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Chair

Ms. Jean Crowder

Standing Committee on Access to Information, Privacy and Ethics

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• (1100)

[English]

The Chair (Ms. Jean Crowder (Nanaimo—Cowichan, NDP)): Good morning, committee members. Could you take your seats so we can start?

We're on meeting number 26, continuing our statutory review of the Lobbying Act.

I would like to welcome Mr. Saxton, the parliamentary secretary for the Treasury Board, who will be presenting to committee today.

Mr. Saxton, if you could introduce your colleagues, I will turn the floor over to you.

Mr. Andrew Saxton (Parliamentary Secretary to the President of the Treasury Board and for Western Economic Diversification): Thank you, Madam Chair, and I'd be happy to.

With me today is Roger Scott-Douglas, the assistant secretary, priorities and planning, at the Treasury Board Secretariat; Janice Young, the senior advisor of strategic initiatives at the Treasury Board Secretariat; and David Dollar, the director of strategic initiatives at the Treasury Board Secretariat.

Thank you, Madam Chair, and thank you, members, for inviting me here today.

I'm pleased to be here on behalf of the President of the Treasury Board and to speak to this committee as you approach the end of this phase of the legislative review of the Lobbying Act.

[Translation]

First, let me thank the committee members for your hard work on this important matter. You have heard input from various parties, and I appreciate your efforts in seeking out the views of stakeholders on this important piece of legislation.

[English]

As you know, lobbying public office holders in this country is a legitimate activity and a necessary part of the democratic decision-making process. This is recognized in the legislation itself.

At the same time, Canadians have the right to know who is lobbying their public officials. The provisions of the Lobbying Act, which is largely oriented toward the lobbying industry, assist in ensuring that this activity is carried out ethically and transparently.

[Translation]

In my view, the current legislation functions well, providing Canadians with transparency around lobbying activities.

Indeed, Madam Chair, at the federal level, we have one of the toughest and most sophisticated lobbying regimes in the world.

This government is committed to transparent and accountable public institutions and has taken steps to ensure this since first being elected in 2006.

[English]

One of these steps was strengthening the rules and guidelines that regulate lobbying at the federal level to ensure lobbying is conducted ethically and transparently.

On coming to power, our first priority was passing the Federal Accountability Act. The Lobbying Act, which is a key component of the Federal Accountability Act, came into force in July 2008.

The Lobbying Act toughened the rules and ensured Canadians had access to more information about interaction between lobbyists and senior government officials. The changes that came into force in 2008 represent a significant step forward in providing clarity to Canadians about who is lobbying their public officials.

As you know, the legislation was further expanded in September 2010 to include all members of Parliament, senators, and exempt staff in the offices of the leaders of the opposition in the House and in the Senate.

Today at the federal level, the system works well and it is meeting the overarching objectives of the Lobbying Act. However, this legislative review, mandated by the act, provides the opportunity to consider whether in the committee's view the rules and guidelines governing lobbying remain current and easily understood. It also gives stakeholders the opportunity to provide their opinion on this issue.

The current regime seeks to ensure that the interests of all stakeholders—the rights of lobbyists to advocate, the rights of those they represent, and the rights of Canadians to know how their government does business—are respected and balanced against the overarching objectives of the act.

As the committee considers possible recommendations regarding the Lobbying Act, I would ask that you bear in mind these overarching objectives while maintaining the act's focus on regulating the activities of lobbyists rather than those they lobby.

[Translation]

As a government, we are committed to openness and transparency. We support this review and we continue to place a priority on ensuring Canadians have the clarity they rightly seek in regard to lobbying activities.

[English]

Madam Chair, I look forward to hearing your recommendations regarding the Lobbying Act.

Thank you. *Merci beaucoup.*

[Translation]

Thank you very much.

•(1105)

[English]

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

We'll now hear from members, starting with Mr. Dusseault.

[Translation]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Madam Chair.

First of all, thank you for being here. Of course, we would have liked to have the President of the Treasury Board here, but we will still ask you a few questions since you are here with us.

I would first like to explore the role of the RCMP with respect to this legislation. As you know, a number of witnesses have discussed that issue at length. They have told us that the RCMP was not doing its work properly and that there was never any follow-up when the commissioner referred cases to the RCMP.

Do you believe that the RCMP is not doing its work properly? Do you think that we should call for RCMP representatives to appear before the committee, as we have already requested?

[English]

Mr. Andrew Saxton: Madam Chair, first of all, when it comes to the list of witnesses, that's up to the committee to decide. The committee is the master of its own destiny in that regard.

Regarding contravention of the Lobbying Act and the Lobbyists' Code of Conduct, they are to be taken very seriously. When the Lobbying Act came into force in 2008, we provided the Commissioner of Lobbying, an independent agent of Parliament, with the tools and a mandate to ensure compliance with the act. The Commissioner of Lobbying has tabled a number of reports in Parliament dealing with contraventions of the Lobbyists' Code of Conduct, and I expect the RCMP to continue to take allegations of contravention of this legislation seriously when it comes to contraventions of the act.

[Translation]

Mr. Pierre-Luc Dusseault: I am not sure of the exact number of cases that have been referred, but do you find it reasonable that the

RCMP has not done follow-up for each of them? In your opinion, is there a loophole in the law that prevents people from enforcing it properly, from prosecuting cases and imposing fines?

There would seem to be some kind of loophole in the legislation and a problem with the RCMP. Do you believe that this is really the case? Is the fact that there is never any follow-up a problem that the committee should address in the future and try to make changes to correct?

[English]

Mr. Andrew Saxton: First of all, Madam Chair, I take the work of the RCMP very seriously, and I have a great deal of respect for the work they do and the decisions they make. It's certainly up to them to come up with their own recommendations.

If the committee feels there's a gap in the act, that's up to the committee to make a recommendation as part of their final report on the subject.

[Translation]

Mr. Pierre-Luc Dusseault: Thank you for that clarification.

