adjustment.

Equally, on copyright protection, while government can make freely available the information it has generated, which it calls proprietary interests, a great deal of the information government holds is information on which somebody else holds a copyright interest. When government publishes submissions online, when they publish photographs and so on online, often somebody else has a copyright interest.

Again, there's a need to balance a proper protection of the copyright interest of other holders with free reuse, creative commons licensing of information. Our role is to acknowledge that there's a balance but to drive hard that freedom of information has to be balanced. Don't use copyright and so on as a reason, a justification, an obstacle for not doing more. I think that agencies are now engaged in that balancing process in all areas.

• (1625)

The Chair: Thank you very much, Ms. Davidson.

On behalf of all members of the committee, I want to thank you, Mr. McMillan, for your testimony today. It's been helpful and very informative. It's fair to say that Canada probably is running a couple of years behind Australia. Your evidence will certainly be helpful as we plot our own course here in Canada.

It is very close to 4:30—I guess it's 8:30 in Australia—so I want to thank you for the hour that you've spent with us. I wish you all the best for the rest of the day.

Mr. John McMillan: Thank you. It's been a pleasure. I wish you well in your inquiry in this area.

Thank you.

The Chair: Thank you very much.

It is 4:30. We'll go back to Mr. Easter.

Hon. Wayne Easter: Thank you, Mr. Chair.

The Chair: Before you go on, Mr. Easter, as everyone is aware, we do have the Official Languages Commissioner with us, so can we be as brief as possible, under the circumstances? If you can make your points briefly and succinctly, we'll perhaps move on to Mr. Fraser.

Hon. Wayne Easter: Thank you, Mr. Chair.

As I said previously, I am somewhat reluctant to interrupt the committee proceedings and other matters to deal with this motion. I've already read it. I do see it as a very urgent matter because it does seem that the Minister of Citizenship, Immigration and Multiculturalism is basically undertaking tactics to strong-arm the immigrant and ethnic community for votes.

The letter itself was signed by the staffer who we would like to bring before the committee. He is basically the only person who could answer, I think, some of the questions we have.

The letter is pretty straightforward, and I quote it: "I am writing to you today on behalf of Jason Kenney, PC, MP, who is presently out of the country".

I will admit that the letter is on Hon. Jason Kenney, PC, MP letterhead as a member for Calgary—Southeast. However, in the letter it says, "Minister Kenney has instructed me to share with you the enclosed presentation entitled *Breaking Through—Building the Conservative Brand in Cultural Communities*."

It goes on to say, "...we require an additional \$200,000 of financial commitment from various Conservative Electoral District Associations to make this campaign a success."

Finally, it says, "Given the current political environment, we hope to have commitments by March 11, 2011."

The document is very detailed, and I think this is where we get into some very serious questions, Mr. Chair. The powerpoint presentation headline is "Target Ridings—Very Ethnic". The data is impressive. I would certainly like to know how many government resources were used to access this data, compile it, and put it into a powerpoint presentation, if in fact that's what happened. There are ten ridings listed in the chart. The takeaway on this in the next powerpoint slide is that "There are lots of ethnic voters", "There will be quite a few more soon", and "They live where we need to win".

It goes on in other slides farther down the powerpoint presentation. It talks about paid media, TV, radio, print, online, and how to focus the campaign to attract that ethnic and multicultural community.

The issue is simple enough, Mr. Chair. How extensive were the activities the staffer was engaged in? What resources of the federal government were used to assemble this material? Who, besides the staffer, was involved in the production and dissemination of this material from the minister's office?

I think the underlying trouble here, Mr. Chair, is that this is the minister who is directly responsible for the very communities this campaign is targeted at. It's a very serious matter in which this minister is in charge, on the one hand, of whether you get family members over to this country. So I believe there's an inherent conflict of interest here in potentially the use of government resources to compile the material to do the targeting in the communities from which I guess the Conservative campaign is trying to gain votes.

Simply put, Mr. Chair, the minister has a lot of influence over the lives of the people who this campaign is in fact targeting. The letter reads, as I said earlier, that the minister has authorized this approach. We need to hear exactly how that was communicated to the staffer. Was the letter edited by the minister in any respect? Was it

communicated to others in the office by e-mail or other means? Did the minister's chief of staff, or other political staff, have any involvement? In other words, how deep does it go?

