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Chair

Mr. Leon Benoit

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• (1535)

[English]

The Chair (Mr. Leon Benoit (Vegreville—Wainwright, CPC)): Good afternoon, everyone.

Today we have witnesses to deal with the issue brought forward by a motion on Monday, October 31. The committee passed a motion at that time calling on Mr. Dingwall and the minister responsible for Technology Partnerships Canada, Minister Emerson, and Bioniche Life Sciences and Democracy Watch to appear at the earliest possible date in order to re-examine Mr. Dingwall's committee testimony from Wednesday, October 19, 2005, and information surrounding that. In particular, there is confusion, at least, and conflicting statements between what the industry minister, Bioniche Life Sciences, and Mr. Dingwall have publicly stated in relation to the rules governing TPC grants awarded to Bioniche and the moneys recovered by the Government of Canada. It's our committee's responsibility to straighten this matter out. We're here today to deal with that and other questions surrounding this issue.

Yes, on a point of order, Madam Marleau.

Hon. Diane Marleau (Sudbury, Lib.): I'm wondering what happens with the supplementary estimates and the people we were supposed to meet with on Wednesday to deal with those estimates. The meeting was cancelled, and I thought we were going to have a meeting on Thursday. I then put forward a motion saying that the main purpose of our committee is really to do work on the estimates, and we haven't done that, Mr. Chair. We had some meetings scheduled and they just didn't occur. I was wondering, because it is our first order of business, whether we couldn't deal with that question before we hear from our invitees.

The Chair: Madam Marleau, we have the witnesses here ready to testify. We will deal with your motion towards the end of the meeting. I have allocated some time for that.

In terms of the meeting being cancelled, I was told the votes would take about an hour and a half. With the bells and everything, that would have meant that we'd be at the very end of the meeting time by the time we were through with voting. Now, that didn't happen. It's hard to predict sometimes exactly what will happen, especially when we're going into an election period. That was my call, and it turned out that we would probably have had an hour with the witnesses. Maybe it wasn't the right call, looking at it in hindsight.

Hon. Diane Marleau: I want to go back to that, because I think it's important that people understand what's going to happen if these estimates are not passed.

The Chair: When we deal with the motion, Madam Marleau, you'll have your chance to make these points when you present your motion, and I look forward to that.

Hon. Diane Marleau: I was under the impression that the estimates took precedence over other matters before the committee.

The Chair: It's up to the committee to decide the business of the committee. We had a meeting scheduled for the supplementary estimates and the performance reports, as you know. That meeting, unfortunately, was put off, but we had this meeting scheduled and we will go ahead with this meeting. We'll start as soon as I have finished a couple more opening comments with the witnesses making their statements. We will go to that now.

I want to remind people that the mandate of the government operations and estimates committee is to review the effectiveness of government operations as well as expenditure plans of central departments and agencies, commissions, foundations, as well as selected crown corporations and organizations. One of those crown corporations is the Royal Canadian Mint. Mr. Dingwall is former president of the Mint, and that's why this business is before the committee. It's actually a follow-up committee from a previous meeting.

Mr. Dingwall had agreed to be here, but we received a letter from him at 2:50 and he has backed out. You have a copy of the letter. We can deal with that at the end of this meeting, as well, because I think we should deal with that.

The second witness is Mr. Graeme McRae, president and CEO, Bioniche Life Sciences. We have also Mr. Tom Wright, executive director of Technology Partnerships Canada, and Mr. Duff Conacher, chairperson of Democracy Watch. Thank you all very much for being here.

We will now go to five-minute statements or less from all of you.

We have a point of order.

[Translation]

Mr. Odina Desrochers (Lotbinière—Chutes-de-la-Chaudière, BQ): Mr. Chairman, like most of my colleagues, I'm very disappointed to see that Mr. Dingwall is not here. Do you know if we will be able to see him at another hearing? Did he categorically refuse? Will he come back? We would have liked to ask him a few questions regarding the Royal Canadian Mint. In addition, many people are interested in learning more about his severance package. I want to make it known that I am dissatisfied. The lack of courage demonstrated by Mr. Dingwall by addressing us through a lawyer's letter is entirely inappropriate.

[English]

The Chair: It clearly in no way is appropriate. It is inappropriate, you're absolutely correct. But we will deal with that issue at the end of this meeting, and the committee can decide what, if anything, we'd like to do about that. But I would be bothered if this committee chose to let it go.

It may be up to the next committee to deal with it after the election and in a new Parliament, and they certainly can at that time. They can reach back to this Parliament and do what they see as appropriate.

I would like to again welcome all of you here today.

Starting with Mr. McRae, if you'd like to make a five-minute statement at the start of the meeting, just go ahead. We'll then go to Mr. Wright, and then to Mr. Conacher. If you need a little bit more time than that, just let me know and I'll see what I can do, especially Mr. McRae, I would say, as he is giving this information on the program.

• (1540)

Mr. Graeme McRae (President and CEO, Bioniche Life Sciences): Thank you very much.

Good afternoon, honourable members of the committee. My name is Graeme McRae and I am president and CEO of Bioniche Life Sciences, a small Canadian company headquartered in Belleville, Ontario. We research, develop, manufacture, and market products for animal health, human health, and food safety.

The company has operated in Canada for more than 26 years. We're currently headquartered in Belleville, and have facilities in Montreal. We also have facilities in the United States, the Republic of Ireland, and Australia.

I would first like to provide you with a brief description of our business and the projects TPC has funded, then talk about our situation with TPC and Mr. Dingwall.

Bioniche is a unique Canadian biotech company, in that we market our products globally, and we generate revenues of more than \$48 million per year. Our research and development expenses are currently a little over \$15 million per year.

In animal health, our research focuses on developing alternatives to antibiotics by using proprietary technologies. This is increasingly important as we encounter more and more bacteria resistant to antibiotic therapy. Our work with the proprietary technology has already resulted in the development of one product for horses.

Our research focus in humans is on treating cancer. We have a Canadian-developed proprietary technology that we call mycobacterial cell wall-DNA complex—MCC—with which we are now planning a final pivotal phase three clinical trial in patients with superficial bladder cancer. This will be a global trial.

This technology has successfully completed phase two in bladder cancer and phase one in prostate cancer patients. MCC is showing great promise in the treatment of many other cancers in the preclinical research laboratory setting.

In food safety, we've made a significant investment in the development of vaccines for animals, which will prevent animal diseases from infecting humans. The first vaccine in this pipeline is a cattle vaccine against the E. coli 0157:H7 bacterium, the same bacterial strain that infected people in Walkerton, Ontario, through their water supply, costing seven lives and causing long-term health problems that will end up potentially costing the health care system in Canada hundreds of millions of dollars.

This bacterium is now endemic in the cattle industry globally and continues to affect individuals through meat with hamburger disease, produce, water, and contact with farm animals.

The bladder cancer technology and the E. coli 0157:H7 vaccine are tremendous examples of made-in-Canada technologies, which, with the help of Technology Partnerships Canada funding, will continue to be Canadian developed. We would not have been able to accomplish what we have while remaining in Canada without funding from programs such as TPC.

Bioniche received approval for two repayable loans in 2001 from TPC for a total of \$17.2 million in support of these two key projects, of which \$8,186,000 has been advanced to date, representing approximately 24% of the total amount of \$32 million Bioniche has spent on these projects since 2001.

When the company initially decided to pursue TPC funding, we were inexperienced in how to obtain this type of funding, and it was suggested we use a lobbyist to assist us. We employed Walding International in this capacity, with Mr. David Dingwall as our principal contact.

We entered into an agreement with Mr. Dingwall for his services, which contained a success fee, in that a portion of his set fee-for-service would be paid only when Bioniche successfully obtained moneys under the TPC program. This is a standard practice in our industry and was important to Bioniche, given our limited resources at that time. We were unaware that this practice was not permitted under the rules of the TPC program.

When we entered into the agreements with TPC, we learned from our legal counsel that success or contingency fees were not permitted by TPC. At that time we notified Mr. Dingwall of our discovery. We verbally agreed with Mr. Dingwall, prior to signing the TPC agreements, to restructure our arrangement with him and eliminate the agreement to pay him on successfully obtaining TPC moneys. We agreed instead to pay him a monthly retainer for his services.

We subsequently amended our written contract with Mr. Dingwall to reflect this revised agreement, and we thought this was sufficient to comply with TPC rules. In fact, Bioniche had paid approximately 75% of Mr. Dingwall's total fee and had invested approximately \$4 million in the research projects prior to receiving any funds from TPC.

Several months ago we were approached by Industry Canada, which was conducting an audit of the TPC program. At that point, funding from TPC to our project was put on hold pending the completion of the audit. We cooperated fully with the audit and were surprised to learn on September 23 that the audit concluded we had breached the terms of our contract with TPC.

We immediately sought to rectify this situation by meeting with Industry Canada and discussing options for resolution.

• (1545)

While we disagreed with the conclusions of the audit, we accepted responsibility for the findings and reached a settlement with Industry Canada. We agreed to pay to the government an amount equal to the portion of the consultants fees that were in dispute, plus costs of the audit, for a total of \$463,974.71, plus interest. This put us back in good standing under our TPC contracts, something that was of critical importance to us, since TPC funding had been frozen through the period of the audit, while Bioniche had continued to fund its research projects.

Bioniche acted in good faith when we amended the payment terms in our contract with Mr. Dingwall, upon learning of the discrepancy with TPC rules, and we fully believe we had rectified the situation. We have now taken the required action to put the company back into good standing with TPC, and we wish to move forward with TPC funding and further develop our technologies in Canada.

Thank you very much, Mr. Chairman.

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

Now we will have Mr. Wright make a statement, if he has a statement to make.

Mr. Tom Wright (Executive Director, Technology Partnerships Canada, Department of Industry): It's just a brief statement, Mr. Chairman.

[Translation]

Good afternoon. My name is Tom Wright and I am the Executive Director of Technology Partnerships Canada, a position that I've held since 2004. I would like to thank you for inviting me to appear before your committee today and to talk to you about the results of our audit of the lobbyists.

This afternoon, I will put the discussion into context by describing the steps taken to date in dealing with the issue of lobbyists. To this end, I believe it is important to point out that TPC provides the government with the means to give strategic assistance to research and development projects in the private sector under the shared risk formula.

We established partnerships with businesses that are developing high risk technology projects. We also gained research and development abilities and increased the number of core mandates for Canada.

[English]

Taken at an overall level, TPC generates important benefits in terms of company competitiveness, employment, and wealth creation. In fact, a formative evaluation of the program in 2003 was able to confirm many of the benefits associated with the program.

With regard to the lobbyist issue at TPC, it's important to note a few things. At the outset, it was through TPC's routine audits of funding recipients that in February 2004 we uncovered evidence of potential breaches of the contractual provisions relating to the payment of contingency fees. We immediately invited the depart-

ment's audit and evaluation branch, as well as legal counsel, to review the situation. The audit and evaluation branch engaged outside auditors for the initial forensic audit and for a follow-up compliance audit of some 47 companies. The department has informed the offices of the Auditor General and the Comptroller General of the issue that we're managing, and the department has continued to keep them informed. The department has acted quickly to investigate these issues, and it has been diligent and rigorous in identifying non-compliant companies and in working with these companies to rectify their events of default.

On September 22, 2005, our minister released a status report that discussed the initial forensic audit of four companies conducted by Kroll Lindquist Avey, and the interim report on the subsequent compliance audits of the 47 companies being conducted by Raymond Chabot Grant Thornton. I'd like to assure the committee that the minister has made it clear to us that the results of this compliance audit are to be made public, consistent with the access and privacy laws, just as we did with the Kroll forensic audit.

