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# **Standing Committee on Access to Information, Privacy and Ethics**

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**EVIDENCE**

**Thursday, December 1, 2011**

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**Chair**

**Ms. Jean Crowder**



## Standing Committee on Access to Information, Privacy and Ethics

Thursday, December 1, 2011

•(0845)

[English]

**The Chair (Ms. Jean Crowder (Nanaimo—Cowichan, NDP)):** The business at hand today is to deal with the witness list on the statutory review of the Lobbying Act.

As a point of information, we had agreed we would try to get the privacy commissioner in next week to deal with the report, and then the lobbying commissioner, and neither is available next week.

I have spoken to Mr. Boulerville and Mr. Del Mastro, and Mr. Del Mastro felt we should hold off on scheduling anybody for next week until we had the meeting today. His preference on the Lobbying Act is that we hear from the lobbying commissioner first, to set the framework for the lobbying study. At this point she's scheduled for Tuesday, December 13. We can make a decision today about what we want to do next week.

I believe the clerk has circulated the list of witnesses that had been proposed.

**A voice:** In the last Parliament.

**The Chair:** Sorry, in the last Parliament.

And you have not received any others.

These are the witnesses who were proposed in the last Parliament for the study that commenced in March. In my view, we need to decide on the witness list today, the length of the study, and provide some direction to the analysts and the clerk around scheduling.

I'm at your mercy.

Ms. Davidson.

**Mrs. Patricia Davidson (Sarnia—Lambton, CPC):** Do you have another list of those witnesses? I don't seem to have one.

Thank you.

**The Chair:** To reconfirm, this was the list that was submitted in March, in the last Parliament, when the study was commenced. We haven't received any other names since Tuesday.

Monsieur Dusseault.

[Translation]

**Mr. Pierre-Luc Dusseault (Sherbrooke, NDP):** Is it possible to add names to the list at this time?

[English]

**The Chair:** At this point there is no list. To be clear, the list you've got before you is the list of witnesses from the previous study.

We have received no names for the current study. This was a bit of guidance for you about who had been requested to appear before the committee when the study was commenced back in March.

This is just for your reference, and we are now looking for names you would like to see called as witnesses.

Monsieur Dusseault.

[Translation]

**Mr. Pierre-Luc Dusseault:** We have 10 names to add to the list. Should I list them off right now one by one?

They are not all new names. Some are the same.

[English]

**The Chair:** Since we didn't actually receive a list of witnesses today, it's going to be difficult to make a final decision.

What I would propose is that you need to make a decision as a committee about how you're going to approach this study and then talk about who the witnesses might be. We could then have the list of witnesses submitted and meet on Tuesday to finalize the list.

Just as a point of information, I understand this committee does not operate with a subcommittee to look at developing the agenda. Is that correct?

**A voice:** That's right.

**The Chair:** Okay.

Monsieur Dusseault, I think we need to talk about whether you want to proceed as the study was the last time around or you want to proceed in a different fashion. It was a broad umbrella study—you know, a 30,000-foot study—rather than getting into individual lobby groups and what not.

I think that's what you need to decide before we talk about the witnesses that were proposed.

As the clerk points out, it's also helpful to determine how many meetings you want to spend on the study, because that helps to shape how many witnesses you want to call.

Mr. Del Mastro.

•(0850)

**Mr. Dean Del Mastro (Peterborough, CPC):** Thank you, Madam Chairman.

With respect to witnesses, we're not prepared to submit our formal witness list at this point. We do have some witnesses in mind, and we have some others we're considering.

What I would like to propose is that we agree to submit a witness list by five o'clock tomorrow. We could then finalize that next week, as a committee. I think that's more reasonable. The list that's been suggested by the previous committee is certainly helpful. We'll have a look at that and consider it and move forward that way.

I would suggest, and this is open to other members for comment, that no more than eight meetings would probably be sufficient. I've had a brief look over the lay of the land with respect to the Lobbying Act, and I think we could probably complete a review in that much time.

**The Chair:** Mr. Del Mastro, I have a point of clarification and a couple of things about that.

In terms of the scope of the study, when you're talking about eight meetings, are you still proposing that it's sort of that high-level overview of the Lobbying Act?