I would like to raise another issue. You alluded to it yourself, but I would like to have more specifics on your role and the role of the President of the Treasury Board. Perhaps your colleagues could comment as well. What exactly is your role? Your role as the person responsible for this legislation is not very clear for us. Could you go into more detail about what exactly you do in connection with this act?

[English]

Mr. Andrew Saxton: I think what I'll do is refer that to my colleague.

Roger, would you like to take that question, please?

Mr. Roger Scott-Douglas (Assistant Secretary, Priorities and Planning, Treasury Board Secretariat): Under the act, it is the President of the Treasury Board who is the responsible minister for the act. That said, the unique and important feature is that it is an independent agent of Parliament, the Commissioner of Lobbying, who is responsible for the specific administration and operation of the act. That commissioner reports directly to Parliament on those matters.

[Translation]

Mr. Pierre-Luc Dusseault: Of course, the Lobbying Commissioner does most of the work, because the commissioner is appointed by Parliament for that purpose. However, as parliamentary secretary to the President of the Treasury Board and the person responsible for this legislation, as you have said, what exactly do you do? Do you provide oversight?

[English]

Mr. Roger Scott-Douglas: No, there's no sense in which the Treasury Board would supervise the work of the commissioner. The role played by the Treasury Board Secretariat would be to support the president in any amendments that were made by the government to the legislation.

Mr. Saxton spoke about changes that were initially made by the government in 2006, when the Lobbying Act itself was introduced, and it came into force in 2008. On the subsequent amendments that took place in 2010, the content of those would have been prepared by officials within the Treasury Board Secretariat and supporting the minister responsible for that legislation who introduced them to the House. But it's not a supervisory role over the commissioner.

• (1110)

[*Translation*]

Mr. Pierre-Luc Dusseault: So the President of the Treasury Board would actually be the person who would introduce a bill on behalf of the government to amend the Lobbying Act. That is something he could do.

[*English*]

Mr. Roger Scott-Douglas: That's absolutely correct, it would be the president. Obviously, in so doing, the president would be particularly interested, as the parliamentary secretary has indicated in the recommendations made by the standing committee. Indeed, it would also obviously be very interested in the recommendations made by the Commissioner of Lobbying in the course of the government formulating its position and whatever amendments it chose to bring forward to the House.

[*Translation*]

Mr. Pierre-Luc Dusseault: As parliamentary secretary to the President of the Treasury Board, do you have any recommendations? Would you like to share any questions with the committee in connection with the Lobbying Act? You may have some recommendations to make. Perhaps you have identified a flaw in the legislation that should be examined by the committee and corrected at some point.

[*English*]

Mr. Roger Scott-Douglas: As officials supporting the president, we'd obviously be particularly interested in hearing the recommendations that come forward from the standing committee. Indeed, we would be providing advice and counsel to the president and the parliamentary secretary as the government formulates its position on responding to that. But we don't have anything to recommend in specific terms to the standing committee at this point.

The Chair: Mr. Del Mastro, you have the floor for seven minutes.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you very much, Madam Chair.

Thank you to the witnesses. Thank you to my colleague, the parliamentary secretary, for making the time to appear before committee today.

I would argue we've had a very good discussion on the Lobbying Act. We've heard from the lobbying commissioner and others who have come forward to talk about how, in very general terms, the Lobbying Act is working quite well and it is delivering a much greater level of transparency and accountability, which was the intent of the act.

We have heard a couple of recommendations that I'd like to bounce off you on which you might provide some direction or some advice to the committee.

My feeling is that wherever possible the rules should be as clear as they can possibly be so that people have a clear understanding of what is okay and what is not, what is expected of them and what is not. I think that is a goal of the Treasury Board as well.

Specifically, I wanted to ask—this might be a question for the officials—with respect to rule 8, which was a rule that was extended by the lobbying commissioner. It dealt with government or government relations representatives and the fact that they may or may not be able to participate in elections, may or may not be able to—essentially it is a conduct rule around things like elections signs and so forth. The problem with it is, and this is what I think they've indicated, they don't know what's okay and what is not until perhaps somebody comes forward and complains, or perhaps somebody comes forward and asks if what they did was—they can't get any advance notice.

They can't write to the lobbying commissioner to say they're thinking about putting an election sign for Scott Andrews on their lawn and is that okay. The lobbying commissioner will say she doesn't know. It might be. If somebody complains, they'll look into it. That doesn't make a lot of sense. In my view, we either need to codify what rule 8 means or we need to strike it, because there is no clarity in what it's trying to establish.

Can you provide me some background on that, what your impressions are in that regard?

• (1115)

Mr. Roger Scott-Douglas: I will certainly do my best.

The principle by which you began, the principle of clarity and transparency about the rules, is terribly important. That is absolutely true. I know the commissioner feels that way also.

As you know, rule 8, as is possible for other rules within the Lobbyists' Code of Conduct, is the subject of a number of interpretations put out by the commissioner where efforts have been made to clarify exactly what that means. Anything that can be done while respecting the facts of the case, making sure that whatever is being said about what is appropriate or inappropriate, is done in the clearest possible terms. That would be the position, and I think the committee, in formulating recommendations to that effect, would wish to consider specifically how things could be clarified.

In so doing, any deviation from encouraging interpretations and encouraging positions taken by the commissioner to be distanced from the facts of any particular case might be something the committee would want to take particular care about, but I don't specifically at this point have a recommendation or a view on what specific changes need to be made to rule 8.

Mr. Dean Del Mastro: Thank you.

One of the things we can be very proud of as a government is the compliance rate we're seeing. The rules that were set in place through the Accountability Act have been followed, and they have been followed pretty meticulously. According to the lobbying commissioner, there have been very few incidents. The lobbying commissioner did indicate, in the case where there might be an infraction, there is very little she can do other than refer these matters to the RCMP.