In closing, on September 20, the minister announced that the government will be launching a new transformative technology program. The new program will be open to all sectors and all technologies, with improved access for SMEs. As some of you may have heard, we've engaged the services of Arthur Kroeger to advise us on the design of this new program. His advice on best practices related to transparency, governance, and accountability—elements the minister has directed us to pay particular attention to—will be invaluable in guiding the design of the new program.

Mr. Chairman, I'll stop there.

• (1550)

The Chair: Thank you very much, Mr. Wright, for your concise statement.

For up to five minutes, we go to Mr. Conacher, from Democracy Watch.

Mr. Duff Conacher (Coordinator, Democracy Watch): Thank you very much for the invitation to present on this issue today.

I'm going to speak first on Democracy Watch's analysis of the regulatory system on lobbying's failure to prevent and penalize this past illegal lobbying, and then also speak about proposals that have been put forward to strengthen the enforcement system by the federal parties.

The problem the committee has still is that it has not heard from two key people. Assuming that there will be an election, hopefully post-election this committee or another committee will subpoena former ethics counsellor Howard Wilson and former registrar of lobbyists Diane Champagne-Paul, and hold them accountable for failing to catch and prevent these illegal lobbying activities.

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

Mr. Paul Szabo (Mississauga South, Lib.): Mr. Chairman, I'm not sure of the disposition of these items, but I'm a little concerned about the witness's referral to illegal lobbying without some explanation as to what law was broken. This is very damaging to individuals. I think we should clarify this, please, just so that there is no misunderstanding.

The Chair: Mr. Szabo, you will have every opportunity to do that through your questioning. Let's just allow the witnesses to make their presentations, and I welcome your participation in that fashion.

Mr. Conacher, please continue.

Mr. Duff Conacher: Yes, as I will explain, the illegality, if I had not been interrupted, is this. The former registrar of lobbyists, Diane Champagne-Paul, who incredibly is still employed in an ethics enforcement position as the director of the MPs' code of conduct for the current Ethics Commissioner, Bernard Shapiro, was the person responsible for checking registrations at the time that David Dingwall reported in his registration that he was in a contingency fee arrangement under his Lobbyists Registration Act registration, lobbying for a TPC contract for Bioniche, and he was also in other contingency fee arrangements.

The registrar is supposed to ensure that all of those registrations are accurate, and is well aware, because it was a long-debated issue back to 1994, that contingency fees had been banned as a policy, not as part of the law. Clearly, the registrar failed to alert the Technology Partnerships Canada fund or the industry department, or if they did alert them, we don't have any evidence. And the current registrar's office has stated that they have no evidence that TPC was alerted, even though David Dingwall admitted on his Lobbyists Registration Act registration that he was in an illegal contingency fee arrangement.

The registrar also clearly had the responsibility to alert the former ethics counsellor, who at the time enforced the lobbyists' code of conduct and also restrictions on lobbying by former cabinet ministers. The lobbyist code requires lobbyists to act "with integrity" and "to observe the highest professional and ethical standards", and "should conform fully with not only the letter but the spirit of the lobbyists' code of conduct as well as all the relevant laws, including the Lobbyists Registration Act and its regulations".

Clearly, the ethics counsellor, if he was doing his job properly at the time, would have found David Dingwall guilty or would have at least investigated and made a finding, which he's required to report publicly to Parliament, of the violation of these lobbyists' code rules by of course being in an illegal contingency fee arrangement.

Of course, that would not be expected of the former ethics counsellor, because, as the Federal Court found in July 2004, Ethics Counsellor Howard Wilson and his entire office, including Diane Champagne-Paul, the registrar of lobbyists, was biased because the Prime Minister and the federal cabinet were in complete control of whether the ethics counsellor kept his job or the registrar kept her job, and the Prime Minister was also in complete control of the budget and staffing at the office.

What is also incredible is that this structurally biased lobbying law enforcement system is still operating, only now the industry minister has complete control over whether the new registrar of lobbyists, Michael Nelson, keeps his job, and the industry minister is also completely in control of the budget and staffing of the registrar's office. To note, Democracy Watch has filed an application in Ontario court, asking the court to declare this ongoing structure, in every important way, similar to the former ethics counsellor's office and to have that structure declared biased and illegal.

As I mentioned, it's also incredible that not only former registrar of lobbyists Diane Champagne-Paul, who completely failed to enforce the rules in this case, but also almost all of the former biased ethics counsellor's senior advisers are now the senior advisers for the current Ethics Commissioner, Bernard Shapiro.

Democracy Watch has also applied in the same court application to have the Ethics Commissioner declared biased, for this action and several other actions and statements.

● (1555)

The Chair: Mr. Conacher, excuse me. I did allow a little extra time for the interruption there, but you have about 30 seconds to wrap up your presentation and we'll get to questions.

Mr. Duff Conacher: To date, only the federal Conservative Party has pledged to make the registrar independent of cabinet control. There are several other changes needed, though, to have an effective lobbying regulations system. I won't go into them in detail now, but there have been proposals from the Conservatives, the NDP, and the Liberals. Having examined all of them, they all have gaps, but the Conservatives' is the most comprehensive and effective plan for cleaning up the lobbyists registration and regulation system. But the Conservatives are missing some things that the Liberals and NDP have promised.

All of these measures are needed, because the system is the scandal, and we will continue to see scandalous behaviour until we finally clean up the system. It's 138 years after Confederation, and we're still in a system where secret, unethical lobbying is legal. It has to be stopped, for the sake of the public interest.

Thank you.

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

We'll go directly to questions, starting with Mr. Rajotte for seven minutes, and then to a Bloc member, Madam Thibault.

Mr. James Rajotte (Edmonton—Leduc, CPC): Thank you very much, Mr. Chairman.

Thank you, gentlemen, for appearing before us today.

Mr. McRae, I have some very specific questions, especially with respect to Mr. Dingwall's testimony. I'll try to be as brief as I can, and I would appreciate brevity on your part.

On what date did you learn you would be receiving the two TPC grants?

Mr. Graeme McRae: That's a good question. I don't know that I can accurately answer it.

Mr. James Rajotte: Do you have a month? This was 2001, right?

Mr. Graeme McRae: We filled out the forms, which was where we found there was a problem with the success fee. We signed the forms. I believe on the signature of the forms, the.... The return of the forms to us from TPC was acknowledgment that it was done. It was probably within three months of submitting the forms to TPC.

Mr. James Rajotte: And that would have been around what time?

Mr. Graeme McRae: Sorry, I don't think I can answer that.

Mr. James Rajotte: Okay, I can move on.

How were you informed you'd be receiving the two grants? Was it by TPC via letter?

Mr. Graeme McRae: We were working very closely with TPC. A team came to our offices, doing due diligence prior to the approval of the contracts. They brought about ten people in—everything from accounting staff to scientists—and then it all went back to TPC. It took a couple of months.

Mr. James Rajotte: In terms of the money you paid to Mr. Dingwall, how much did you pay to him in total? Was it \$350,000?

Mr. Graeme McRae: The total we paid was \$384,519. The original contract that we had was a retainer of \$10,000 per month, commencing May 1—which was before we had gone to TPC—plus a success fee of \$350,000 that was payable upon successfully obtaining money from TPC. So the total payable under the first contract would have been \$460,000.

When we found the problem, we changed the arrangement to a retainer of \$10,000 per month from May 1, 2000, to March 30, 2001, and then the retainer was increased to \$17,222 from April 1, 2001, to September 1, 2002. The total payable under that contract would have been \$419,000—less than the original contract—but we actually paid him \$384,519.41—less than under either contract. I think we had a mutual agreement that we'd paid him more than enough, and we closed off the contract.

• (1600)

Mr. James Rajotte: Could we get this in writing in terms of the number of cheques, the amounts, and that specific information? Perhaps you could provide that in writing to the committee.

Mr. Graeme McRae: Yes, I have that here. I have the cheques and the dates on which we paid him.

Mr. James Rajotte: We would appreciate it.

This was done in Canadian dollars, right?

Mr. Graeme McRae: Correct, yes.

Mr. James Rajotte: One of the things you did mention was that it was suggested to you that you should use a lobbyist.

Mr. Graeme McRae: Yes.

Mr. James Rajotte: Who were the individuals who suggested that?

Mr. Graeme McRae: The biotech industry is a very tight industry, and it's always scratching for funds. It's very difficult to obtain funding for high-risk research in Canada. Two companies in Canada had success in achieving TPC funding. One was BioChem Pharma. The second one was a company called Æterna. I believe BioChem Pharma got close to \$100 million and Æterna got some \$80 million.

Mr. James Rajotte: I just need to know who suggested it.

Mr. Graeme McRae: They were the ones who suggested it. We went back to our industry, and they said we would go around in ever-decreasing circles if we didn't use a lobbyist. They had both successfully used Mr. Dingwall.

Mr. James Rajotte: Was it the CEO there who suggested it to you?

Mr. Graeme McRae: I can't remember. It was at an industry meeting, a conference. I was going to companies and asking if they had applied for TPC, how they did it, and how successful they were. In fact, we referred other companies to Mr. Dingwall after our success.

Mr. James Rajotte: We have the document in which Mr. Dingwall checked the box with Industry Canada, as Mr. Conacher said. He checked the box. He said he would be receiving a contingency fee. You've said you renegotiated. Can you provide the contract to us that you renegotiated with Mr. Dingwall?

Mr. Graeme McRae: We have supplied both contracts to the audit, and I can get you copies of those contracts.

Mr. James Rajotte: Would it not seem to you, though...? You made the initial stipulation to pay, I believe, the initial \$10,000 plus the \$350,000, and you said you were not informed at the time that this was against TPC and Treasury Board guidelines, so you then switched to the monthly retainer. In your view, was this a way of getting around the rules in the sense of putting him on a monthly retainer instead of paying him a lump sum? It seems to me that with the date of the public announcement—I believe it was July 24, 2001—you increased his retainer between April 2001 and 2002. I guess the success fee means you're not paying someone for successfully lobbying for a contract, yet from the dates we have, it seems to me that's exactly what it was.

Mr. Graeme McRae: If I go back to the start, when we first met Mr. Dingwall and we told him that we wanted to use his help in applying for a TPC loan, he quoted us a number that was roughly \$350,000 to do the job. The other companies that he had worked with had paid him that as a standard fee. We were the ones who said we're a small company that has to watch our cashflow, so we asked could we make it a part success fee and part retainer, to which he agreed. But the fee for service never really changed.

Mr. James Rajotte: So it was partly a success fee even after you changed it?

Mr. Graeme McRae: It was less than the success fee, but the amount that he wanted for the work done, whether it be a success fee, was a minimum of \$350,000. We negotiated with him then to have a little less on an ongoing basis, and the words were "when moneys were received", from Mr. Dingwall.

Mr. James Rajotte: Do I have more time, Mr. Chair?

The Chair: A minute and a half, Mr. Rajotte.

Mr. James Rajotte: Mr. Wright, the government very clearly made Bioniche repay \$460,000. Either this company actually did pay a success fee to Mr. Dingwall, and that's the reason why they had to repay the money, or there's another reason, or in fact the government then has made a tremendous mistake in forcing this company to repay \$460,000. From your point of view, why was this company forced to repay \$460,000? Was it because they paid a success fee—however you define that success fee—to Mr. Dingwall?

• (1605)

Mr. Tom Wright: I should clarify for the committee that in this particular case, and in fact in all of the cases when a breach is identified, TPC is relieved of its responsibilities for the file. So in point of fact TPC, as an organization, has not been a party to putting the company into breach, or more specifically, giving them notice of an event of a breach and subsequently negotiating what would constitute rectification of the breach. So I can't speak in great detail as to what went into those discussions.