I should add another piece of information. The proposal, when the lobbying commissioner comes before us on Tuesday, December 13, is that she would provide an overview of the Lobbying Act, and then she would provide another piece of material, both on the investigation process—because that was something the committee raised previously—and recommendations for changes to the Lobbying Act. So it would be a fairly extensive meeting with the lobbying commissioner, because I think Mrs. Davidson is the only person who was on the previous committee.

**Mr. Dean Del Mastro:** I was going to recommend, for the benefit of committee members, if the committee so chooses, that officials from Treasury Board could be here next week to provide an in camera tutorial to members, just to give them an introduction to the Lobbying Act and to answer any specific questions they have about the Lobbying Act. But, really, it would be just a very basic introduction to what the Lobbying Act is, what it does, who it impacts on, and what the requirements of it are. If members are interested, my understanding is that they would be available to come in Tuesday or Thursday to give a very general, brief overview, so that we might be better prepared for the lobbying commissioner's appearance. But that's entirely up to members of the committee, if they feel they would like that.

**The Chair:** Before I come to that, I have a couple of points of clarification.

Mr. Del Mastro, just to be clear, you're proposing that the lobbying commissioner's staff come in next week in one of our meetings?

**Mr. Dean Del Mastro:** Treasury Board.

**The Chair:** Treasury Board. I'm sorry, I missed that piece. Treasury Board, to provide an overview for members on either Tuesday or Thursday next week.

**Mr. Dean Del Mastro:** Right, just to foster the background knowledge of members, if they want. It's not something that I'm suggesting members have to have. It's elective. If people would like that, then I believe that if the clerk sought it, he would find that they'd be available for that. If it's not the will of the members of the

committee, then we can proceed by starting this study with the lobbying commissioner.

**The Chair:** Okay.

The second point of clarification for me is the eight meetings you're proposing. Are you suggesting that those eight meetings include both the presentation of the lobbying commissioner and the final meeting, where we would be providing instructions to the analysts?

**Mr. Dean Del Mastro:** Yes.

**The Chair:** Okay.

The clerk has pointed out that in the normal course of events Treasury Board would likely be called as a witness, and would likely have recommendations. So if they were to come next week, it sounds like it might be worthwhile to have it as a formal meeting, so that they could provide an overview, plus provide their list of recommendations, rather than calling them back at another point in time.

**Mr. Dean Del Mastro:** Okay. That's not really the purpose of this. This would be simply to provide background to members.

**The Chair:** Okay.

● (0855)

**Mr. Dean Del Mastro:** If you'd like to recall them as a witness to provide recommendations, you can do that as well.

**The Chair:** Okay.

**Mr. Dean Del Mastro:** But this would just be a very informal briefing—not as a witness, but a briefing—about the background of the Lobbying Act, what its implications are, and what it's all about. So it would be a briefing provided to members just to prepare them to go into the study.

**The Chair:** Just to be really clear, what we would actually then have is not really a formal committee meeting, we would have an in camera briefing from Treasury Board.

**Mr. Dean Del Mastro:** In camera briefing, yes.

**The Chair:** Great, thank you.

Mr. Angus.

**Mr. Charlie Angus (Timmins—James Bay, NDP):** I have a couple of things.

We were under the understanding we had to have our witness list together for today, so we have one. I prefer, for developing witness lists, that we actually have a time when the witness list is handed around to all committee members, so that nobody ever feels they're being jumped at the last minute. We could read off our list and you might be asking, "Why? Who? What?"

I don't think it gives people adequate preparation, so I support Mr. Del Mastro. Let's put in our witness list, and then we can pass it around. We might have common witnesses. It gives us all a better understanding in preparation to go in and choose the witnesses.

I don't know what my colleagues think about the eight sessions for this. They might have differing views. I'm inclined towards an initial agreement. I don't know if that's—

**Mr. Dean Del Mastro:** That would be great.

**Mr. Charlie Angus:** If we find that we need to expand, I prefer that.

I'm uncomfortable about charting out now whether we're doing 50,000 feet or ground at this point. Whenever you get into a study, you need to see where you're going. We need to start out high, I think, because we need to see what the general lay of the land is, and whether there are lessons to be learned, and then we will go into the Lobbying Act. So I would be worried about prescribing it.

My question to Mr. Del Mastro is about this briefing in camera. I'm concerned about it, because if we're briefed about background and then we're doing our work at committee, if we've been told something in camera, then inadvertently we might end up damaging the committee because we say something based on what we were told. I just want to understand why he thinks it would be better to do in camera, rather than just do a briefing.