Has Treasury Board or have any of the officials contemplated the idea of what the lobbying commissioner has discussed with respect to administrative monetary penalties? Would you have any recommendations in that regard?

Mr. Andrew Saxton: Madam Chair, I'll be happy to take that question.

The Commissioner of Lobbying has recommended the introduction of a scheme of administrative monetary penalties. A number of witnesses, I understand, have come before the committee in this regard with various recommendations.

When the Lobbying Act came into force in 2008, the rules around lobbying were toughened. This included doubling the monetary penalties for breaches of the Lobbying Act and extending the timeframe for investigations. At the same time, the act requires the commissioner to table reports to Parliament about her investigations of breaches. These reports to Parliament represent a significant sanction, particularly in this type of industry where the reputation of somebody is very important.

With respect to additional enforcement tools, such as administrative monetary penalties, the committee may wish to consider issues regarding due process, which other witnesses have identified, specifically an appeal process, whether there is sufficient clarity about the requirements and obligations under the Lobbyists' Code of Conduct, and issues related to ministerial accountability over an area where an independent agent of Parliament is acting. This is a rather unusual situation where you have an independent agent of Parliament who is actually requesting the power to sanction or to levy fines on private individuals or private entities.

Mr. Dean Del Mastro: So if the committee makes such a recommendation, you will take that into consideration at Treasury Board as far as the act is concerned?

Mr. Andrew Saxton: The work the committee has been doing—I think you've had seven meetings, 14 hours worth of meetings—is very significant. This is the five-year review, and the purpose of this review is to make sure that the act is working and that it is clear to those people who are affected by the act what their obligations are under the act. So certainly the report of this committee is extremely important, and it will be taken very seriously when it's received by the Treasury Board president.

The Chair: Thanks very much, Mr. Del Mastro. Your time is up. Thank you, Mr. Saxton.

Mr. Andrews for seven minutes.

• (1120)

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

I'm really not going to ask the parliamentary secretary any questions today. We're very disappointed that the minister wouldn't come before this committee and answer our questions today. It leads into a systemic problem in Parliament right now. We have ministers brushing off question period and avoiding committees. We have parliamentary secretaries come in and read out notes that they were given hours before their committee appearance.

I really only have one question for you, Mr. Parliamentary Secretary. Why didn't the minister want to come and appear before

this committee today? What is he afraid of? What did he have to hide?

Mr. Andrew Saxton: Chair, I can tell you that I do not have the reason. I can just tell you that I was asked to do it, and I was happy to accept, and that's why I'm here today.

Mr. Scott Andrews: I have no further questions for the witness today.

The Chair: Thank you, Mr. Andrews.

Mrs. Davidson for seven minutes.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thanks very much, Madam Chair, and thanks to our parliamentary secretary and to the officials for being here with us today.

As my colleague, Mr. Del Mastro, has stated, I also think that we've had a very fulsome review of this legislation. I think we've heard from some very excellent sources. We've heard from those who are involved in lobbying. We've heard from those who have perhaps had some concerns about the way the existing legislation is written. I think at the end of the day what we really need to do as a committee is make recommendations that are going to clarify and are going to make things more crystal clear for those who have to abide by this legislation.

One of the things that did come up during the consultation process was the confusion between the Conflict of Interest Act and the Lobbying Act. They definitely are two distinct pieces of legislation, but there's often confusion among those who have to abide by the acts. Could the officials—I expect it would probably be the officials—explain the purpose of each of these acts and why there are two separate pieces of legislation?

Mr. Andrew Saxton: I can just begin by saying that there are two acts because they affect two different bodies of people. The Lobbying Act affects lobbyists, whereas the Conflict of Interest Act affects public office holders. However, there is an overlap, and the overlap exists in the post-employment rules. Under the Lobbying Act it's a five-year ban on lobbying, and under the Conflict of Interest Act it's two years for ministers and one year for non-ministers, other public office holders. So there definitely is a conflict.

I'm glad you brought this up because I think it is very important that the committee look at this very seriously and come up with a potential recommendation. The committee may consider, for example, putting the post-employment rules of the Lobbying Act under the Conflict of Interest Act when it refers to public office holders.

To expand on that, I'll ask Roger or Janice to add to that.

Ms. Janice Young (Senior Advisor, Strategic Policy, Treasury Board Secretariat): Certainly. To add to what the parliamentary secretary has indicated, I think that's a good overview. There are two different pieces of legislation oriented towards two different individuals. As I understand the workings of the two pieces of legislation, there are a couple of areas that witnesses may have brought forward. One is the post-employment provisions under those two pieces of legislation. Because they're orientated towards different groups, they would probably have a different emphasis and different requirements.

The other area is certainly definitional considerations and how conflict of interest itself is treated.

As I understand it, you're looking at the Conflict of Interest Act vis-à-vis the Lobbyists' Code of Conduct when you're talking about conflict of interest issues. Post-employment would be within the two different pieces of legislation themselves.

As a non-lawyer, I think that's probably it as far as I can see.

Mrs. Patricia Davidson: So there is some opportunity, then, to try to align some of the issues that appear in both pieces of legislation. Is that what I'm hearing?

Mr. Andrew Saxton: I would say yes, there is definitely an opportunity for the committee to make recommendations in that regard.

Mrs. Patricia Davidson: Thank you.

Mr. Roger Scott-Douglas: If I might just elaborate a little bit on the point the parliamentary secretary and Janice made clear about having different orientations, for the most part, the Lobbying Act orients itself towards lobbyists. The Conflict of Interest Act, however, orients itself towards public office holders.

The specific area you've identified is one of the very small areas of the Lobbying Act in which the focus is on public office holders, and designated public office holders in particular. Following along your line, it might be worth considering aligning within one act all that has to do with public office holders. That might be where clarity could be brought. Issues around conflict of interest that have been discussed could be brought into more alignment, if the committee felt there was something to align, and the public office holders' conflict of interest provisions could perhaps be integrated in one act, the Conflict of Interest Act.