The minister, however, did provide a letter to the committee, which, Mr. Chairman, I'm hoping all of the members have received, wherein he explained how the logic flowed in terms of the department making its determination that Bioniche had breached the terms of its agreement by entering into that initial agreement with Wallding and thereby making a misrepresentation to TPC when it executed the TPC agreement prior to the removal of the contingency fee provision.

The Chair: Okay, thank you, Mr. Wright. We have to move on.

Mr. Rajotte, your time is up.

To Madam Thibault, from the Bloc, eight minutes.

[*Translation*]

Ms. Louise Thibault (Rimouski-Neigette—Témiscouata—Les Basques, BQ): Thank you, Mr. Chairman.

Thank you, gentlemen for being here with us. I'm going to first put my questions to Mr. Wright. Do you agree with Mr. McRae's last comments? People from the industry told him, and he of course believed them, that they had to hire a lobbyist in order to obtain grants from Technology Partnerships Canada.

Do you think that it is normal that people within your organization can dispense with carrying out the necessary studies, and that people legitimately entitled to a grant must roll out the red carpet for those people? I will come back to some aspects later.

Mr. Tom Wright: I wouldn't say that it is necessary. It is not at all the case. Many companies do not hire a lobbyist nor a consultant.

Ms. Louise Thibault: Mr. Wright, what is the percentage of businesses that receive grants from you, can carry out the work, given the sheer simplicity of tasks to be performed? For example, let us compare an SMB to a business that hires lobbyists.

Mr. Tom Wright: I do not know the exact percentage. Companies are not obliged to disclose these details. They must simply indicate whether or not they hired a lobbyist, and if so, whether that lobbyist complies with all the laws.

Ms. Louise Thibault: Could you answer me quickly, since I only have eight minutes? Can you tell us what portion of the total grant

awarded under the Technology Partnerships Canada program are given to companies that hire a lobbyist, on the one hand, and companies that do not hire lobbyists, on the other hand? For example, the ratio could be 30 per cent to 70 per cent.

Is that possible?

Mr. Tom Wright: According to our documents, 30 or so cases are currently being reviewed. I believe that lobbyists or registered lobbyists were involved in approximately 25 per cent of those cases.

Ms. Louise Thibault: On Tuesday, October 4th, you appeared before the Standing Committee on Industry, Natural Resources, and Science and Technology. According to the minutes of that meeting, you stated the following:

This morning, I would like to deal with two or three things: the recent publication of the progress report [...] and the safeguards put in place to make sure that in the future, all businesses will respect contractual provisions [...]

I know that you will answer my question quickly. Why did you say "in the future"? Why did TPC not do something to ensure that audit mechanisms would be in place immediately following the implementation of that program?

Mr. Tom Wright: Unfortunately, I was not involved in the program at that time. I started in September 2004. Since the program was already underway, I felt that a series of measures had to be established. That is what I did. Why was that not already done? I cannot answer that.

• (1610)

Ms. Louise Thibault: According to the Industry Canada website, Minister Emerson announced that the department has engaged the services of Mr. Kroeger to advise on the design of the new Transformative Technologies Program. Will this new program replace Technology Partnerships Canada? Will the security measures you just mentioned be maintained?

Mr. Tom Wright: I presume that they will be. If one considers that other measures must be taken, the minister expects us to do so. We are certainly open to other measures.

Ms. Louise Thibault: Mr. Wright, how can you make sure that the lobbyists working in your department are registered?

Mr. Tom Wright: We ask companies to sign an acknowledgment to this effect. In addition, we ask our officials to do searches on lobbyists' websites. We just started this. We are doing our best to make sure that it is done.

Ms. Louise Thibault: Thank you.

Mr. McRae, how are you going to make sure in the future that a lobbyist is duly registered, if this hasn't already been done? Do you find it normal that the government does not penalize companies that break the law?

For example, I'm going to draw a parallel with someone who violates a customs regulation. If one makes a false declaration, if he has committed a wrongdoing, he must pay a penalty. This is the term used by Revenue and other departments.

I understand that you may think you have already paid a heavy price, but do you find it normal not to have to pay a penalty for having breached the provisions you were to comply with?

[English]

Mr. Graeme McRae: To answer that question in two parts, we were aware of the fact that a lobby needs to be registered, and we verified that Mr. Dingwall was a registered lobbyist.

[Translation]

Ms. Louise Thibault: I was talking about your lobbyists in general, not only about Mr. Dingwall. Do you make sure that your lobbyists are registered, before signing an agreement with them?

[English]

Mr. Graeme McRae: We do. We have an in-house legal counsel—who we didn't have back then—who verifies that. It was in fact our corporate lawyers who found the clause in the TPC contract—the success fee. They called me before we'd signed the documents and said you can't proceed to sign these documents because you are in contravention of the TPC law. We use contingency payments routinely. In fact, most companies—no matter what they do—negotiate as best they can the service they contract for, whether it be advertising or financial services or whatever. If you're not successful, you don't get the full repayment; if you are successful, you do. So success fees in industry are very common and typical.

We are a company that has a very high moral standard. If you look at the types of products, we deal with a lot of people who suffer a lot of hardship in life. We respect the laws of Canada—absolutely. We have other companies moving offshore for tax reasons. Bioniche is happy to pay taxes in Canada. I think if there was a known breach, we would expect a penalty.

We still have not seen a copy of the audit.

We were in a position where we had to visit with Industry Canada and settle it. We had not received any of the loan for a period of seven or eight months, yet we still had to carry on with these projects. We were in a very tight cash squeeze.

•(1615)

The Chair: I'm sorry, Madam Thibault, your time is up.

To the Liberals, Mr. Szabo, for eight minutes.

Mr. Paul Szabo: Thank you, Mr. Chairman.

Welcome, gentlemen.

Mr. Wright and Mr. McRae, I want to explore the lobbying with you a little bit. It's an issue on the table, and I think it needs to be clarified.

First of all, Mr. Wright, you have responsibility in the area of the technology partnerships program. If a company engaged a lobbyist, who would they go to? What possibilities would there be in terms of making representations on behalf of clients? Could you give us an idea?

Mr. Tom Wright: The people they would go to would be the officers in the operating groups within TPC. All of the workup and the due diligence of a file goes through our operations directorate. The officers who are designated to the file are in charge of working

up that due diligence. So lobbyists, consultants, and the company itself work first and foremost with that officer. When they reach that stage of the due diligence, that officer will then bring in technological experts as required. They will also bring in our financial analysis group, which is part of a separate directorate. We have an internal Chinese wall.

So they're officials. They would probably not even be talking with me. The decision-making that has taken—

Mr. Paul Szabo: That was certainly a question. Would a lobbyist go to either you or, for instance, the Minister of Industry—in the normal course?

Mr. Tom Wright: In the normal course? No. I don't suspect I've had more than two phone calls in the past year.

Mr. Paul Szabo: From what you've described, it's not simply, "Hey, I have a great company here and you guys really should look at it". There actually is, as you described, some due diligence, some filling in of the holes and gaps and making sure all the facts are available so that an informed decision can be made.

Mr. McRae, you said in your testimony that the bio-industry is quite tight. You talk about these things and that's where you likely came to the conclusion that maybe you should have a lobbyist. You must be familiar with other companies that have in fact engaged lobbyists. Did anybody ever talk to you at any time about the rules of the game vis-à-vis contingent fees?

Mr. Graeme McRae: No.

I just want to qualify the first part of your question to Mr. Wright. Initially, we did not walk into TPC with Minister Dingwall leading us by the hand. We had been talking to TPC for over 12 months. We just seemed to fill out a form, have a meeting. There were a lot of changes going on at the time within TPC, so that the person you met with today was not the person you met with in three months' time. At that point, we said there has to be a better way, and that was where we went in the direction of the lobbyist. I know of about five companies in the biotech sector that have used lobbyists for obtaining TPC loans.

I heard the word "grant" used before. These are not grants. These are repayable loans. The Government of Canada will make a significant profit.

We could not at that time establish a close enough rapport with the people at TPC. It's a huge amount of work, from a corporate viewpoint, with all the reports and things you have to compile. Honestly, the work the lobbyist does is to say this is the person we have to see or you're dealing with somebody who can't make a decision. They set up meetings with the Minister of Industry. It seemed like you needed that extra critical mass.

Mr. Paul Szabo: I get the drift.

Would it be fair to say, then, that if the process of any government program were streamlined and made a little user-friendly, maybe we wouldn't need lobbyists?

Mr. Graeme McRae: I think that's a fair comment.

Mr. Paul Szabo: Okay.

I have to tell you that I don't know anybody around this table who doesn't think that \$300,000 to \$400,000 for someone to act on your behalf seems to be in line with the value for what's offered, but that's a business decision to be made.

Mr. Graeme McRae: If I can qualify or comment on that statement, we are just now doing financing with a New York firm for \$17.5 million U.S., and we are paying 10% in fees up front before we pay the interest on the fee. Ten percent is about the going rate.

Mr. Dingwall's fee is a percentage of what we will end up with when we complete our projects. It's less than 2%.

• (1620)

Mr. Paul Szabo: Did Mr. Dingwall have an ongoing relationship with you well before you got involved with TPC?

Mr. Graeme McRae: No, I had never met Mr. Dingwall before we approached him to do the lobbying for us.

Mr. Paul Szabo: Okay.

Mr. Wright, as Mr. McRae indicated, TPC is not a grant, but a program from which there are returns to the government. But in fairness, we've had predecessor program to TPC...and TPC itself continues to have numbers about which people continue to ask, hey, money is going out, but we don't see a lot of money coming back. I know that many of them have scheduled repayments based on certain criteria.

I wonder if you are prepared to give us an idea, first of all, if there are any TPC contracts under which moneys should have been paid that have not been paid. If so, how much?

Mr. Tom Wright: There would be some contracts under which companies have gone bankrupt and have failed. I'd have to get you a report on that.

Mr. Paul Szabo: Are you aware of any that have not paid but have had the ability to pay?

Mr. Tom Wright: No, I'm not. I could get you a report on all of that.

Mr. Paul Szabo: Okay, that's helpful.

Finally, as I think my time is coming pretty close to its end, there is on the record, both in the letter from the minister and I guess the testimony of Mr. Dingwall, the point that registration with a particular company with a success fee is not contrary to any legislation. Is that true? I'm trying to address the issue of legality.

Mr. Tom Wright: The requirement that they be registered has to do with the Lobbyists Registration Act—

Mr. Paul Szabo: So a lobbyist having a contingent fee associated with their deal with the company is not contrary to any legislation?

Mr. Tom Wright: As I understand it, it is contrary to the contracting policy, as enunciated by the Treasury Board.

Mr. Paul Szabo: But Mr. Dingwall, in this case, didn't have a contract with Treasury Board, or with any government department or agency?

Mr. Tom Wright: That is correct. The relationship—

Mr. Paul Szabo: So Mr. Dingwall wasn't in contravention of any piece of legislation—and Bioniche, as I understand, was also not in conflict with any legislation, but rather with the policy objectives or statements of the TPC program.

Mr. Tom Wright: Yes, the situation between TPC and Bioniche was one of a contract. We had issued notification of an event of default in that contract to Bioniche. So it's a breach of contract issue.

Mr. Paul Szabo: But not a legality issue? Are you aware of any illegality in regard to any matter related to this whole Bioniche issue?

Mr. Tom Wright: With the proviso, Mr. Chairman, that I'm not a lawyer, then the turn of phrase—

Mr. Paul Szabo: Okay, but are you aware—

Mr. Tom Wright: No, I'm not. No, it was a contract.

The Chair: Thank you, Mr. Szabo.

To Mr. Martin for eight minutes.

Mr. Pat Martin (Winnipeg Centre, NDP): Thank you, Mr. Chair.