• (1630)

I guess the last point I would make relates to the data, Mr. Chair, and this is where I think it's really troublesome. If a ministry is using the resources of the Government of Canada for strictly partisan political purposes, which I believe they may be, in terms of the data, what was the source of the data? It is very complete. Was the source of the data anything beyond the long-form census statistics? What was the role of the department or other department officials in contributing information to this document? Who communicated that information, and how was it communicated to this staffer and other staffers in Kenney's office or other staffers in other offices?

We might have to go to the minister on this last question. That is, did the minister ever contact members of the communities identified directly with respect to the issues outlined in this document?

I see this as a very serious issue. I believe the only way to address it and get to the bottom of it is to have the staffer appear before this committee. That way the committee can get the information from the individual to see just what is going on, and how deep this goes and how severely ministers of this regime are using their departments and their offices for strictly partisan political purposes, which is not the role of a minister of the Government of Canada, or as I see it has been renamed today in a CRA press release, "the Harper Government".

I think this is an extremely serious issue, and I ask members to support the motion.

• (1635)

The Chair: Thank you, Mr. Easter.

Mr. Abbott.

Hon. Jim Abbott: Thank you, Mr. Chair.

First off, I think it's very entertaining the way that Mr. Easter has called this an urgent issue and is disrupting the order this committee has.

As noted, Mr. Chair, Mr. Fraser and others are waiting to testify, having been called here. I fail to see why we could not have handled this issue in a matter of 20 minutes at the end of the meeting, as had been previously proposed. I think there is some serious grandstanding going on here. I think the urgency is the 24/7 news cycle, and as long as Mr. Easter and the Liberals can continue to keep this issue percolating along, they will keep it in the 24/7 news cycle.

The thing that strikes me is that the order in which we have been going after the study of open government calls for us to be able to have a meeting this coming Wednesday, when we are going to be giving instructions to our staff, to our clerks, to our researchers so that they can start to work on the report. If you take a look at the work schedule, Mr. Chair... I have had an opportunity to consult it very briefly, and it seems to me—

The Chair: This is a minor point. I'm not going to belabour it, but the issue you just talked about was discussed in camera this morning, so that wouldn't be something we would bring up. That's not a major point.

Hon. Jim Abbott: Thank you, Mr. Chair.

The point is that if we go from next Wednesday to the break week, which is already scheduled, we get into the committee hearing with Mr. Lacroix. This has been quite torturous to organize so that there is a common time for the chair of the CBC to come before this committee and answer questions about access to information in the CBC, which I know he's prepared to do. There is another item that follows on that, and there are other things that are scheduled. Therefore, we can take a look at what we have done to this point on the study of open government and say that we will get around to giving our researchers instructions in May, so they can at least start the process. This way, by next fall we could have the report on the study of open government.

With respect to the motion itself, I found it interesting that Mr. Easter admitted that the motion is rather light in the way it's written. I read the words, "To examine the issuance by the office of the Minister of Immigration". He tries to imply that because it is noted on the letterhead it is coming from the Minister of Immigration. At one point, he was a minister; he was Solicitor General at one point. I was a parliamentary secretary. That was the distinction we had at that time. But the issuance was not by the office of the Minister of Immigration; in fact, the issuance of the letter was on Jason Kenney's letterhead. I would like Mr. Easter to show us the letter from the Minister of Immigration on his office stationery dated March 3, 2011. This is not an incidental point. This is a motion we are taking a look at, and we would be moving forward from this motion.

This is nothing more than a naked attempt to get at the content of the presentation that was included with that letter. Everybody in Canada who has paid any attention to this—and I don't imagine there are tremendous lineups to watch this thing right now—is well aware that Mr. Kenney has clearly said that this was inappropriate. He has explained that he signs everything that leaves his office, that there was the terribly tragic assassination of the minister in Pakistan, that he was quickly on a flight to Pakistan to pay homage to that gentleman, and that everything was in a turmoil. There was a mistake made by a person in his office, so there was the dispersing of the information.

With respect to the information, I suspect that if there was a close examination of the documents, which I haven't examined myself, one would find that every single statistic included in "Breaking Through—Building the Conservative Brand in Cultural Communities" will have come from sources that are publicly available.