**The Chair:** Before I go to Mr. Del Mastro, there's a point of clarification for Mr. Angus. The proposal is that people would submit their names by 5 p.m. on Friday. We would then circulate those names to everybody and on Tuesday we would come back together and have an agreement.

**Mr. Charlie Angus:** Yes. I totally agree with that. I think that's a good way to do business.

**The Chair:** So before I go to Mr. Trudeau, Mr. Del Mastro.

**Mr. Dean Del Mastro:** The thinking on this is that it would just be a very free forum for members. Rather than it being a formal committee meeting, it would be a free forum for people if they have questions, if they're not sure of something. I want people to be free to ask whatever questions they want without being concerned as to whether or not there's going to be a story written on it tomorrow about your lack of understanding of the Lobbying Act when we're really just getting into it.

**Mr. Charlie Angus:** [*Inaudible—Editor*].

**Mr. Dean Del Mastro:** I'd like it to be a platform whereby people feel free to ask any questions they've got. As I said, we can bring these folks back later as formal witnesses to the committee, to provide recommendations or what have you, but I think initially it would be good for members just to get a good understanding, or at least an introductory understanding, of what the Lobbying Act is, to provide some background, that's all.

**The Chair:** If I could, Mr. Del Mastro, that's a fairly common occurrence. This is not really a committee meeting. It's more a briefing for members who are interested, so it's different. It's not like having people come as witnesses.

Mr. Trudeau. Welcome to the committee.

**Mr. Justin Trudeau (Papineau, Lib.):** Thank you.

I just want to support what the general consensus is. I think it makes sense not to define too much what the study is going to be, what level it will be at. We should allow that to flow a little with a certain amount of flexibility to pursue avenues of interest or inquiry that are perhaps brought in by witnesses at one point, or specifically by the information commissioner.

I'm not opposed, but I'm a little wary of the idea of a briefing by the same people who we're going to be asking to testify possibly and

challenge as witnesses. It's not necessarily a terrible thing, but if we're having them first as teachers and then we're having them as people we're perhaps cross-examining a week later or two weeks later, I think we need to be mindful of the dynamics we set up. Perhaps it does help to have it in camera, or perhaps it is counterproductive to have it in camera. We could discuss this a little further, that detail, on Tuesday. But certainly having them in on Thursday to give us all a grounding.... If I'm still here next week I'm going to want to have a little more knowledge on it, and I'm sure some others won't mind.

So I'm supportive of that, as long as the plan of eight meetings is potentially expandable as a duration. That's important, because we don't yet know what sort of scope or details we're going to be studying. But I'm supportive.

● (0900)

**The Chair:** Ms. Davidson.

**Mrs. Patricia Davidson:** Yes, thanks.

I'd like to ask the clerk something. This is the statutory five-year review that we are obligated to undertake. That's what we're going into right now. So are there any parameters that are in place from the letter that is requesting us to do it? I can't recall what was in that letter.

**The Clerk of the Committee (Mr. Chad Mariage):** Thank you.

Madam Chair, I'll defer to my analyst colleagues on that question. In the act it's pretty vague, but I'll let them answer.

**Mrs. Dara Lithwick (Committee Researcher):** In terms of the reference for the review, the order of reference itself.... I'm just opening it up right now. The order of reference itself does not specify any aspects of the act to focus on. It's just that by unanimous consent it was ordered that the Standing Committee on Access to Information, Privacy, and Ethics be the committee designated for the purposes of subsection 14.1(1) of the act, which is the statutory review portion. So it's as open or closed as members wish.

**The Chair:** Thank you.

Are there any other speakers?

Monsieur Dusseault?

[*Translation*]

**Mr. Pierre-Luc Dusseault:** I would just like to add one thing. If we plan to have eight meetings, it would be a good idea to allow for the possibility of additional meetings if necessary. Say, for instance, we realize that certain things in the legislation need to be amended or that a more thorough study is called for, we need to be able to hold 10 or 12 meetings, as the case may be, instead of 8.

Furthermore, I have a problem with the idea of going in camera when we meet with the commissioner and the Treasury Board officials. I think there is going to be some repetition. I am having a hard time seeing the difference between the in camera briefing in preparation for the study and the questioning of the witnesses afterwards. If I have questions to ask in private, I will ask them directly. I don't need an in camera meeting to do it.