I want to thank the witnesses for being here, but I also want to take a moment to condemn David Dingwall in the strongest possible terms for not being here, for serving an insult to every member of this committee, in my view, and for showing enormous disrespect for Parliament.

The more I speak about it, the angrier I get. In fact, I think we should order the clerk to send for Mr. Dingwall now. I don't care if we have to drag him here in handcuffs, in the back of a paddy wagon, he's supposed to be sitting there, not sending his lawyer to tell us that he doesn't *choose* to attend.

I can't believe it. When you look at this letter he sent from his lawyer, look who's on the letterhead of this law firm. Heenan Blaikie is the law firm. "The Right Honourable Jean Chrétien, P.C., Q.C." is on the letterhead of this law firm. This is classic Liberal arrogance, and it insults this committee, insults this process, and insults Parliament. A former cabinet minister, of all people, should know the supremacy of Parliament.

It's only a matter of semantics that we use the word "invite" when we send for someone. He has chosen to "decline the invitation". These are the words he uses in the final sentence, "Mr. Dingwall respectfully declines the invitation to appear". We can ramp that up a notch and we can send for him, and I'm going to move that when we finish our questioning.

I'm going to use what little time I have left to ask some specifics. First of all, in our view, the technology partnership loans have been a catastrophic failure. Student loans get repaid at a rate of about 96%, and they hound students for the rest of their lives for the remaining 4%. Technology partnership loans get paid back about 4% and leave 96% outstanding. When is a loan not a loan? It's when it's a gift. This is corporate welfare, in the view of my political party, because we never see anybody paying back any loans. It's shovelled out.

I have to get it on the record that I don't accept.... I saw where Mr. Szabo was going in trying to pave the ground that there's nothing wrong with the technology partnerships. It's the biggest corporate giveaway since twenty-year drug patent protections, frankly, or the CPR, in my view.

I have a specific question for Bioniche. Are you going to sue David Dingwall for the money you had to pay back to the government for the illegal payment he received? No matter how you structured that repayment, it broke the rules or it took steps to deliberately circumvent the rules in order to give him the same amount of money as he would have received if it was a contingency fee. Do you intend to sue him to get your \$463,000 back?

• (1625)

Mr. Graeme McRae: I can't answer that. It's a board decision. We have a board of directors, most of whom are independent, and they will make that choice.

Right now, we have been concerned with rectifying the situation with Industry Canada in order to get back in good standing. There was \$2.3 million, behind which we had outlaid about \$10 million, which was budgeted well in advance. We were more concerned with survival than thinking about suing Mr. Dingwall. I'm sure that will come before our board in due course.

Mr. Pat Martin: Mr. Conacher, I was interested in the release that was circulated in conjunction with your presentation. You say in here:

The entire unethical, wasteful mess

—and I agree with your choice of words—

involving David Dingwall and the TPC fund would have been prevented if former Ethics Counsellor Howard Wilson and former Registrar of Lobbyists Diane Champagne-Paul had done their jobs properly.

Can you expand briefly on what they could have done within the current rules to intervene?

Mr. Duff Conacher: Certainly, and I'll be brief, because I spoke about this before.

The lobbyists code is law. All lobbyists are required to adhere to the code. As well, there is a policy ban on contingency fee arrangements. David Dingwall admitted in his Lobbyists Registration Act registration that he was in a contingency fee arrangement, lobbying for a contract. So there is no question at all that the policy was violated, and there was a clear admission by the lobbyist involved that he was violating the policy.

What did the registrar do? We don't know. All we know is that the current registrar's office says there's nothing on file showing that the registrar did anything, which is not surprising. The ethics counsellor's office rubber-stamped everything as ethical and the registrar didn't enforce the law in all sorts of cases.

Mr. Pat Martin: It does strike me that the ethics counsellor never found anything ethically wrong with anything anybody has ever done. It seems that was the record of that particular ethics counsellor.

Mr. Duff Conacher: Yes.

The ethics counsellor was the one enforcing the lobbyists code, and the registrar worked underneath the ethics counsellor. The ethics counsellor should have also been checking registrations of former cabinet ministers, because he enforced the cabinet minister rules, in terms of the cooling-off period and ensuring they weren't lobbying illegally. He should have seen that registration and would have known definitely that the arrangement was illegal under Treasury Board policy.

The lobbyists' code says that a lobbyist has to observe the highest professional and ethical standards, and that's a law. The ethics counsellor—if he were doing his job properly—would have found Dingwall guilty way back in 2000 and reported it publicly to Parliament, which hopefully would have curtailed David Dingwall's activities as a lobbyist. There are no penalties for violating the lobbyists' code of conduct. That is one of the gaps in the current lobbyists registration.

• (1630)

Mr. Pat Martin: This is one of the ironies Ed Broadbent has pointed out in our caucus: that it is against the law to pay a contingency fee, but it's not against the law to take or receive one.

Mr. Duff Conacher: I believe it is against the lobbyists' code of conduct, which is a law.

Mr. Pat Martin: Oh, the code, I understand.

Mr. Duff Conacher: The code says you have to observe the highest professional and ethical standards. How could anyone say, "Yes, I observed the highest professional standards, but I happened to break government policies along the way"? You can't make that claim; it's a contradictory claim, and you're breaking the law of the lobbyists' code.

He should have been found guilty in May, if the registrar and ethics counsellor had done their job. He would have been found guilty with a public report to Parliament by September 2000, the whole mess would have been prevented, and the audit would have started earlier. The two-year limitation period that the Minister of Industry claims has run out, I don't believe actually has.

I believe the lobbyists who didn't register should be prosecuted, and certainly all the lobbyists who were in contingency fee arrangements should be automatically found guilty of breaking the lobbyists' code.

Mr. Pat Martin: Thank you, Mr. Conacher.

I have only one brief second left. I want to ask Mr. Wright, since we've just heard in the testimony of two other companies that Dingwall took contingency or comparable fees from them, do you intend to investigate these two fees? I understand that one TPC loan to a competitor company of Bioniche was for \$100 million.

Mr. Tom Wright: Certainly when we get evidence of there having been an issue of that nature, then we look into it and take it very seriously.

Mr. Pat Martin: Can I ask what the monthly retainer that started to be paid to Mr. Dingwall was?

Mr. Graeme McRae: We paid a monthly retainer of \$10,000 per month, then increased it to \$20,000 per month.

Mr. Pat Martin: Was he working eight hours a day, 40 hours a week, for your company for that fee?

Mr. Graeme McRae: No, he wasn't, but neither did the stockbrokers who charge us a lot more.

The Chair: Thank you, Mr. Martin; your time is up.

We're still in the first round: Mr. Lunn, for seven minutes, followed by Mr. Scarpaleggia.

Mr. Gary Lunn (Saanich—Gulf Islands, CPC): Thank you very much, Mr. Chair.

First of all, Mr. McRae, I find the work you do on behalf of Canadians very exciting and interesting. It's important, but it's troubling what's happening here.

I'm going to make a couple of comments. First of all, you talked about how you made the first contract with Mr. Dingwall for \$10,000 a month, plus a \$350,000 success fee. You realized that was wrong and restructured it to give him almost the same amount of money. I mean, if it looks like a duck and walks like a duck, it is a duck. He got a success fee out of you guys. I would suggest you wouldn't have paid him that amount of money if he'd not been successful.

Did you know that Mr. Dingwall was a defeated Liberal cabinet minister when you entered into this arrangement?

Mr. Graeme McRae: Yes, we did.

Mr. Gary Lunn: You also said Artina Laboratories recommended him?

What were the two companies?

Mr. Graeme McRae: They were BioChem Pharma and Æterna Laboratories.

Mr. Gary Lunn: You also suggested you thought they were successful using Mr. Dingwall as well.

Mr. Graeme McRae: They had been granted TPC loans. I don't know if they paid a success fee. I don't know what their negotiations were.

Mr. Gary Lunn: Here's what I find troubling, and I don't question what you're doing, or what you're trying to do in order to work with the government of the day. You said you have high moral standards, and I'm not questioning that. But why in the hell do you have to deal with a defeated Liberal cabinet minister? I've got a list where Mr. Dingwall is registered as a lobbyist. There are 19 companies on here.

You can do the math: imagine if he's getting \$350,000 from every one of these companies, that's \$7 million.

Government is supposed to be open and transparent. Wouldn't you rather never have to deal with a lobbyist, but make your submissions to an independent tribunal and get these contracts based on what you're doing and good work, rather than having to give to any defeated Liberal, or to a Conservative, or to someone from any party? Do you find something fundamentally wrong with what's happening here?

Mr. Graeme McRae: I think we tried to go down the normal pathway first. We really tried hard with the TPC program, but it's very labour-intensive. In fact, we paid a consultant in London, Ontario, \$90,000, which was also deemed to be a success fee—

Mr. Gary Lunn: Were you successful with him?

Mr. Graeme McRae: Well, yes, that was part of putting the paperwork together, the paperwork and the positioning of the projects. These were high-risk projects at that time—

• (1635)

Mr. Gary Lunn: I understand, but I am so deeply troubled that once you found out that no, you cannot pay him a success fee, you just rewrote the contract to pay him a success fee. You've said it yourself: you paid him basically the same amount of money. You were successful. I'm shocked that Mr. Dingwall is getting hundreds of thousands of dollars from all these companies he's probably successful with, and we don't know. Obviously, we could find out.

I put it to Mr. Wright; this is exactly why what's going to happen tonight needs to happen. This has the sponsorship scandal smacked all over it. It absolutely.... Canadians look at this and they just have this foul taste in their mouths of not....

I'm going to read you something. I'm going to read you a letter. And I appreciate you have your political masters, but this goes to.... This is from a member who has probably been the staunchest Liberal in Victoria, where I live. It's on a different matter, but it's a similar type of thing. One of the Liberal candidates writes him for money. He's a member of the Laurier Club, and he's donated tens of thousands of dollars. He said:

Thank you for your e-mails.

I wish you well in the upcoming election.

I've always tried not to be a one-issue voter, but I believe, unfortunately, that you and Keith Martin, and more importantly, Paul Martin, seriously let the taxpayers down on the JDS case.

I'm going to get to why this is important. It talks about an individual whose life has been virtually destroyed by this capricious tax ruling by CRA bureaucrats. But then he goes on, and this is really important:

The reason is simply that it's more than a single issue; it's the issue of broken promises, and the issue of the federal bureaucracy being able to tell our elected representatives to get lost, so to speak.

I can't understand how the bureaucracy can engage in and let this type of activity go on. It's written all over here. You look at this: I could read the companies that Mr. Dingwall is registered as a lobbyist for, and he's still out there collecting money. He's the only guy who's smiling who hasn't paid back a plug nickel. I would argue your success fee wasn't \$350,000, it was \$700,000—\$350,000 to Mr. Dingwall and \$350,000 back to TPC—and you're still successful.

Do you have a problem with how all this works? To be successful, and you said it in your own words, you had to get a lobbyist. Do you find this inherently troubling that you actually had to agree to pay Mr. Dingwall \$350,000 to, as you say, play the game?

Mr. Graeme McRae: There's no question that it would be great if you could put your case to TPC or any other agency and stand on your own two feet and get your proposal approved, but—

Mr. Gary Lunn: Based on your merit, just based on your merit, and the reputation of your own company....

Mr. Graeme McRae: Our technologies in 2001 were a long way away from where they are today, where we've invested tens of millions of dollars in them, and they're really coming to fruition. Back then, it was high risk.

Mr. Gary Lunn: Would you stand by your comments that to be successful you basically had to do the industry standard and hire a lobbyist, and you hired Mr. Dingwall because he was a successful one?

Mr. Graeme McRae: Yes.

Mr. Gary Lunn: That's how you had to play the game?