I have personal experience with Minister Kenney, and when I read in the press that he puts in 80-, 90-, 100-hour weeks, I have no difficulty believing it. I have no idea how this man actually manages to attend the number of events and go the distances that he goes. It's astounding. To suggest that there wasn't time within his schedule or the schedule of the people who are employed in his office over the 40 hours, and that they were on government time, is just not on. We have all seen the level at which he and his staff work.

• (1640)

I think it's important that we keep things in context and not bow to the goddess of 24/7, as Mr. Easter wants to do. We should resist his discussion about the urgency and continue with our study on open government. Next Wednesday, rather than getting into this wild

goose chase that would work to Mr. Easter's advantage, we should do what we had originally intended and give instructions to our staff so we can carry on with our study on open government.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Abbott.

Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): I think my colleague has very carefully demonstrated the need to stay on the committee's existing course of study. We have an open government study that we've been working on for months now. If we ever want it to reach fruition, we have to zero in on the final witnesses, drafting, and approval of that report. This could potentially be a multi-day distraction from that effort.

Previously we passed motions for studies to occur and scheduled them later on down the road. An example is the study on the CBC and access to information. I think that motion was passed a couple of months ago, but it was agreed by committee members that the study would occur after we were done with open government. But here we have Mr. Easter insisting that we have an "urgent" study of a matter that has already been dealt with.

That brings me to my second point. Minister Kenney has acknowledged the error. He said that his parliamentary letterhead should not have been used. He apologized for that and took responsibility. The staff member in question who executed the error has resigned, and Minister Kenney has accepted that resignation.

I'm not sure what more could be "urgent", given that all of these matters have been dealt with succinctly and swiftly by the minister. This matter can continue to be interrogated in the House of Commons, as it was today in question period. I'm very sure the official opposition will pose plenty of questions on it there. But to suggest that we need to derail our entire work schedule here in order to review a matter that has been largely dealt with is erroneous.

Thank you.

• (1645)

The Chair: Thank you, Mr. Poilievre.

Dr. Bennett, do you want to say something on that?

Hon. Carolyn Bennett: Would I take from that intervention, Mr. Chair, that Mr. Abbott will withdraw his motion on the calling of the members of Parliament who you wanted to call, in terms of the March 9 appearance?

Hon. Jim Abbott: Yes.

Hon. Carolyn Bennett: I guess it's hard for me to even understand why we as parliamentarians wouldn't want to have a look at this. This is a difficult thing for all members of Parliament to find that blur between our partisan job and our jobs as parliamentarians. Sometimes it can be a bit blurred, and I think it is the responsibility of this committee to find out if we can find out how that could be clearer in the future. It would be worth looking at this.

This is at least as urgent as it was for the staffer to send out the letter while the minister was still on the plane. This is very serious, and it was signed by the director of multicultural affairs in the office of the Honourable Jason Kenney. This is a real breach of that line. I don't think we would be doing our job as parliamentarians if we didn't ask the committee named for ethics to have a look at this and try to put some recommendations forward such that there would be even clearer guidelines for members of Parliament and particularly for ministers, and particularly for ministers who, in their partisan work, are targeting areas that are actually in the same areas as their ministerial responsibility.

I think if the Minister of Justice were writing letters to all the lawyers or all the judges, we would see that was clearly a breach. In our party we clearly separated the critic for immigration from the critic for multiculturalism because we think that it is problematic and a grey area.

As you know, for a long time I think this committee work has deteriorated down into everything by motion. I think the committee should agree to have a look at this issue of where we draw the lines and learn from this breach that has been apologized for, in a certain way. But it's clear that this wasn't right and it's clear that staffers and members of Parliament and ministers need much clearer guidelines or that this committee needs the ability to make the recommendations such that this never happens again.

Hon. Jim Abbott: Mr. Chair, please bear with me. I want to clarify my response to Ms. Bennett. If this motion fails, I will be withdrawing my motion. If this motion is approved by the committee, I will be then presenting my motion.

• (1650)

The Chair: Mr. Siksay.

Mr. Bill Siksay: Thank you, Chair.

I'm disappointed that we're not dealing with the witness we had scheduled today, but at the same time, this is a really important issue that this committee needs to deal with, so I feel that it's incumbent upon me to participate in the discussion on Mr. Easter's motion.