[English]

**The Chair:** With your permission, I would say something about that.

These are not the witnesses who we would call to the committee. It's actually background information. It's not intended to be the place where you would be asking more questions about the statutory review. Particularly for many members who haven't been involved with this committee or with this piece of legislation before, it's intended really to give you the background rather than the detail that would normally be here, and I would suspect it won't be the same people who would come for the briefing. In my experience, it's never the same people who come for the briefing who actually come when they're called as witnesses. So it is intended as an informational piece, as an educational piece, rather than as a witness piece.

Monsieur Dusseault.

[Translation]

**Mr. Pierre-Luc Dusseault:** Why couldn't the public receive that same background information before we begin our study?

[English]

**The Chair:** Often what happens with these briefings is they're not held during committee time. They're often held outside of committee time and members can choose to come or not. They're much more informal, much less structured. They're a way to let committee members really get at the information they need in order to question the witnesses when they come before committee.

It happens to be convenient to hold it within committee time, because we actually don't have a witness. So it's not going to be a formal committee meeting. It's a committee meeting, but it's a different kind of committee meeting.

Mr. Trudeau.

**Mr. Justin Trudeau:** I just have a question then, perhaps for clarity. It doesn't really matter, because we've indicated the willingness to expand it, but perhaps we could not consider that meeting as being part of the eight meetings we've allocated to that and that would perhaps make it clearer.

**The Chair:** I would agree with you. I'll just get the clerk to talk to the eight meetings piece.

**The Clerk:** Thank you, Madam Chair.

The suggestion to identify a certain number of meetings is really just an administrative exercise for me to know how many days I can play with when I'm looking at the witness list and trying to fit people in.

There's no need to formalize eight days. If the committee wants to expand on that eight days, that's fine. It just gives the clerk a starting point in terms of knowing which days I can schedule certain witnesses on if they're not available on one given day.

• (0905)

**The Chair:** Mr. Del Mastro.

**Mr. Dean Del Mastro:** Yes, just to the clerk's point, it also gives members some idea as to how many witnesses we should come forward with and what the initial final witness list should look like. That way, if we get to the end of that witness list and we feel there's

more that we need to know, then we can certainly call more witnesses.

I think it's merely to give us all a little guidance to have an understanding of how many witnesses we should be bringing forward. We don't want 200 witnesses for an eight-session study. I think it provides us all a little bit of background.

**The Chair:** Because I'm new to this committee, I need to ask, does this committee normally accept written briefs for witnesses who can't appear?

**Mr. Dean Del Mastro:** We can, absolutely.

**The Chair:** Okay, good.

So I'll just recap where we're at. People will submit their list by five o'clock on Friday. The clerk will put them together and distribute them to all committee members. We will have a meeting on Tuesday to review the witness list and confirm the witnesses; and the clerk will arrange that informal briefing with the Treasury Board officials proposed for Thursday.

Mr. Angus.

**Mr. Charlie Angus:** Yes, just to clarify so we're very clear, it's not part of the eight meetings. Will it take place here?

I think probably what people are thrown off a bit by on in camera is that we made this decision that we were going to do everything not in camera, so people checking the transcripts might wonder why we're going in camera here.

When I was on the agriculture committee, we would get briefings on WTO talks that weren't part of the normal committee process. That was our work as parliamentarians so we understood what was happening in the trade negotiations. When we were on the heritage committee, we occasionally got briefings separate from ministerial staff.

It's not very common, though, that you phone Treasury Board and say you want a briefing on what's going on with lobbying, because it does seem so politically charged. We're in a bit of a different committee here.

I understand the offer of a briefing. Will it take place here, or do we go—

**The Chair:** The clerk just clarified for me that we actually have to have it as an in camera meeting so that there's no breach of privilege. If it's going to be something outside of the meeting time, that's a different matter. So it will be here or whatever room we're assigned to.

Mr. Carmichael.

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

Just to support the comments, as a new member to the entire process I find the idea of having that briefing helpful to at least build some background so that I'm more productive in the process of evaluating the whole process, or the project. I think that's a good idea, and it sounds to me like we have consensus around the number of meetings, how we scope it, and it sounds pretty loose in terms of everybody getting agreement on getting this job done together.

**The Chair:** That's great. We have agreement.

**The Chair:** Okay.

Is there any other business before the committee?

**Mr. Charlie Angus:** I have my motion, but I'm not ready to talk about it today.

Seeing no other business, the meeting is adjourned.

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