Mr. Graeme McRae: That's right. There's no question.

If I can just make one comment, the day we walked in to see Mr. Dingwall we said, "You're very successful at doing this. What do you charge?" He quoted me a fee, which he expected us to pay up front. We negotiated and said the fee is fair, we thought, for the potential return.

We didn't know how much we were going to get from TPC. It could have been as little as a couple of hundred thousand dollars. It could have been as much as \$20 million or \$30 million. We actually asked for \$50 million. We got \$17.2 million approved at the end of the day. His fee never changed, regardless of what it was, and we were the ones who negotiated, saying, "We're a tiny company and we can't afford that in one lump sum. How about a success-fee arrangement?" What we negotiated at the end of the day, when we had to change from a success fee, was to pay it off over time.

Mr. Gary Lunn: You've said it all here. I will only say I appreciate your honesty and your candour in coming forward. This is so fundamentally wrong, how this government operates, and Mr. Wright, you and the department—

• (1640)

The Chair: Mr. Lunn, your time is up. Thank you.

To the Liberals, Mr. Scarpaleggia, for seven minutes.

Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.): Thank you, Mr. Chair.

Mr. McRae, you mentioned before that the decision as to whether to seek repayment from Mr. Dingwall will be left up to your board.

Mr. Graeme McRae: Yes.

Mr. Francis Scarpaleggia: What will you as president and chief executive officer recommend to the board on that?

Mr. Graeme McRae: Quite honestly, we haven't had time to consider it, we were so concerned over losing our status with TPC and making sure we got back in good stead. We would like to see the findings of the audit before we take—

Mr. Francis Scarpaleggia: I don't doubt your goodwill and your integrity—and we don't even know each other—but I have a hard time believing you haven't thought about it.

My next question, going back to Mr. Rajotte's point, is on why you paid the money back to TPC. You claimed there was no contingency fee. I can understand this. You're a small-business person; you're trying to create jobs. You've got maybe a restricted cashflow and you just want to solve the problem; you don't want to go to war with the federal government. It's not an admission of guilt that you're paying this amount of money. Essentially, you're just saying to the government, look, here's \$350,000 or more; just get off my back and let's keep moving on with this, because we've got a job to do in the private sector. Is that the sort of attitude?

Mr. Graeme McRae: Absolutely. When we negotiated our settlement, we made it very clear that we were not admitting guilt. Our choices were two: we could allow the thing to go into full default, on that day—

Mr. Francis Scarpaleggia: No, I understand. Basically, you're saying to Mr. Wright here that he shouldn't have asked you for this money back but you're going to give it to him because you really don't need the headaches. It's a cost-benefit analysis.

Mr. Graeme McRae: That's exactly it.

Mr. Francis Scarpaleggia: My next question is this. Before you hired Mr. Dingwall, you did all the paperwork and the legwork and it still wasn't enough; you weren't talking to the right people. Who were you talking to?

Mr. Graeme McRae: We went to representatives who were entry-level case managers, very smart, very intelligent people, but it was a moving target. Then we'd go up the ladder, and then the people we were talking to were not biotechnology people; we ended up with an aircraft engineer.

Mr. Francis Scarpaleggia: Mr. McRae, given that you'd exhausted everybody on the phone list, which it sounds like, who did you hire Mr. Dingwall to speak to?

Mr. Graeme McRae: First of all, it was to the lady who, I assume, was the predecessor to Mr. Wright. We had difficulty getting to that level. At the same time, it was a very competitive environment. There were other companies lobbying...not lobbying but trying to—

Mr. Francis Scarpaleggia: I understand. Thank you. You've answered my question.

Mr. Wright, I don't know very much about Bioniche. I can see Mr. McRae is a well-meaning entrepreneur. He probably has a great product and he could probably create jobs for Canadians. I can understand your having to hire someone to fill it. There's a lot of paperwork, and there should be paperwork, because that's what accountability is all about.

But why, Mr. Wright, does a company like Bioniche, the kind of company we want to encourage in this country, have to go around in circles ad nauseam and hire somebody to speak with, essentially, you or your predecessor?

Mr. Tom Wright: It is not an approach anyone likes, I can assure you.

I have a couple of comments. First off, I wasn't with TPC at the time Graeme McRae had—

• (1645)

Mr. Francis Scarpaleggia: I wasn't suggesting that this was what you were doing.

Mr. Tom Wright: I can't speak intimately to his experience, unfortunate though it may have been. I can tell you that TPC is, in my opinion, understaffed right now. We've had a needs assessment carried out so we will have the appropriate qualified staff to give far more effective and efficient service to the companies when they come to us.

One of the hallmarks of the new program the minister had announced was not only the—

Mr. Francis Scarpaleggia: Mr. Wright, I understand. Your point has been made.

The reason I interrupted you, Mr. Wright, was not to be impolite, but because you've actually offered me a segue into the question I wanted to ask Mr. Conacher.

Mr. Conacher, I know of your organization. I don't know of it intimately, but I assume you've been looking at these issues for a long time, and you have a very deep and detailed knowledge of such issues.

You talked about the people working in the Office of the Registrar of Lobbyists and how they didn't do their jobs, and you seemed to imply—maybe I misunderstood—that somehow they were corrupt, or that the system was corrupt. Maybe you didn't say that, but it certainly came across that way.

My question is, are the individuals corrupt? Is the system encouraging them to be corrupt? Were they simply negligent in not discovering that Mr. Dingwall, while he had not broken the law with regard to lobbyist registration, was in violation of a Treasury Board policy? Were they negligent because they were maybe overworked or disorganized?

That leads me to my final question: Is that whole system underfunded and people are doing their best, or is the system corrupt? If you say the system is corrupt, because the commissioner was reporting to a minister or to the government, why would public servants who have job security...? I could understand if somebody didn't have job security that they would feel pressure from above, but public servants who have job security don't have that pressure. They

know they're not going to lose their jobs if they don't move fast enough, and so on and so forth.

So those are basically my questions. They are just about the system, really.

Mr. Duff Conacher: The Federal Court found, in a July 2004 ruling, that the ethics counsellor and the entire office of the ethics counsellor, which included the registrar of lobbyists at the time, was biased and in conflict of interest, which meant that they could not fairly, impartially, or effectively uphold the Lobbyists Registration Act, the lobbyists code of conduct, or the cabinet ministers code. That was the situation from June 1994 right through until that ruling in July 2004.

Mr. Francis Scarpaleggia: The report said this; the report said they were biased because—

Mr. Duff Conacher: And it also concluded that there was evidence of incompetence. Is there a lack of resources? Yes, and it continues to this day.

You have Michael Nelson, the registrar of lobbyists, who was only working 20% of his time as registrar, watching over about 3,000 lobbyists.

Mr. Francis Scarpaleggia: Because he was too busy with other functions within the group.

Mr. Duff Conacher: Yes, and the industry minister thinks it's a solution that now he's full-time—one person watching 3,000 people, and all the possible unethical activities and the registrations and enforcing the lobbyists code of conduct. No, it's not enough at all. It's not even close to an effective enforcement system, plus it lacks powers and powers to penalize.

Could the old registrar have noticed this registration? Yes. She should have looked at it. She should have been looking at all of them, and so should have the ethics counsellor. They had lots of staff to help them, many more than there are currently in the registrar's office.

The Chair: Thank you, Mr. Conacher. I have to cut you off there. Mr. Scarpaleggia's time is up.

We'll start the second round, five minutes.

We'll have Mr. Preston, followed by Mr. Desrochers.

Mr. Joe Preston (Elgin—Middlesex—London, CPC): Mr. Rajotte is going to take my time.

The Chair: Go ahead, Mr. Rajotte.

Mr. James Rajotte: Thank you, Mr. Chairman.

Mr. McRae, I just want to clarify a few matters with you.

I believe you stated that you were unaware that success fees were not allowed under TPC. We have a copy of the contract you signed here. It is in section 6.5, so it's clearly in the contract. I believe it's in every TPC contract. It's also against Treasury Board guidelines, but you were not aware. And further to that, did Mr. Dingwall not at any time say to you that success fees are not allowed under TPC's own contracts? Section 6.5 of every contract does not allow a success fee. Did he ever say that to you?

Mr. Graeme McRae: No, he didn't. It was interesting to us, when we finally filled out those contracts, when our lawyer said "You have a problem".

Mr. James Rajotte: Your lawyer.

• (1650)

Mr. Graeme McRae: Bioniche's lawyer said we couldn't sign this; we had a problem. We telephoned Mr. Dingwall and said, "We have a problem with this contract because of the success fee". He was surprised. He said, "Oh, I heard something about that".

Mr. James Rajotte: Mr. McRae, I'm going along the same lines as my colleague, Mr. Lunn. I certainly welcome what your company is doing.

First of all, he did not even fill out the forms. Secondly, he was supposed to offer expert advice, but he didn't even tell you that you'd be breaking the contract you were applying for. He's supposed to be an expert on TPC and in getting these contracts, yet he can't even read to page 10 of a contract to tell you what's wrong. But you paid him \$10,000, I believe you said to Mr. Martin, and then you upped it to \$20,000. So he doesn't even apparently know the rules of TPC and can't even fill out the forms.

To the average Canadian, \$20,000 is an awful lot of money. What's he giving for this money, for this \$20,000? What are you getting for this money?

Mr. Graeme McRae: He got us to the point where we could sign a contract.

Mr. James Rajotte: It's just basically who he knows.

Mr. Graeme McRae: I think it's knowing more than who he knows. It's having a rapport with people in the right departments to get us in at the right level to have our case heard.

Mr. James Rajotte: Isn't that a shame, though, that a company of your stature has to go through that hoop in order to get to the point where you can be evaluated on your merits? You have to pay someone \$20,000 a month to a point where you can say you're a great company, you have great ideas, and to evaluate you on your merits. Isn't that an absolute shame?

Mr. Graeme McRae: I think the company today is in a lot better position to do that sort of thing than it was back in 2000.

Mr. James Rajotte: One of my final points.... Mr. Martin asked about your taking action against Mr. Dingwall. I'll ask you at the end, but in the House of Commons the industry minister was pretty clear on September 29:

...I think the hon. member knows that there is a prohibition against companies paying contingency fees to lobbyists under the technology partnerships program. We have dealt with the company.

That is, Bioniche

The company was in breach of contract. The company can deal with Mr. Dingwall.

From a government's point of view, he clearly established in the House on three different occasions that Mr. Dingwall, in the government's view, received a contingency fee. As he said on October 4, in the case of Mr. Dingwall and "any other lobbyist who has been in receipt of a contingency fee, our recourse is to the company". Clearly, the government's official point of view is that Mr. Dingwall received a contingency fee.

I ask, will you be recommending to your board that they take action against Mr. Dingwall for his actions here?

Mr. Graeme McRae: I can't say what's going to happen in our board meeting. We're a publicly traded company. I can't make—

Mr. James Rajotte: I'd like your opinion.

Mr. Graeme McRae: I really can't give an opinion at the present time.

Mr. James Rajotte: Mr. Wright, I asked you this in the first round and I've just read the quotes from the Minister of Industry, but the letter from the industry minister was not as clear as his comments in the House. Is it the official position, as stated by the minister in the House on at least five different occasions, that a success fee was in fact paid to Mr. Dingwall, even though it may have been spread in \$10,000 and \$20,000 payments? Is that the government's official position on this?

Mr. Tom Wright: The position of the minister, as I understand it, is in the letter he has shared with the committee. As I tried to explain earlier, I and TPC are not part of that set of activities that notify a company of a breach of the contract and subsequently go through the negotiations to rectify the breach. I am not a part of that. That is done through our comptrollership group, through our loans and insurance groups.