I have to say that it's unbelievable to me that this has happened. I hear what Mr. Abbott says in his tribute to the Minister of Citizenship and Immigration, and I believe that much of what he said is true. I believe that the minister is one of the hardest-working members of the cabinet; I believe that he puts in incredible hours. I don't agree with a lot of what he does, but I have great respect for the work he does and I have respect too for the kind of partisan edge that there is to a lot of his work.

It's because of that, Chair, that I'm really concerned about what has happened in terms of the revelation of this letter that went out of the minister's office. I believe that if anybody in cabinet or in government today appreciates the distinction between partisan responsibilities and those of government and a cabinet minister, it should be the Minister of Citizenship and Immigration, just because he is so directly involved in all of that and because I've been in awe in many ways of the work he has done in that regard. That's why I'm very concerned about what has happened here, about why an official of his office, the director of multicultural affairs in his office, saw fit to use the resources of that office for a very partisan fundraising effort. I think that means that this is a very serious issue.

And given who is involved here directly, I think it is a very serious issue, because if there is anybody I see in government who has exerted political control over their department and over their ministry and who understands those issues, it's the Minister of Citizenship and Immigration. When that messes up, I am led to believe that maybe my impression wasn't so good and that there may be a very serious issue here.

That being said, Chair, I despair at this committee's ability to deal with this kind of issue. We will remember our attempt to get to the bottom of the political interference in access to information requests, and our attempt to bring staff people to this committee to testify about their involvement in it, and how that ended in miserable failure; how we had to subpoena staff people to attend because, I suspect, somebody had told them not to come and they chose not to come. The government took the position that they shouldn't testify and that ministers should testify in their place, and we had a circus in this committee. The committee was not able to do its work, was not able to get to the bottom of it, and ultimately the committee decided to put that question right off its agenda without making a report and without drawing conclusions.

It seems to me that this committee is uniquely incapable of dealing with this kind of situation, and I find that tragic. We spent a huge amount of time doing that work in the past on political interference in access to information, and we got nowhere on that file.

Apparently, another committee is doing a report on staff appearing as witnesses before committees, but we've seen nothing of that report and there's been no action on it. I think we were told at the time that this needed to be done before we pursued the issue of political inference in access to information requests, and yet nothing has come back on that, and it has been months.

So I have to say that I'm not convinced that bringing this issue to this committee will result in any reasonable outcome; that we will get to the bottom of anything, even though I believe it's a very serious matter.

Now, what do I do in that circumstance? I'm struggling with my decision on this motion, Chair. I believe it is very serious and that somebody should be looking at it. That may win the day. But I have to say that I despair at this committee's ability to get beyond the games-playing and the partisanship to get to the bottom of a serious issue about how resources of government and Parliament are used for partisan purposes.

So I'm still undecided at this point, Chair, and I'm looking forward to other comments from other members.

The Chair: Thank you very much, Mr. Siksay.

There are no other speakers, so I will put the question.

Mr. Poilievre?

Mr. Pierre Poilievre: Yes, Mr. Chair, I think that I have to agree with much of what Mr. Siksay said.

My final point on this is that to whatever extent a mistake was made, that mistake has been acknowledged. A staff member has lost his job. We could bring that staff member and that minister in here to restate what they have already conceded. I'm not sure exactly what that would accomplish.

Effectively, we would have Minister Kenney come in and say that the letterhead shouldn't have been used. He's already said that, though, so there would be nothing new in that. We could have Mr. Nejatian come in and say that he shouldn't have used the letterhead, and there would be nothing new in that because he's already said as much and even offered his resignation to prove it.

And then we could have some acrimony around whether they should say it again, or say it louder, or with more contrition. But I'm not sure any of that would add to the public interest or merit delaying our important work on open data and open government.

Anyway, that's my final intervention on that subject, unless something Mr. Easter says inspires further contributions for my part.

• (1655)

The Chair: Thank you, Mr. Poilievre.

Mr. Albrecht.

Mr. Harold Albrecht: Mr. Chair, we talked at one stage about parliamentary resources and I think this is a great example of what we're doing right here. We have a witness who has been called, sitting here for the last 45 minutes waiting to testify. We're using up his time, and we're not getting anywhere.

The Chair: Thank you, Mr. Albrecht.

Madame Freeman.

[*Translation*]

Mrs. Carole Freeman: I am quite taken aback by Mr. Poilievre's comments, who asked several times who would be interested in hearing such a witness as Mr. Kenney. This is not the first time I hear Mr. Poilievre say something like that.