• (1125)

Mrs. Patricia Davidson: You would deal with lobbyists strictly under the Lobbying Act and you'd deal with the public office holders under the Conflict of Interest Act. Is that correct?

Mr. Roger Scott-Douglas: I'm saying that it's certainly something I think the committee would wish to consider.

Mrs. Patricia Davidson: Okay.

One of the other things we heard, and I believe it was from some of the different lobby groups, was that monthly communication reports could sometimes pose some problems, whether they were to do with some of their business dealings or some of their proprietary information. The suggestion was made that perhaps the monthly reports could be removed or could be made less frequent. Do you have any comments on that?

Mr. Andrew Saxton: My only comment is that I understand that hundreds of monthly reports are filed on a timely basis. So I think the vast majority of lobbyists don't have a problem with that. Whether there is consideration to make them less frequent, again, that is something the committee should consider. You've heard from a lot of witnesses, who I'm sure have had various opinions on that suggestion, especially lobbyists themselves. I encourage you to consider that recommendation when you make your report.

Mr. Roger Scott-Douglas: I might just add, Mr. Saxton, that one of the principal features of the Lobbying Act is the degree to which it achieves an appropriate balance between ensuring that, as was said earlier, the legitimate activity of lobbying is enabled and ensuring that the necessary degree of transparency is there so that Canadians know who is speaking with designated public office holders within the government.

Any effort to change the mechanisms that ensure that transparency, such as the reporting schedule and so forth, the committee would need to very carefully balance to ensure that all the rights the parliamentary secretary spoke about in his introduction were kept in balance and were properly respected. The fact that so many lobbyists are able to meet the deadlines without incident and without, thanks to a very sophisticated website, a great deal of administrative burden on their part I think would be an important thing to take into account.

The Chair: Thank you, Mrs. Davidson.

[*Translation*]

Mr. Morin, you have five minutes.

Mr. Dany Morin (Chicoutimi—Le Fjord, NDP): Thank you, Madam Chair.

I would first like to say that I agree with my Liberal colleague, Mr. Andrews: I am also disappointed that the President of the Treasury Board did not find the time to attend our committee's meeting, unlike other ministers. Just this morning, at the Standing Committee on Health, we learned that the Minister of Health would be pleased to appear before the committee before long. I find it regrettable that the President of the Treasury Board is too busy to deign to attend a meeting of the committee that deals with the same issues as he does. That said, I am pleased that Mr. Saxton is here to replace him.

My colleague, Pierre-Luc Dusseault, asked you what you thought of the fact that the committee, at least this part of the committee, wished to have representatives of the RCMP appear before the committee and give some explanations. Many witnesses have expressed the same desire. As you know, the Ethics Commissioner has been submitting a large number of complaints to the RCMP, but they all seem to disappear into a black hole. So we would like to have representatives from the RCMP come before the committee. In response to my colleague's question, you said that the choice of witnesses was up to the committee, but might I remind you that your mission at Treasury Board is to ensure that government resources are properly managed?

I would therefore ask you the same question, Mr. Saxton: given your mandate to ensure that government resources are managed properly, do you think it would be a good idea for the RCMP to come before the committee and explain why none of the complaints submitted by the Ethics Commissioner have led to a conviction?

• (1130)

[English]

Mr. Andrew Saxton: Again, Madam Chair, the commissioner has tools available to her. One of those tools is to refer breaches of the act to the RCMP, and I respect that the RCMP does their job with respect to those referrals. She also has the tool of referring breaches of the code to Parliament. She has on a number of occasions also written reports to Parliament. So those tools are being used by the commissioner on a regular basis. I have no comment as to whether or not they are working. It's up to the committee to decide whether or not those tools are adequate.

[Translation]

Mr. Dany Morin: Once again, you are not answering the question. The commissioner herself told us that she had submitted complaints to the RCMP, but that no charges were laid. She does not know what is going on and has recommended that the Standing Committee on Access to Information, Privacy and Ethics call on the RCMP to appear and give explanations. Since your mandate, as I have said, is to ensure that government resources are managed properly, do you think that it would be a good idea to do that?

Need I remind you that the Conservative government—

[English]

Mr. Dean Del Mastro: On a point of order, Madam Chair, I'm not aware of the committee suggesting that they wanted the RCMP to appear.

[Translation]

Mr. Dany Morin: In that case, I withdraw my words.

[English]

The Chair: Monsieur Dusseault, I think any of that discussion was not on the public record.

Monsieur Morin.

[Translation]

Mr. Dany Morin: In that case, I withdraw my words. On this side, the NDP would really like to have RCMP representatives appear before the committee. My colleague's motion demonstrates that as well.

So, given that your mandate includes ensuring that government resources are managed properly, would it be a good idea to have RCMP officials come and explain themselves before the Standing Committee on Access to Information, Privacy and Ethics, yes or no?

[English]

Mr. Andrew Saxton: As I mentioned, Madam Chair, the committee is the master of its own destiny. It's up to the committee to decide who it requests to come before it. I'm not here to discuss witness lists.

[Translation]

Mr. Dany Morin: In that case, I will move to another question.

There is some confusion about who is a public office holder. The definition has been broadened by your government to include all members of Parliament and employees of the Office of the Leader of the Opposition. Right now, no employees in the Office of the Leader of the Opposition are exempted.

Can you clarify exactly which employees of the Office of the Leader of the Opposition are designated public office holders and which are not? There is a certain amount of confusion right now regarding this matter and I would really like to hear your clarifications.

[English]

Mr. Andrew Saxton: On the definition of a public office holder, I'll allow my colleague to answer. That's a technical question

Mr. Roger Scott-Douglas: Thank you very much.