All I can refer to in this, Mr. Chairman, is the letter that we have before us from the minister, wherein the minister points out that Bioniche nonetheless breached the terms of their agreement by entering into the initial agreement with Walding and making a misrepresentation to TPC when it executed the agreement prior to the removal of the contingency fee provision. That is my understanding of the minister's view.

Mr. James Rajotte: Mr. Wright, following up on that, I think Mr. McRae has, through his testimony, identified the problem; you have to pay someone to get to the point where you can actually be evaluated on your merit. We know of the case with four companies from British Columbia that paid the one lobbyist in B.C. up to \$3.7 million in the same sort of situation in terms of success fees. It's our understanding that the lobbyist was not even registered.

The Chair: Mr. Rajotte, very briefly.

Mr. James Rajotte: On the second audit that is being done, the 47 companies, how many of those companies to date have you found have paid success fees? If so, to which individuals?

Mr. Tom Wright: To date, my information is that there have been five instances wherein letters of notification of a breach have been issued. I believe in three instances they have been rectified.

• (1655)

Mr. James Rajotte: Who are the individuals, the lobbyists?

Mr. Tom Wright: I don't have that information at hand.

As I mentioned, the minister has asked that we take the steps to release the results of that audit. It would be under the same terms as we released the results of the Kroll audit. That is to say, once it had been put through review for privacy and access to information provisions.

The Chair: Thank you, Mr. Rajotte.

To Mr. Desrochers, for five minutes, then to a Liberal member.
[Translation]

Mr. Odina Desrochers: Thank you, Mr. Chairman.

I will share my time with my colleague. I will use three minutes and give him the two remaining minutes.

Like my colleague from the NDP, I am very disappointed to not see Mr. Dingwall here today. I believe that his absence is explained by an article published this morning in the *Chronicle Herald*. According to the article, negotiations would be held between Mr. Dingwall, the Prime Minister's Office, and the Privy Council. An agreement may have been reached, but neither Mr. Dingwall nor the current government would like this to be disclosed before the election. If it is the case, the Liberals would be in trouble.

Earlier, my colleague talked about arrogance; I on the other hand will talk about hypocrisy. In fact, from the very beginning of this story, it is impossible for us to know the truth.

Mr. McRae, who recommended Mr. Dingwall to you?

[English]

Mr. Graeme McRae: I can't remember the individual, but at a biotechnology conference where we were talking about TPC funding for biotechnology, representatives of BioChem Pharma from Montreal and of Aeterna from Quebec City both said they used Mr. Dingwall and he was successful.

[Translation]

Mr. Odina Desrochers: At the time, did you know that Mr. Dingwall was a former Liberal minister?

[English]

Mr. Graeme McRae: Yes.

[Translation]

Mr. Odina Desrochers: In return, did Mr. Dingwall ask you to pay money to the Liberal Party of Canada for services provided?

[English]

Mr. Graeme McRae: No.

[Translation]

Mr. Odina Desrochers: You did not pay any money. The matter did not come up between Mr. Dingwall and your company?

[English]

Mr. Graeme McRae: Never.

[Translation]

Mr. Odina Desrochers: I will now hand over the floor to my colleague Mr. Simard.

Mr. Christian Simard (Beauport—Limoilou, BQ): I will broach another issue.

Mr. Conacher, Mr. Dennis Dawson was appointed senator last summer. He was a Liberal candidate in the riding of Beauport—Limoilou during the last election. Your organization made complaints against him, as a lobbyist. It seems that he did not comply with the Lobbyists Act. We know that Mr. Dawson was one of Mr. Martin's political organizers during the party leadership race, and at the same time, he worked as a lobbyist to the Minister of Finance, the same

Mr. Martin. He billed invoices to several clients, including the Mining Association of Quebec, and Bell Helicopter Textron. This no longer appears on your website.

Can you tell us where the issue of Democracy Watch stands? What was the conclusion of this case, if there was one?

[English]

Mr. Duff Conacher: Democracy Watch has filed several complaints. First I should say—

[Translation]

Forgive me, for my French is not fluent. Since there are several technical terms, I will speak English.

[English]

Democracy Watch has filed many complaints against lobbyists doing work for politicians, specifically Liberal cabinet ministers, and they are all complaints about lobbyists who were registered to lobby the minister at the time that they were also working for the minister. In the case of Mr. Dawson it is with regard to Paul Martin when he was finance minister. We filed that complaint back in June 2002. Because of the completely ineffective lobbyist regulation enforcement system that's been in place going back to 1988, we are still waiting for that complaint to be dealt with in a fair and impartial way.

That complaint was ruled on by the former ethics counsellor, but we had challenged the ethics counsellor for bias because of the Prime Minister's control of the ethics counsellor, and the Federal Court threw out all of the rulings made by the ethics counsellor because he was found to be biased. As a result, those complaints are now back with the current registrar of lobbyists, Michael Nelson. We are negotiating with him. Even though he's been in place since May 2004 and the ruling was in July 2004, we still do not know whether he is agreeing to review all of our past complaints. We have eight outstanding complaints, two of which were never even ruled on by the former ethics counsellor and are five years old.

That's, again, just a symptom of how the system is the scandal. I believe that in part the reason Dennis Dawson was appointed to the Senate by Mr. Martin was in the hopes of making our complaint against Mr. Dawson moot—that would be the legal term—because he now is no longer a lobbyist. He has become a senator.

Democracy Watch will be pursuing a complaint against Mr. Martin for violating the cabinet ministers ethics code for making that appointment because we do not believe that it fulfills the requirements of the code to maintain the highest ethical standards—and I'm quoting:

Ministers must act with integrity. They must uphold the highest ethical standards so that public confidence and trust in the honesty, objectivity and impartiality of government are upheld.

• (1700)

The Chair: Thank you, Mr. Conacher.

Monsieur Simard, your time is up. If you have a very short question, that is okay, and a very quick response. Go ahead.

[Translation]

Mr. Christian Simard: What did you have against Mr. Dawson's work at that time? What rules did he break?

[English]

Mr. Duff Conacher: We believe Mr. Dawson and several other lobbyists breached rule number 8 of the lobbyists code of conduct, which prohibits lobbyists from putting any public office holder in a situation of conflict of interest. We believe that when a lobbyist is registered to lobby a minister, the lobbyist cannot be working for the minister on the side on any kind of activity, as Mr. Dawson was. He was working on Mr. Martin's leadership campaign at the time he was registered for several clients to lobby Mr. Martin when he was finance minister through the period of 1998 to 2002.

The Chair: Thank you, Mr. Conacher. Time is up.

We now turn to Mr. Boshcoff, for five minutes.

Mr. Ken Boshcoff (Thunder Bay—Rainy River, Lib.): Thank you very much.

Mr. Conacher, you had identified some of the gaps and differences between the parties in terms of what people have committed to you in terms of constructing an ideal scenario. What would be, then, the master program for doing this in its most absolutely correct terms democratically?

Mr. Duff Conacher: First of all, the whole onus should be reversed: ministers and senior public officials should be disclosing who lobbies them. Right now, lobbyists are defined in the act, but the definition leaves loopholes open. There are hundreds of corporate lobbyists who don't even have to register. Because they don't have to register, they're not covered by the lobbyists code of conduct; therefore, they don't have to lobby in an ethical way.

It's actually legal for a corporate lobbyist to lobby less than one day a week and work in a minister's office less than 15 hours a week. No ethics codes apply, and it's all completely legal. That's how bad the current system is.

So to have full disclosure of all paid and unpaid lobbying—all lobbying—ministers and other senior public officials involved in decision-making should be required to disclose who is lobbying them and to put this information up on a searchable Internet site. To end this revolving-door problem that simply corrupts the public decision-making process and undermines the public interest daily, the prohibition on ex-ministers and former senior public officials becoming lobbyists should be increased to five years, as the Conservatives have proposed. The Conservatives are also the only party to propose that ministers and senior public officials be required to disclose who is lobbying them.

Even when you violate the lobbyists code, there is no penalty except public shaming, which isn't enough. The Liberals have proposed high fines for all violations of the code and increasing the fines for the act, and the NDP has proposed a fine for violating the contingency fee ban or success fee ban.

We also, as part of enforcement, need an effective whistle-blower protection system. Bill C-11 made it through the Senate. It was proclaimed into law on Friday, but it needs to be made more effective. Only the Conservatives, to date, have proposed the

measures needed to close the loopholes in the whistle-blower protection system to actually make it effective.

As well, we have rule 8 of the code, which prohibits lobbyists from putting public office holders in conflicts of interest, but it's not a specific rule. We need a specific rule prohibiting lobbyists from working in senior campaign positions for any politician or candidate or doing work for the government or having business ties with anyone who does work for the government while they're acting as a lobbyist. No party has made that proposal.

It would also help quite a bit, because of the revolving-door situation, if you even had a ban on former ministers and former senior public officials lobbying the government. The public cannot make complaints currently to the Ethics Commissioner...or at least possibly may be banned from making complaints to the Ethics Commissioner. The public should have a clear right to file complaints, not just members of Parliament.

• (1705)

Mr. Ken Boshcoff: We get lobbyists coming to see us on a regular basis—farmers, students, health care practitioners, people who represent various diseases—people with lots of very valid concerns. What would happen with groups and organizations such as that when they have their day on the Hill or whatever, as they're coming around—police, fire, emergency services, all those kinds of people?

Mr. Duff Conacher: Well, in terms of disclosure, the line should be drawn at those who have real decision-making power, both in the bureaucracy and on the minister and ministerial staff side.

As backbench MPs, you can make recommendations, but you don't have the decision-making power of actually changing the law or proposing a bill exactly to Parliament and making sure that it goes through.

So the line would have to be drawn somewhere as to who would have to disclose who is meeting with them. We believe it should apply to ministers, ministerial staff, and senior public officials or to anyone involved in decision-making—and when I say ministers, I mean right down to parliamentary secretaries. That's open government; that's transparent government. The public has a right to know who is lobbying whom and if the minister is only giving access to one side of the stakeholder interests, or to all sides.

That would open up and disclose much more of the lobbying that's being done with the real decision-makers. But all of those lobbyists who come, if they're paid and are communicating now with regard to decisions, have to register.

However, you have a registrar's office without the resources to ensure.... There is no auditing done of departments by this registrar's office, and they make no requests that they want all the written communications that you've received on a certain issue—which they should then go through—to find, oh, you wrote a letter, you're paid, you're an organization and you're not registered, but you have to register. None of that is being done. So even though it's called the Lobbyists Registration Act, it's really the “Some of the Lobbying Going On Being Disclosed Act”, as not much of it is probably being disclosed. It should be a lobbying disclosure act, so that all the lobbying is disclosed.

The Chair: Thank you, Mr. Conacher.

Mr. Boshcoff, your time is up.

We'll move to Mr. Preston for five minutes, and maybe to Monsieur Godbout for a short question.

Mr. Joe Preston: Thank you.

Thank you very much for coming here today.

Mr. McRae, I'd like to follow up on something that some of my other friends have said here today, which is that you paid another lobbyist money to fill out the forms for you. That wasn't Mr. Dingwall's job. You paid somebody else, who knew the forms better than he did, to fill out the forms.

Mr. Graeme McRae: Prior to engaging Mr. Dingwall, we engaged a small firm in London, Ontario—

Mr. Joe Preston: It's a beautiful community, by the way.

Mr. Graeme McRae: Yes, but we've moved away from there.

We employed a small firm. Usually your chief financial officer would do this sort of thing, but we were very understaffed, so we employed a local firm, on a success-fee basis, to help us get the prep work done. It involves assembling a huge amount of data, business plans, and that.

Mr. Joe Preston: So his fee was also on a success-fee basis?