The fact is that our committee, the Standing Committee on Access to Information, Privacy and Ethics, must look into situations we have to object to. With the current Conservative government, we can't just move past this incident and pretend like nothing had happened because an apology was produced.

I also partly agree with Mr. Siksay who reminded us that, in this committee, we had a very difficult time getting witnesses to appear last spring. It was like pulling teeth. This committee has a hard time getting to the bottom of things.

However, I don't agree that we should forget about the appearance of such an important witness simply because the Conservative party and government try to prevent us from hearing witnesses and getting to the bottom of things. Just because they are constantly doing this, it does not mean we will stop protesting against these actions and making sure that everything is done the way it should be.

So, I will support Mr. Easter's motion and I believe that the witness needs to appear before the committee.

[*English*]

The Chair: Mr. Easter.

Hon. Wayne Easter: Thank you, Mr. Chair.

I think the parliamentary secretary to the Prime Minister misses the point. The key point and my final point is that this is an extremely serious affront to our democracy in this country. You have a Minister of Citizenship, Immigration and Multiculturalism who is

also the person in charge of ethnic community outreach for the Conservative Party of Canada, and it has come to light that one of his staffers has prepared an extensive document that in my view is basically pushing people to strong-arm that very ethnic community that depends on that minister for their very livelihood in this country, and for determining whether their relatives might come here for a death in the family or whatever.

This is unbelievable in terms of the conflict. I never thought we'd see the likes of this happen in Canada, but we're seeing it. It's outrageous, Mr. Chair, and we need, as a committee, to get to the bottom of this. How far do we let this government go in violating the rules of democracy in this country?

As I said earlier, we see the CRA, an agency of the Government of Canada, today not calling it the Government of Canada, but calling it "the Harper government". That's outrageous, Mr. Chairman.

From this staffer we need to find out where the directives came from. He said he was directed by the minister to write the letter. What other staff were involved? Does it go to other ministers in other departments? What resources were used within the government to prepare this huge database? Is this government getting into tax returns or whatever else to find out who people are and target them? Is that what's happening with this government?

How far are we going to let this go before we as MPs...? We as MPs have a responsibility in this country to uphold the Parliament of Canada and the rights of the Canadian people, and I believe this minister is violating those rights by the way this has happened.

So I'm very strongly suggesting, Mr. Chair, that we need to get to the bottom of this. I don't accept the parliamentary secretary's response that this is just a matter of a staffer making a mistake and resigning. This is a minister who is caught in a serious conflict between his partisan responsibilities—and yes, he's working lots of hours, I'll grant him that—and his ministerial responsibilities, and is targeting the very communities he's responsible for as minister.

It's a serious matter, Mr. Chair, and that's why I brought it forward.

Thank you very much.

• (1700)

The Chair: Our arguments are getting somewhat repetitive.

I'm going to hear from Madame Thi Lac.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ): Thank you, Mr. Chair.

There is another unresolved issue that's part of the debate that was launched last week, following the supposed use of parliamentary letterhead to solicit donations by one of Mr. Kenney's employees. I'm talking about the number of responses Conservatives got following this invitation to contribute to the funding of their party. We have not succeeded in getting this information.

How many people donated money once they received the letter, and how much money did the Conservative Party raise as a result? If only for the sake of fairness, I think it would be important to hear the Minister on the issue. Apologizing is all fine and well, but this letter probably produced results. There are most likely people who donated money once they received the letter. Even if there was only one donation, that money was obtained in a questionable manner.

After something like this, it's not enough to just apologize while holding on to the money that was raised. For this reason alone, it's important to hear Mr. Kenney on this issue.

[English]

The Chair: Mr. Abbott.

Hon. Jim Abbott: In answer to Ms. Thi Lac, this is important. If she reads the letter in question, she will see that the letter was directed specifically to electoral district associations of the Conservative Party—period, full stop. That was it.

The spectre that a person like Mr. Volpe, on television the other day, and other Liberals have been creating is that this is an affront, a threat to the immigrant community because if you don't pay up you will.... I mean, that is just sheer demagoguery of the first order. The fact is that there was a request made by the members of the Alberta caucus to the minister, who is also a member of the Alberta caucus, for information so that they could consider whether they would ask the Conservative electoral district associations to contribute money to this fund.