We have to do that. Under the act, in two stages, the definition of a designated public officer-holder was made clear. In the initial amendments that came into force in 2006, there were about 11 specific categories of individuals who filled positions. I can very quickly run through those: the Chief of the Defence Staff, the Vice Chief of the Defence Staff, Chief of Maritime Staff, Chief of the Land Staff, Chief of the Air Staff, Chief Military Personnel, the Judge Advocate General, as well as any position of a senior advisor to the Privy Council to which the office holder is appointed by a Governor in Council appointment.

[Translation]

Mr. Dany Morin: I am sorry to interrupt you, but I would like to know exactly which employees of the Office of the Leader of the Opposition are considered to be designated public office holders.

[English]

Mr. Roger Scott-Douglas: I'm sorry; in 2010 the act was amended, as you know, to include all members of Parliament, all members of the House of Commons, all members of the Senate, and any exempt staff who were in the offices of the leader of the opposition in the House of Commons or the leader of the opposition in the Senate—those who were appointed specifically pursuant to subsection 128(1) of the Public Service Employment Act.

[Translation]

The Chair: Thank you, Mr. Morin.

[English]

Mr. Butt, you have five minutes.

Mr. Brad Butt (Mississauga—Streetsville, CPC): Thank you very much, Madam Chair.

Thank you very much to the parliamentary secretary and to the staff from Treasury Board for being here.

I have to say that as a new member of Parliament I found this study to be very enlightening, very helpful, mainly because (a) I'm a designated public office holder and I certainly need to know what the rules are, but (b) I think this has been a very good exercise by this committee to have a five-year review taking a look at this act.

There may have been some haste when the previous legislation was brought forward. We were dealing with some issues at the time, and I think Parliament wanted to make sure there were some rules, and quickly. I think now, five years later, this gives us a very good opportunity to take a look at what's working and what maybe needs to be changed a little bit.

Let me just ask you a couple of things. First, my colleague Monsieur Morin was talking a little bit about the definition of designated public office holder. Are you of the view that this is covering the right people, or enough of the right people? It is very broad. It does cover a whole scope of people. It treats, to some degree, me as a backbench member of Parliament no differently than a cabinet minister, or the Prime Minister, to some degree.

Is that still appropriate? Are we covering the right types of people in all of this? I realize that some of those who work in the bureaucracy, who are not elected officials, are also covered.

In your view, are we covering the right number of people? Do we need to be covering more, or should we be refocusing on who is within that definition of a DPOH?

• (1135)

Mr. Andrew Saxton: Madam Chair, I'll take the first part of that question.

First of all, I agree that it is a very large net. A lot of different positions are covered. The overarching objective of the act is transparency, and in order to do that, in order for Canadians to know who is lobbying their members of Parliament, their senators, their government, I think it is important that we cast that net fairly wide. In order to achieve the transparency that the act sets out to achieve, it is important that all of the people you mentioned fall under the definition of designated public office holder.

However, it's up to the committee to make your recommendation. If you feel that it's not wide enough, or that it's too wide, then I would certainly encourage you to put that in your report. As my colleague said earlier, it is a balance between transparency and ensuring access to government. Sometimes it becomes too onerous, on the one hand, which then affects the other.

So it is a very fine balance, and I encourage the committee to make recommendations if you feel that balance could be better represented.

Roger, do you have anything to add to that?

Mr. Roger Scott-Douglas: No, I think that's all.

Mr. Brad Butt: Okay.

One of the things we've heard from some of the government relations firms and registered lobbyists who've been participating in this regime for the last five years or so is that when we're requiring lobbyists to report both oral and arranged meetings.... We've heard from some of the stakeholders that they've raised some concerns over the definition of "arranged", that the term is somewhat ambiguous, or a little unclear.

Can you shed a little bit of light on what your view is of the interpretation of that term, "arranged"? Chance meetings—"I bumped into you in the hallway" kinds of meetings—happen all

the time. We're all busy, and we're going to all kinds of meetings, and we're bumping into people all the time, both in our ridings and here on the Hill. Some of those people are registered lobbyists and some aren't.

Would it be helpful if there were some more clarity around what actually constitutes a proper arranged meeting, where there is a discussion of a matter of substance with a DPOH rather than these chance meetings? I assume that would be helpful if the act were strengthened, to some degree, in that regard to give clarity to both us as DPOHs and the registered lobbyists.

Mr. Andrew Saxton: I think it's very important that people who fall under the act understand their obligations under the act. If further clarity could be achieved, I would certainly encourage the committee to seek that. I think it's extremely important.

At the same time, I understand that the commissioner has asked for the word "arranged" to be removed so that it strictly becomes oral communications. My colleague mentioned that there may be some complications with that, for example, social meetings. I ask the committee to consider that it may also cause a chill. For example, you may not want to cross the street to say hello to your friend who happens to be a lobbyist, for obvious reasons.

I would encourage the committee to consider all these aspects when making their recommendations on this subject.

Roger, do you have anything further on this?

Mr. Roger Scott-Douglas: No, I think that sums it up.

Mr. Brad Butt: Thanks, Madam Chair.

[Translation]

The Chair: Madam LeBlanc, you have five minutes.

Ms. Hélène LeBlanc (LaSalle—Émard, NDP): Thank you, Madam Chair.

I want to thank the witnesses for coming to provide us with information on this issue.

I am the official opposition critic for science and technology, and this mandate falls under the Department of Industry. I would like to know if, in this area, companies lobby the government much, namely as regards Industry Canada programs in research and development. Is science and technology at the Department of Industry an area where there is a great deal of lobbying? Has there been an increase over the years?

• (1140)

[English]

Mr. Andrew Saxton: I'll pass that question to Roger.

Mr. Roger Scott-Douglas: Thank you very much for the question.

I'm not sure I can fully answer all aspects of it, but the act sets out very clearly the kinds of activities that need to be reported when undertaken by a paid lobbyist, including many that would naturally fall within the Ministry of Industry. Examples are anything to do with the development of legislation, the provision of grants and contributions, or funding.