Mr. Graeme McRae: Yes, and we've also repaid that.

Mr. Joe Preston: You've had to repay that? Okay.

Will you be going back to him to try to take his—

Mr. Graeme McRae: Actually, it was a young lady, and she's since died of breast cancer, so probably—

Mr. Joe Preston: Oh, sorry.

All right, but let's get this right. So the forms were filled out properly for you, and you hired a fellow like David Dingwall not because he could fill out forms and not really because he's an excellent report writer, but because of who he knows.

• (1710)

Mr. Graeme McRae: He knew how to work the system. That's what's required, and he knew how to—

Mr. Joe Preston: Okay, well, that's truly what it comes down to: it's who you know.

Mr. Graeme McRae: Yes, no question about that.

Mr. Joe Preston: So I'm going to ask you a question. Do you believe there are other really great companies, on the verge of greatness like yours was at the time—

Mr. Graeme McRae: Absolutely, there are.

Mr. Joe Preston: —but who didn't take this route, because they didn't want to pay a guy like David Dingwall money, and who have therefore disbanded or gone out of business, and from which we now don't have their great inventions or technologies that might otherwise have come forward?

Mr. Graeme McRae: We've had a lot of companies in our sector sell their technology too early to American companies—

Mr. Joe Preston: Right.

Mr. Graeme McRae: And that's why we need programs like TPC.

Mr. Joe Preston: I'm not disputing that we need programs like TPC, but I think we need a good, honest way to get the money from our government.

Mr. Graeme McRae: I don't disagree.

Mr. Joe Preston: And I'm embarrassed by what we saw here today.

Mr. Wright, this one is for you. If success fees cannot be used at TPC, as the contract clearly states that a success fee cannot be used by a lobbyist on a TPC grant, how is anybody who has used a lobbyist for a success fee ever issued money under TPC?

And why are we waiting five years to go back to do audits? Why aren't we auditing at the time of the contract? How is it that we get to the point where the contract has been signed and money has changed hands, and yet Mr. McRae's company is in danger because you've now audited it and are saying wait, we're going to pull backwards on this one? This is the cart before the horse. It is nonsensical for our government to issue a contract for \$17 million and not do the groundwork then, but instead wait five years and then pull the contract away.

Mr. Tom Wright: Mr. Chairman, I tried to mention in my opening remarks that in fact it was a TPC internal audit that discovered that we had this issue, and we've tried to move swiftly to deal with it.

As to the way we're conducting business now, the organization is making every effort to make sure that companies and applicants understand fully all of those requirements such that we don't see this sort of situation again.

I'm not sure what else I can add, other than that what we have in place today should go a long way towards precluding situations where companies are discovering this requirement after the fact.

As to the situations that have already happened, we have a very robust audit activity under way to deal with that, and we've done so with a huge amount of transparency and openness, including keeping the Auditor General aware of our activities from the outset.

Mr. Joe Preston: It's great, but I explain it again as closing the barn door after the horse has already left. We've now set that standard higher than we used to allow ourselves to live under. We talk about being beneath contempt. This is digging down five or six feet before you find it.

Going back to the success fees, you talked about 47 other audits. How many TPC grants are there? There have been 47 grants audited. In total, how many grants were there?

Mr. Tom Wright: Out of the core program, there have been in excess of 250, and IRAP has delivered another 400 projects for us, so there are 600.

Mr. Joe Preston: Would they all fall under what we would call a TPC loan?

Mr. Tom Wright: Yes.

Mr. Joe Preston: All right.

So 47 of them have been audited so far. When we're talking numbers of 250 or 400, is there a reason we wouldn't just go back and look at all of them, now that we've found some fairly serious breaches with a few of them?

Mr. Tom Wright: It's a risk-based audit plan. There's a huge amount of cost associated with going back and doing this work. The audit and evaluation branch of our department is designing this with the help of a subcommittee, the departmental audit committee, and they're trying to determine the appropriate steps to deal with that, but there's a huge amount of cost.

Mr. Joe Preston: So are you hearing noise now that we may go and look at a lot more because we've now found some fairly serious breaches?

Mr. Tom Wright: They could well come up with that conclusion. They haven't yet.

Mr. Joe Preston: You have no influence over that conclusion?

Mr. Tom Wright: No. Actually, as I tried to explain earlier, this whole set of audit activity is behind something of a Chinese wall and is managed through the department's audit and evaluation branch. When they identify a breach, my organization is relieved of its responsibilities. So all of that is being managed beyond my organization.

Mr. Joe Preston: I understand arm's length, but you can yell through that open space and say, "Hey, look at more of them."

The Chair: Mr. Preston, sorry, your time is up.

I just want to give Mr. Godbout a minute or so. I don't believe he has had any questioning time today.

Mr. Godbout, a very short question, and then we'll get to the other business of the committee.

Mr. Marc Godbout (Ottawa—Orléans, Lib.): It might take more than a minute, Mr. Chair, but I will start.

The Chair: Okay, two minutes.

• (1715)

Mr. Marc Godbout: It's just that from what we've heard on that subject, on that topic, it's like lobbying is a new creature. Lobbying has been here for ages. I know a lot of Conservative lobbyists, former ministers, former MPs.

Mr. McRae, with all the companies and all your experience, have you only seen Liberal lobbyists?

Mr. Graeme McRae: To tell you the truth, we've only used two lobbyists—one provincially, and Mr. Dingwall federally. I don't

know what the previous history was of the gentleman. I don't think he was in politics, the gentleman we used in Ontario.

Mr. Marc Godbout: I must say, from all my experience in business, I have hired Conservative lobbyists. I have hired NDP lobbyists when they were in power. There are still some around. I guess all these firms have sort of an equal balance, just in case of who is going to form the government.

I just want to make clear that a lobbyist is not a Liberal creature, which I'm hearing today. I know there are some in the province of Quebec who relate to the Parti Québécois.

I'll go now to Mr. Conacher. If you had your wish, would you completely ban lobbyists?

Mr. Duff Conacher: No, not at all.

The Chair: You can answer in 30 second or less, Mr. Conacher, and then we have to get on to other business.

Mr. Duff Conacher: Sure.

You can't stop that kind of communication. There will be organizational lobbyists, even if there aren't the so-called hired-gun lobbyists. Those organizations will be stakeholders making representations to government, and it should be done as transparently as possible and as ethically as possible.

The system is a scandal that dates back decades, as you mentioned. For 138 years we've had secret lobbying, unethical lobbying.

Legal? It's still legal.

Mr. Marc Godbout: At the end, should lobbying be banned?

Mr. Duff Conacher: No, you can't ban it, otherwise the government doesn't engage—

Mr. Marc Godbout: Well, if you could, would you ban it?

Mr. Duff Conacher: No, I wouldn't.

Mr. Marc Godbout: So you still agree that you will hire people to complete forms, hire people to talk to people, and so on.

Mr. Duff Conacher: No. If the government is set up properly, every—

Mr. Marc Godbout: Then you don't need any lobbyists. That's my point. I'm not saying I'm against what you're saying. I'm only saying that if you really want to clear the air, you can't do it in half measures.

Mr. Duff Conacher: On contracts and—

The Chair: A very short reply, Mr. Conacher, then we have to suspend this portion of the meeting.

Mr. Duff Conacher: On contracts, grants, contributions, spending of money, all of the systems should be clear and merit-based so that nobody needs somebody to help them get over any barrier. The barriers shouldn't exist if the government is structured properly and decision-making is merit-based.

The Chair: Thank you very much, everyone.

Mr. Marc Godbout: Mr. Chair, could I just, to the committee, since I'm cut off on my time here...?

Mr. Wright has alluded to the fact that in TPC he's not the one looking after the criteria for what we call success fees. If we're here next week, I'd like to hear who is responsible for those particular criteria in TPC. I'd like to know how.... Mr. Conacher has criticized it, and maybe he's right—I don't know. But I think we should go further on that matter, if we are here.

The Chair: Okay. Thank you, Mr. Godbout.

Thank you, gentlemen.

From Bioniche Life Sciences, Mr. McRae, thank you very much for coming. From Democracy Watch, Mr. Conacher, thank you. And from the Department of Industry, executive director, Technology Partnerships Canada, Mr. Wright, thank you.

We'll suspend for two minutes and then come back to the other business of the committee.

• (1718) _____ (Pause) _____

• (1722)

The Chair: We'll start with the committee business now, which we left till the end of the meeting. There are two or three issues we have to deal with. The first is the issue of Mr. Dingwall's not showing up.

Hon. Diane Marleau: Mr. Chair, no, I'm sorry. You said you were going to deal with my motion about the supplementary estimates. There is no notice of motion about Mr. Dingwall.

The Chair: If I could, Madam Marleau, this is an issue that has already been before the committee. Normally, you deal with old business first, and then we get to new business.

Hon. Diane Marleau: So were the supplementary estimates. They've been before us for some time, and we haven't looked at them yet.

The Chair: We will have time to discuss that, Madam Marleau. We'll just deal with this issue, get right to that. We'll deal with them as efficiently as we can.

Now, Mr. Preston, it was your motion, I believe, that was passed by this committee, not inviting Mr. Dingwall to come, but in fact stating on quite strong terms that he come to the committee meeting. I believe twice he actually agreed to come, and both times he backed out. If you could just—

Mr. Joe Preston: I'll speak quickly, because I want to get to other things too.

By his letter of today, it showed that he had really no intention of coming. That's truly what it looked like to me.

I'd like to also mention that the minister was also asked to be here and sent a letter instead of coming, so it has become now apparently an optional project, in that ministers can come to committees when they're asked or not come to committees when they're asked. I think we certainly need to talk both about the minister not showing up, and, in much stronger terms, about Mr. Dingwall not coming after having him tell us he was coming two different times, with us being ready for him to be here.

The Chair: Can I make a point before we go on? We're not sure what's going to happen with the vote, but we probably have a pretty good idea. After the election, when a new Parliament is in place,

there will be a new committee struck for government operations and estimates. At that time, this committee can choose to come back and deal with this issue.

We can do different things—

Mr. Joe Preston: Can we ask that new committee to do that?

The Chair: We can, but they're not bound by it. It would be a suggestion that the clerk could take to the next committee, asking them whether or not they want to deal with that. We could choose to do that.

• (1725)

Mr. Joe Preston: I would suggest that. If that's the bare minimum we can do, then let's do it.

The Chair: Is there any other discussion on this?

Mr. Szabo, and then Mr. Desrochers.

Mr. Paul Szabo: I understand the point that the members are raising, but as you know, first of all, committees are masters of their own agenda. We can certainly make recommendations, but whenever a committee does work, particularly after an election, they very much will look at what the activities of their predecessor committee were and what outstanding items may have been there. It's almost a moot point.

I don't think we can do anything other than report, if you wanted to report—although there's no opportunity to table a report, unfortunately—maybe just for our minute purposes, that the committee felt the appearance or non-appearance of persons has been a problem. This committee might want to look into not just this case, but the generality, and make a report that might be sent to the House and might be referred to the procedure and House affairs committee, if that's the will of the committee.

Committees need to do their work. I don't disagree that we need to understand fully, but there has been this confusion. I thought we were meeting on Thursday. I think Mr. Lunn's motion was that we have Industry, Mr. Dingwall, and Bioniche, or even if just one of them. I don't know why that meeting wasn't then, but we might have been able to determine that there was a problem getting people here at that time and we might have been able to deal with it. I can tell you that I was a little disappointed that we didn't go forward with our Thursday meeting in some fashion, because it would have pre-empted this problem that we have now.

So I would simply recommend that for the purposes of minuting this meeting, the consensus of the committee is that the issue with regard to the failure to appear on invitation, without proper explanation, be looked at by parliamentarians, with a view to coming forward with an appropriate policy.