Now, we have to remember that absolutely everything in Canada with respect to election funding or political spending of this type by a political party is under Elections Canada and is under very tight control. So the money that would be contributed to a Conservative constituency in Edmonton or Calgary or Red Deer could then be traced or tracked to the amount that it would be contributing to the \$200,000. This is a very hermetically sealed \$200,000 that has absolutely nothing whatsoever to do with the immigrant community in Canada or with people outside of those who choose to contribute to a political party. So the spectre that has been created regrettably and falsely and, I would say, maliciously by the Liberals that this is somehow going after immigrants to say "If you don't pay up you won't get it" is pure puffery of the first order, and quite frankly I think is demeaning and degrading to the political process.

I think, Madame Thi Lac, you've asked a very valid and legitimate question, and I hope if you read the letter you will see that the letter specifies that the \$200,000 is being asked for from constituency organizations, not from the public at large.

• (1705)

The Chair: Thank you, Mr. Abbott.

The chair will now ask for a recorded vote.

Mr. Bill Siksay: Mr. Chair, I'd like to propose an amendment that after the word "appear" we add the phrase "at a special evening meeting of the committee", so that this wouldn't distract from the existing schedule of the committee. Instead we would hold a special meeting on Wednesday evening to deal with this matter.

So after the word "appear" we would add the phrase "at a special evening meeting of the committee".

The Chair: So it would be "a special evening meeting of the committee". Just to clarify that, I'm going to read it, starting with the third line: "...be instructed to appear at a special evening meeting of the committee on Wednesday, March 9, 2011". Everything else is the same.

You've heard the amendment. I would now ask members to make brief comments about the amendment.

Mr. Easter.

Hon. Wayne Easter: We'd support that, Mr. Chair.

The Chair: Okay, let's vote on the amendment. I'm going to ask the clerk to conduct a recorded vote on the amendment only, not the motion.

We have a tied vote. The chair will support the amendment.

(Amendment agreed to: yeas 6; nays 5)

The Chair: I am going to now ask the clerk to conduct a recorded vote on the motion as amended.

Again we have a tied vote. The chair will support the motion.

(Motion as amended agreed to: yeas 6; nays 5)

The Chair: Mr. Abbott.

Hon. Jim Abbott: Mr. Chair, therefore I wish to move my motion, which is that the Standing Committee on Access to Information, Privacy and Ethics call member of Parliament Linda Duncan and member of Parliament and chair of the Standing Committee on Access to Information, Privacy and Ethics, the Honourable Shawn Murphy, to appear on Wednesday, March 9, 2011, as member of Parliament Kelly Block did when called; and that the purpose of the meeting be to examine the inappropriate use of parliamentary resources by their offices.

The Chair: Thank you very much, Mr. Abbott.

As should be obvious to everyone, I'm not going to preside as chair at the committee on this motion. I will ask Ms. Davidson to take the chair in my place.

There is a point of order from Mr. Siksay.

Mr. Bill Siksay: Before you leave the chair, I wonder if we can decide whether we're going to continue with our agenda and hear the presentation of the Commissioner of Official Languages and then proceed to consider this. Maybe you have to vacate the chair at this point....

The Chair: This is the very same situation as the Easter motion. It will require consent. Mr. Abbott is within his rights to do that.

We'll suspend for a few minutes and ask Ms. Davidson to take the chair.

• (1710) _____ (Pause) _____

• (1710)

The Vice-Chair (Mrs. Patricia Davidson (Sarnia—Lambton, CPC)): I call the meeting back to order.

Dr. Bennett, do you have something to say?

Hon. Carolyn Bennett: I want to know if this motion is in order. Does the clerk have any advice on that?

The Vice-Chair (Mrs. Patricia Davidson): I have received some advice from the clerk, and I will ask the clerk to relay that advice.

Mr. Harold Albrecht: On a point of order, would it not be wise of us to release our witness who is waiting here? It's obvious we're not going to get to his remarks in the next 15 minutes. In the interest of his schedule we should release him, with our apologies.

The Vice-Chair (Mrs. Patricia Davidson): Does the committee agree to do that?

Some hon. members: Agreed.

The Vice-Chair (Mrs. Patricia Davidson): Mr. Fraser, we thank you very much for your attendance here today. We apologize that we have been sidetracked by other business. We have motions that have been brought forward at this point. We thank you for attending, but at this point we will release you and hopefully be able to book you at another time to hear your comments.