In point of fact—and these statistics are all found on the Commissioner of Lobbying's website—Industry Canada is one of the government institutions that has the most active number of registrations. There are about 1,645 active registrants for Industry.

What I'm not able to tell you is the trend—how that appears over time. But that's information you would be able to get from the Commissioner of Lobbying to give you a sense of how that has changed. Taxation, finance, and environment are also some of the heavily registered areas.

[*Translation*]

Ms. Hélène LeBlanc: Thank you.

Is the Treasury Board Secretariat involved in coordinating responses to lobbyists in certain areas? Could you tell me about its role in managing lobbyists?

[*English*]

Mr. Roger Scott-Douglas: The secretariat plays no role in the consideration of cases that are undertaken by the Commissioner of Lobbying and officials working within her office. She is an entirely independent agent, and our role has nothing to do with the examination of cases.

[*Translation*]

Ms. Hélène LeBlanc: I find the questions raised by my Conservative colleagues interesting. On the one hand, we have the code of ethics, which was discussed earlier today, and on the other, the Lobbying Act. Members of the government and other members, among others, seem to be in the middle. So there is some overlap.

I also noted that your mandate includes an educational component. Could you give us more details on that?

People from the Office of the Conflict of Interest and Ethics Commissioner informed us of our rights and responsibilities. Does the Office of the Commissioner of Lobbying also provide information to parliamentarians on what could be called their rights and responsibilities? From what I understand, the Lobbying Act affects primarily lobbyists, but because we are in the middle of all of that, I would like to know if the Treasury Board Secretariat has a mandate to transmit information to members of Parliament in that area.

[*English*]

Mr. Andrew Saxton: First of all, with regard to the Commissioner of Lobbying's mandate, it does include education outreach to help lobbyists understand what their obligations are under the act. The commissioner, in fact, has requested that the mandate continue beyond this review. Obviously, that does form a very important part of her role, because it's important that people who fall under the act understand their obligations under the act.

I'll let Roger answer the second part.

• (1145)

The Chair: Very briefly, Mr. Scott-Douglas, because time is well up.

Mr. Roger Scott-Douglas: Yes, of course.

The principal point is that this is a key part of the mandate of the commissioner. It is not a part of the mandate of the secretariat, our

office. The only thing I would elaborate on is that the communication is not just towards lobbyists, but also towards designated public office holders. The commissioner spends a lot of time educating public office holders as well about how they are influenced and affected by the act and the code.

[*Translation*]

Ms. Hélène LeBlanc: Thank you.

The Chair: Thank you very much.

[*English*]

Mr. Mayes, you have five minutes.

Mr. Colin Mayes (Okanagan—Shuswap, CPC): Thank you, Madam Chair.

Thank you to our guests today.

The Commissioner of Lobbying has requested that the act be amended to allow her, the commissioner, to administer fines for penalties for non-compliance. I'm just curious about the feeling of your ministry about that.

Also, would you have any suggestions of any other judicial body that could be used to accommodate the enforcement, and the administration of that enforcement?

Mr. Andrew Saxton: Perhaps I'll answer the first part of it regarding the administrative monetary penalties.

In developing its recommendations, I encourage the committee to consider the issue of due process and whether the Lobbyists' Code of Conduct is sufficiently robust to support a system of monetary fines imposed on private individuals, and also to consider the Commissioner of Lobbying's status as an independent agent of Parliament operating outside the framework of the ministerial responsibility.

One might also want to consider that the commissioner, in this sense, is the one who creates the codes, who does the investigations, and now it has been suggested that she also be the one to levy the fines. In this sense, she would be the lawmaker, the police person, as well as the judge and jury. So I would encourage the committee to consider what implications that might have.

One thing the committee might consider when it comes to the code of conduct is putting this into rules or regulations, which would be developed by a committee such as yourselves, so that there is some outside influence as to what goes into those regulations. That might be something the committee might want to consider.

Mr. Scott-Douglas.

Mr. Roger Scott-Douglas: I would simply say in addition that I think you asked whether there could be some other way of enforcement, some other mechanism, and I can't directly think of any such thing. I think the way in which the act is structured, whereby the commissioner has the principal responsibility in that respect, and where she, herself, chooses not to make a report by way of sanction, allows her to refer it to the RCMP. That's the thing.

The only other issue that's come up indirectly is that there are other acts, such as the Conflict of Interest Act, under which other office holders have sanctions and means of enforcement, but I don't think it would make sense to have somebody other than the Commissioner of Lobbying involved in that, in anything to do with the Lobbying Act itself.

Mr. Colin Mayes: One of the other discussions was around the eligibility for public office holders to be allowed to lobby, and there's the suggestion of taking the time from the five years and maybe looking at lowering that. I know we want to ensure that there is a separation, and that undue influence could not be made on the government of the day by those who have served in that government.

Do you have any position or opinions on whether or not that could possibly be lowered to, let's say, three years, or to identify those who would be eligible at an earlier date?

Mr. Andrew Saxton: That, obviously, is something the committee should consider and recommend. I understand you have had a number of witnesses who felt five years was a long period of time when other jurisdictions are considerably less. I would point out that we intend to be a leader, the federal Government of Canada, and therefore we do believe we should be strict and it should be a significant length of time. We don't necessarily have to follow other jurisdictions in this regard.

Second, when it come to the Conflict of Interest Act, obviously there is a difference in the ban period, so if you consider putting it all under one act, then you may want to consider that particular point at that time as well.

• (1150)

Mr. Colin Mayes: Okay.

Do I still have time?

The Chair: You have 15 seconds, Mr. Mayes, but do you have another question. No?

Mr. Colin Mayes: No, that's okay.

The Chair: Okay. Thank you very much.

I have no other speakers on the list.

A point of order.

[*Translation*]

Mr. Pierre-Luc Dusseault: I would like to correct the facts. My colleague accused Mr. Morin of talking about the outcome of a vote that was not held in public. That is entirely false, because, in fact, the motion on the RCMP was put to a vote during a public meeting on December 13. I simply wanted to correct the facts so that the people who are listening to us know what really happened on December 13.