The Chair: I will make a comment on the Thursday meeting. We couldn't get the witnesses that day, in fact, and they did agree to come today.

Mr. Paul Szabo: Mr. Chairman, I thought we were told at the meeting on Monday that Bioniche had agreed to be here on Thursday.

The Chair: They couldn't be here in the morning on Thursday, which is the time we had agreed upon. It couldn't be arranged.

Is there agreement to go the way Mr. Szabo has proposed?

Mr. Martin, go ahead.

Mr. Pat Martin: No, Mr. Chair. I'd like to leave a much stronger record of what happened here by directing the clerk to notify Mr. Dingwall that he is to attend a specially called meeting of this committee for 9 o'clock tomorrow morning. We believe the Prime Minister, if he is going to take a walk, will take his walk at around 10:30. I believe we would be justified and within our power to summon Mr. Dingwall to be here for 9 a.m., and that we could convene a specially called meeting, if for no other reason than to dress him down for the insult to and contempt for Parliament that he has demonstrated here, as a closing conclusion to our committee's dealings with this file.

The Chair: Mr. Martin, I would just like to be clear about this. Are you proposing a formal summons of Mr. Dingwall?

Mr. Pat Martin: We don't need to go to a formal summons. When this committee calls a witness, that is a formal summons, and it can be enforced by law. It has the power of law, so if a person refuses, then we need to engage the RCMP, or whoever it is, to pick him up for us.

The Chair: Mr. Martin, we did call on Mr. Dingwall to appear. It was a very strong message. We did not summon Mr. Dingwall, which we have the legal authority to do.

Mr. Pat Martin: If that's the terminology used, then I am recommending that we summon him to appear to a specially called meeting of this committee at 9 a.m. tomorrow.

The Chair: Yes, a point of order, Mr. Szabo.

Mr. Paul Szabo: We're in this awkward situation where it is now 5:30, when this meeting is supposed to end, and I really want to get on to this other motion, or else I guess the meeting is adjourned. If the House falls tonight on a vote, the House is dead. Although I understand the intent—

• (1730)

Mr. Pat Martin: This Parliament doesn't end until we give notice to the Governor General.

Mr. Paul Szabo: No, that's not the case.

In any event, Mr. Chairman, I understand my colleague's issue, but I would simply ask him if he would please yield on the point—he's made his point—and allow us to consider the supplementaries right now. We're prepared to stay for a few minutes longer, but—

Mr. Pat Martin: When do you intend to do those supplementaries?

The Chair: Order.

Mr. Szabo, please continue. Finish your point.

Mr. Paul Szabo: I'm just asking about a matter on which there was a proper 48-hour notice and it must be dealt with by the committee. It would be unfortunate if the committee didn't fulfill its obligation to deal with a motion with due consideration. I would be interested in the member's recommendation on whether or not we simply want those problems to be deemed, or whether or not this committee gave any input whatsoever. That's why the motion is here.

The Chair: Okay, Mr. Szabo. Right now we're dealing with Mr. Preston's motion and the fact that Mr. Dingwall decided not to come

to this meeting after he'd agreed to come. Is there a quick way we can dispose of this matter? Is there anybody who wants to offer a quick and easy way out here—a quick way out, anyway?

Mr. Gary Lunn: Mr. Martin has put forward a motion, and I would just add that he would make a friendly amendment that he would order Mr. Dingwall to come at 9 a.m., in the strongest terms, in the language that has to be used by the parliamentary procedures, and the clerk would know that...just so the language is in conformity with the rules of the committee. And I'd call the motion and then—

Mr. Francis Scarpaleggia: Excuse me, excuse me—

The Chair: Can you wait just a minute, please, Mr. Scarpaleggia? I'll get to you.

Mr. Martin, do you agree with that? Had you made a motion?

Mr. Pat Martin: Yes.

The Chair: Okay, I'm sorry, I should have realized that and recognized that. Your motion.... Are you agreeing to this as a friendly amendment?

Mr. Pat Martin: Yes, I agree to that friendly amendment. We'll put it in the correct language to make it so.

The Chair: Thank you, Mr. Martin.

Mr. Scarpaleggia.

Mr. Francis Scarpaleggia: I have no objection to requiring Mr. Dingwall to be here. I just don't want to vote on something that is not procedurally correct or legally sound.

Mr. Gary Lunn: We just made an amendment so the clerk has the authority to make it in the procedurally correct language.

Mr. Francis Scarpaleggia: Can we just order someone here, and, as Mr. Martin said, call the RCMP to bring him in? We're dealing with excessive hyperbole here. I'm not going to vote on a motion that is not correct.

Mr. Gary Lunn: I am familiar with that. There is very specific language the clerk must use, but we have the ability to compare—

Mr. Francis Scarpaleggia: I want to see the motion. Let's have the motion. We're not going to write blank cheques to the opposition to simply make up explosive language.

The Chair: Mr. Martin, I'd better get clarification on your motion. Did you, in your motion, ask for a summons? Did you ask this committee to summon Mr. Dingwall?

Mr. Pat Martin: Yes, I did...to summon Mr. Dingwall to appear before a specially called meeting of this committee at 9 a.m. tomorrow. I would leave it at that. If he failed to attend, he would be in contempt.

Mr. Francis Scarpaleggia: Excuse me—

The Chair: Excuse me, I just want to find out, before we have any further discussion on this, whether that process in fact could take place.

Mr. Francis Scarpaleggia: That's what I'd like to know. I don't disagree with the intent.

The Chair: The clerk has informed me that we could do it. Until the Prime Minister has dissolved the House, we could do it.

On a practical term, whether Mr. Dingwall is within range of arriving by that time is unknown, but we could go ahead with the motion, if you'd like to do that.

We've got a motion before the committee. There has been a friendly amendment to the motion. I believe that Mr. Scarpaleggia and Mr. Szabo have indicated they want to hear the motion.

Mr. Francis Scarpaleggia: Absolutely, I'd like to.

The Chair: The motion is that Mr. Dingwall be summoned to appear before the committee at 9 o'clock tomorrow morning.

Is there any discussion on this motion?

Yes, Mr. Godbout.

• (1735)

Mr. Marc Godbout: I don't have a problem with Mr. Dingwall being subpoenaed to appear at this committee. We could technically exist tomorrow, depending on the vote tonight, and I don't have any problem with that.

But a timeline of 9 o'clock defeats the whole motion.

The Chair: Mr. Martin.

Mr. Pat Martin: Thank you.

The only reason that I recommended it is because we have reason to believe that the Prime Minister will visit the Governor General at about 10:30, and this committee then in fact ceases to exist.

Mr. Marc Godbout: Mr. Chair, could I rebut that?

The Chair: Yes. Go ahead, Mr. Godbout.

Mr. Marc Godbout: On the fact that we can reach Mr. Dingwall, the fact that he has a time to consider, and all of that, we obviously know this will not happen by 9 o'clock tomorrow morning.

Mr. Pat Martin: I think that excuses like illness or the inability to physically get here would be reasonable excuses.

Mr. Marc Godbout: Whatever the case is, I'm saying that if we want the motion to have life, because we don't know what's going to happen and we can't presume what's going to happen, let's have Mr. Dingwall subpoenaed at the earliest time that the clerk can do the process to get it done.

The Chair: Thank you for your input, Mr. Godbout.

Mr. Scarpaleggia.

One issue here is on a question that hasn't been dealt with. What happens if for some reason Mr. Dingwall can't make it by that time? I believe the committee should consider that.

Mr. Scarpaleggia, and then Mr. Lunn.

Mr. Francis Scarpaleggia: Mr. Chair, I think that's an excellent point. If you're going to pass a motion, you should attach to that motion what the consequences are. I think it's a very good point.

My question is this. This is procedural or constitutional. As of 6:45 tonight, if the House has lost confidence in the government, has it lost confidence in committees? At 9 a.m. tomorrow, we'd be having a meeting in which the House has absolutely no confidence.

I'm just asking that question.

The Chair: Thank you, Mr. Scarpaleggia.

Mr. Lunn.

Mr. Gary Lunn: The confidence motion is against the government, which is the cabinet; it's not against all the parliamentary committees or the parliamentarians.

Parliament continues to legally exist until the Prime Minister visits the Governor General. The reason for the time in the motion is clearly because everyone around this table fully expects the Prime Minister to dissolve Parliament somewhere around 10:30 or 11 tomorrow, and they would like the opportunity to have the motion.

For those reasons, I would ask that we call the question. Beyond 11 o'clock tomorrow, it's going to be a redundant matter. If we're going to actually have a chance to bring him here, I would ask that we call this motion to question and at least make an attempt to bring him here before we expect Parliament to be dissolved.

The Chair: We are just looking for some clarification. Right now the clerks are trying to get an answer as to what happens if we have a successful vote tonight, if Parliament hasn't been dissolved—that issue, and the summons, and what happens if there's not enough time. How do we deal with that?

Mr. Rajotte.

• (1740)

Mr. James Rajotte: Call the question.

Mr. Paul Szabo: Mr. Chairman, I'm not even sure some members are going to be here tomorrow, because they're leaving tonight.

An hon. member: They can get substitutes. That's the whip's problem.

Mr. Paul Szabo: We need to be realistic on this thing. It's a stunt.

Mr. Gary Lunn: We're putting on the record that we would like Mr. Dingwall before the committee. It's a legitimate motion; it's ruled in order. I'd like to call the question.

The Chair: Order. The situation is that if we pass the motion here, and Parliament is dissolved, then the motion doesn't exist any more. So let's go ahead with the question.

Do you have a point of order, Mr. Szabo?

Mr. Paul Szabo: If the committee passes any motions at this time, does the committee not have to report to the House these matters for it to be formally transmitted, so that there would be, on the record, a proper direction to the...? I'm not sure whether it's the Sergeant-at-Arms, but whoever it might be?

The Chair: No, Mr. Szabo; in fact, I looked into this before, and the answer to it is no. The committee can do this on its own, without reporting to Parliament.

Mr. Scarpaleggia. Then we'll go to the question. The time is moving.

Mr. Francis Scarpaleggia: Mr. Chair, I think it is incumbent upon you, before calling this vote, to wait until the conversation is over that the officer of the House present here is having with somebody else. I believe she's seeking information, some clarification.

Secondly, I'd like to know, what are the consequences if Mr. Dingwall does not show up? I'd like to know this before I vote on a motion. It's not so much about the enforcement, but at least the consequences.

It is incumbent upon you, Mr. Chair.

The Chair: Mr. Martin is next, then Mr. Desrochers.

Mr. Pat Martin: I think, to answer the very legitimate question Francis has, the consequence of failing to comply with this summons is that you would be in contempt. At that point, any number of things could flow, but we don't have to outline those or detail them now. That opens up a range, a spectrum of options, if we're still constituted as a committee—which frankly we won't be.

The Chair: Mr. Martin, the committee would have to recommend to the House that a witness be found in contempt, and of course the motion would have to pass in the House for that to be deemed.

Let's go to the question.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: Now we go to the second motion.

Madam Marleau.

Hon. Diane Marleau: I would like to say that we're going to accept the supplementaries. Do you want to deem them—

An hon. member: That's a stunt.

Some hon. members: Oh, oh!

Hon. Diane Marleau: Do you want to deal with them, or not?

The Chair: Madam Marleau, do you want to read your actual motion? Or do you want me to read it? It's very short.

Hon. Diane Marleau: I think we're beyond the time.

An hon. member: We've all read it.

The Chair: The member said they've all read the motion, so let's go ahead—

Hon. Diane Marleau: Do you want them deemed to have been received and accepted?

An hon. member: Question.

The Chair: Everybody has read the motion.

Let's go to the question on the motion.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: The meeting is adjourned.

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