• (1715)

Mr. Graham Fraser (Commissioner, Office of the Commissioner of Official Languages): I hope so. I'm looking forward to it.

The Vice-Chair (Mrs. Patricia Davidson): Thank you very much.

Okay. We'll come back to the business at hand, and I will read to you the advice that I've been given by the clerk. As I said, this is only advice. It's certainly up to the committee as to whether or not you agree with my opinion, but I think I agree with the advice the clerk has given us. I will read the statements.

First of all, I want to thank the honourable member for having moved the motion. However, given the advice I've received from the clerk, I am of the opinion that the motion is inadmissible, and I will give you the reasons for that.

First of all, I believe the motion goes beyond the mandate of this committee, specifically with regard to Standing Order 108(3)(h)(vi), which states:

vi) the proposing, promoting, monitoring and assessing of initiatives which relate to access to information and privacy across all sectors of Canadian society and to ethical standards relating to public office holders; and any other matter which the House shall from time to time refer to the Standing Committee.

It's important to understand the definition of public office holders with regard to the mandate of the committee. This standing order refers to the definition as described in the Conflict of Interest Act. "Public office holder" is defined as:

- (a) a minister of the Crown, a minister of state or a parliamentary secretary;
- (b) a member of ministerial staff;
- (c) a ministerial adviser;
- (d) a Governor in Council appointee, other than the following persons, namely,
 - (i) a lieutenant governor,
 - (ii) officers and staff of the Senate, House of Commons and Library of Parliament,
 - (iii) a person appointed or employed under the Public Service Employment Act who is a head of mission within the meaning of subsection 13(1) of the Department of Foreign Affairs and International Trade Act,
 - (iv) a judge who receives a salary under the Judges Act,
 - (v) a military judge within the meaning of subsection 2(1) of the National Defence Act, and
 - (vi) an officer of the Royal Canadian Mounted Police, not including the Commissioner;

(d.1) a ministerial appointee whose appointment is approved by the Governor in Council; and

(e) a full-time ministerial appointee designated by the appropriate minister of the Crown as a public office holder.

Members of Parliament and their parliamentary staff are subject to the conflict of interest code for members of the House of Commons, which would fall under the mandate of another committee. Most importantly, however, in subsection 52.6(1), the Parliament of Canada Act states that:

The Board has the exclusive authority to determine whether any previous, current or proposed use by a member of the House of Commons of any funds, goods, services or premises made available to that member for the carrying out of parliamentary functions is or was proper, given the discharge of the parliamentary functions of members of the House of Commons, including whether any such use is or was proper having regard to the intent and purpose of the by-laws made under subsection 52.5(1).

This is further emphasized on page 238 of the second edition of the *House of Commons Procedure and Practice*, O'Brien and Bosc, which goes on to say that:

The Board determines the terms and conditions of managing and accounting for the funds by the Members and has exclusive authority to determine whether their use is or was proper.

Other bylaws set out the terms governing the members' use of budgets and other benefits provided by the House, including travel points, printing privileges, staff, and the purchase of goods.

As members of Parliament, the proper use of parliamentary resources is something that concerns us all. However, for the reasons that I've given you and from the information that the clerk has researched for me, I believe this committee is not the proper forum to hold that discussion.

Mr. Abbott.

Hon. Jim Abbott: Thank you.

Obviously I don't agree with the position you've arrived at, and I would like to tell you why.

The Vice-Chair (Mrs. Patricia Davidson): Mr. Siksay, on a point of order.

Mr. Bill Siksay: Madam Chair, is Mr. Abbott directly challenging the chair's ruling? He should state that clearly before he goes into a long....

The Vice-Chair (Mrs. Patricia Davidson): This has been ruled. That's been my ruling as the chair. So yes, certainly if you are challenging the chair, that's your prerogative.

Hon. Jim Abbott: Thank you, Madam Chair. And to confirm, I am challenging the chair's ruling.

This is exceptionally—

The Vice-Chair (Mrs. Patricia Davidson): Mr. Abbott, I don't believe that's debatable. So you're challenging the chair, and I believe that we call for the vote on challenging the chair.

(Ruling of the chair sustained: yeas 7; nays 3)

The Chair: Is there any other business to come before this committee today?

Is there a motion to adjourn? So moved by Mr. Siksay.

The meeting is adjourned.

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