[*English*]

The Chair: There was a discussion on December 13 on the public record about that particular matter.

I have no other speakers.

Mr. Dreeshen, are you on a point of order or a question?

Mr. Earl Dreeshen (Red Deer, CPC): No, on a question.

The Chair: Oh, okay. Sorry, we were told there were no other speakers.

Mr. Dreeshen, go ahead.

Mr. Earl Dreeshen: Well, I may not take the full five minutes, but there are a couple of things I do want to talk about.

I do thank you very much for coming, all of the witnesses today.

I really wanted to talk a little bit more about the significant part of duties and the thoughts around that. I know this has been a discussion where perhaps we should be looking at removing that particular part. It's so difficult to be able to define. We look at consultants who are coming in from British Columbia versus from downtown Ottawa. Do you count the travel time? Do you look at the amount of time that is taken into development of questions? Of course, there were other comments. For some people, 15 minutes or 20 minutes have a lot more impact than hours would for others.

I'd like some comment on that so that we have your opinion, so that we can then go back later when we go through our overall discussions.

Mr. Andrew Saxton: Thank you.

Madam Chair, I'll take the first part of that question.

I believe my colleague is referring to what is known as the 20% rule, and it does allow some people to not report lobbying activity if it's below the 20% threshold. I understand the commissioner has asked for that to be removed. Also, I understand that other jurisdictions do have similar rules. They may not be actual percentages; they may actually be hours that are spent. I believe one province specifies more than 100 hours. That is its threshold.

There are two issues here. First of all, if a threshold is maintained, is that threshold increased or decreased? Second, do you eliminate the threshold entirely so that it captures many more people who would not otherwise be obligated to register?

Again, I encourage the committee to seriously consider this, because it is an issue that I understand has come up time and again. There is some uncertainty as to what time is involved. I also caution the committee that it would cast the net quite a bit wider, and it would cause, for example, administrative contact to also be required to be reported. So there would definitely be an increased reporting burden on those people affected. At the same time, we want to ensure transparency. Again, it goes back to Mr. Scott-Douglas's recommendation earlier that you always consider the balance between transparency and the reporting burden.

Mr. Earl Dreeshen: That's fine. Thank you very much then.

The Chair: Thank you very much.

I want to thank the parliamentary secretary and the Treasury Board for coming forward as witnesses.

I am going to suspend for five minutes to allow us to reconvene, and we'll be coming back on future business for committee.

- _____ (Pause) _____
-
- (1200)

The Chair: Committee members, we're now on future business.

Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you very much, Madam Chairman.

Madam Chairman, as you're aware, on Tuesday I sent notice of motion with respect to Mr. Adam Carroll, a former Liberal Research Bureau employee. I wanted to bring him forward to respond to questions specifically with respect to an apology that was issued in the House of Commons by Liberal leader Bob Rae that alleged that this individual was responsible for the very dirty, sleazy, under-handed attack campaign against a federal cabinet minister. We believe there are significant questions that need to be answered in this regard. We don't believe we have the full story in this at all, and we think that the Liberal Party is frankly sitting on an awful lot of details in this regard.

That said, we're going to extend a courtesy that the Liberal Party would probably never extend to us. We're going to allow them between today and Tuesday to come forward with the details that we believe they've withheld in this matter. We would encourage them to be fulsome; we would encourage them to indicate exactly who was involved in this. We'd like to know who ordered these actions to be undertaken. There are a number of questions, frankly, that they should respond to. We think in this case we have an individual who has been hung out to dry by his party and released to us to take one for the team, if you will.

If need be, we will pass this motion Tuesday to bring this individual before this committee. But the Liberal Party does have an opportunity in the time between then and now to consider whether they would actually want to see that happen or not.

The Chair: Mr. Del Mastro, I understand that you are not moving your motion today.

Mr. Dean Del Mastro: I will not move the motion until Tuesday.

The Chair: Then I'm going to suggest that we move on to other future committee business.

We actually have nothing on the table at this moment that's scheduled.

We have passed a motion in the past on something that we agreed to do. I'm just going to read it to the committee. There were two motions, actually. It was agreed:

That the Committee undertake a study of the Annual Report of the Privacy Commissioner, pursuant to the Order of Reference Tabled in the House on Thursday, November 17, 2011.

And:

That the Committee undertake a study of the Report of the Privacy Commissioner of Canada on the application of the Personal Information Protection and Electronic Documents Act, pursuant to the Order of Reference Tabled in the House on Tuesday, June 21, 2011.

Those were adopted on Tuesday, November 29.

So we have those two agreements on proposed studies by the committee.

The other matter is that the estimates have now been referred to the committee on the four commissioners. I'm at the will of the committee about whether you want to hear from the commissioners and the format. We can have one meeting per commissioner and a full review of the estimates.

The other matter is that the committee well prior to my time had started a study on open government, and there has been a significant amount of work. I believe the summary of evidence was submitted to all members. The Information Commissioner has also supported the committee looking at continuing that study on open government.

The last thing is that Google has a new privacy policy, and the Privacy Commissioner, I believe, has raised some concerns about the Google privacy policy.

So there are a number of things the committee can undertake, but we do need to make some decisions about scheduling some business.

Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you, Madam Chairman.

We would be interested in moving forward specifically with recommendations regarding our study that we've just undertaken on the Lobbying Act. Perhaps the analyst could provide us with some details as to when they would be prepared to move forward with that. I don't know if it's too soon.

- (1205)

The Chair: We did drafting instructions. Right?

Mr. Dean Del Mastro: We've done drafting instructions but not recommendations. I don't know if they actually need to complete the draft before we can have a discussion around recommendations or if we could do that sooner.

The Chair: We can do it sooner. If you don't want to wait for the draft report before looking at recommendations, you could certainly do that. We can do that Tuesday.

Mr. Dean Del Mastro: Perhaps we could encourage parties that have specific recommendations...we will bring them forward. We'll try to get them out to everyone on Monday. We'll send them, obviously, through the clerk, get them out on Monday so that we can discuss them on Tuesday during the first hour, and then we could have the second hour for committee business, Madam Chair.

The Chair: Is everybody okay with that: draft recommendations on the Lobbying Act to the clerk by Monday so that we can have them translated and circulated at the meeting on Tuesday? Is everybody fine with that?

I would really urge us to actually look beyond Tuesday for committee business, because it makes the clerk's job a little easier if we're not scheduling one meeting at a time, so that if we're actually going to call any witnesses, such as the commissioners, we can give them a heads up about coming.

Mr. Butt.

Mr. Brad Butt: I'm relatively new to the process, obviously, Madam Chair, but for the estimates, is there a timeframe in which the committee needs to deal with those? Is there a deadline? Does it have to be by the end of this fiscal year, March 31? How does that normally work?

I think you'd mentioned maybe having each commissioner come in, maybe an hour for each commissioner. I wouldn't say a day for each commissioner; I think that might be a little bit of overkill. I'm not sure what the process is for that, but obviously if that's something we need to get done regardless, then maybe we should be looking at some scheduling around that.

The Chair: Before I go to Mr. Dusseault, I'm just going to go to the clerk on the timing on the main estimates.

The Clerk of the Committee (Mr. Chad Mariage): Thank you, Madam Chair.

Standing Order 81.4 states that the main estimates are to be reported or will be deemed reported back to the House no later than May 31 of the current fiscal year.

The Chair: So we do have time on scheduling the commissioners, but if the committee is in agreement with doing that, it would be useful to give the commissioners a heads up, because they also have busy schedules.

[*Translation*]

Mr. Dusseault, you have the floor.

Mr. Pierre-Luc Dusseault: I agree with my colleague. I think it is important that we look at that in the next few weeks. In our view, that should be one of the committee's next steps. As you say, there isn't much on the agenda for the next few committee meetings. That is something important that should be dealt with quickly.

Moreover, I appreciated what you raised regarding the comments by the Privacy Commissioner on the new rules for confidentiality of private information on Google. I think we could also look at that shortly, perhaps after the estimates, of course, as they are very important.

You also said that a report was tabled in Parliament. So I support, in general, what you are proposing for the upcoming meetings.

[*English*]

The Chair: Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you very much, Madam Chairman.

With respect to scheduling, you indicated that the estimates are available to be reviewed. I think that's something the committee should do. I think responsible committees undertake to do that, so I think it would be wise to make the commissioners aware that we would like to review the estimates with them.

I also would support what Mr. Dusseault just indicated, that this privacy issue that's been flagged is worth looking into as well. However, the motion that I'd moved at this point indicates a single meeting. We don't know if that would be the only meeting required to dispense with the issue related to the motion.

The Chair: Single meeting with regard—

Mr. Dean Del Mastro: The motion that I'm proposing on Tuesday so far is a single meeting.

The Chair: The motion that you had proposed. Okay, sorry.

Mr. Dean Del Mastro: It may wind up being a single meeting; it may wind up being more than a single meeting. So we'll have to be open, and there may be no meetings; that's up to the Liberal Party.

The Chair: Thanks, Mr. Del Mastro.

The clerk is just pointing out...and because he's a great clerk, he's actually drafted a motion for us with regard to the estimates. It doesn't actually mean we have to start the study Thursday.

I'll just read it: Pursuant to the order of reference of Tuesday, February 28, 2012, the committee undertake the study of the main estimates for the fiscal year ending March 31, 2013, specifically votes 40 and 45 under Justice, 15 and 20 under Parliament, and 45 under Treasury Board.

There's no timeframe on that. So if the committee is interested in moving that motion—if somebody would move that motion—then the clerk could at least start contacting the commissioners' offices, recognizing that over the next two weeks may not be a good time to call them. I would suggest we actually wait until later.

[*Translation*]

Mr. Dusseault, you have the floor.

• (1210)

Mr. Pierre-Luc Dusseault: I move the motion as you read it.

[*English*]

The Chair: Mr. Dusseault has moved that motion. All in favour?

(Motion agreed to)

The Chair: So we will undertake that.

Now, the only thing we didn't clarify on this—and Mr. Butt, I believe, made the suggestion—is that it's one hour per commissioner, not one meeting.

Mr. Brad Butt: Yes, I did.

The Chair: I just think we need to give the commissioners a bit of a heads up on that.

The second piece I had, Monsieur Dusseault and Mr. Del Mastro, is that you both said something about the Google privacy policy. It would be useful if we had a motion on that. The clerk did draft something.

Mr. Dean Del Mastro: Can we deal with that on Tuesday?

The Chair: We can deal with that on Tuesday, yes. That would be fine. We could actually have a motion come before the committee that talked about what you want to do about the Google privacy policy.

Mr. Del Mastro.

Mr. Dean Del Mastro: Thank you.

Perhaps the clerk could just extend that proposed motion to all members and give us a heads up. We can have a look at it, determine if it's exactly what we want to do, and vote on it on Tuesday.

The Chair: The clerk has drafted a general motion. We can read it now for your consideration and consider it on Tuesday.

Mr. Dean Del Mastro: Okay.

The Clerk: The way I've drafted it, it just says that the committee undertake, pursuant to Standing Order 108(3)(h), a study of the new Google privacy policy.

The Chair: It's pretty general.

The Clerk: It's pretty general, but you can be more specific.

Mr. Dean Del Mastro: If you could distribute that to all members, Mr. Clerk, through the chair...? Of course, we may come back with some amendments to that to sharpen it a bit.

The Chair: Also, we have a bit more information on it, which probably would be useful.

Are there any other items at this point?

Seeing none, I will adjourn the meeting.

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