

The Honourable Joseph A. Day, Senator
Chair, Standing Senate Committee on National Finance
The Senate of Canada
Ottawa, ON K1A 0A4

Dear Senator Day,

Re: Bill C-520, an Act Supporting Non-Partisan Offices of Agents of Parliament

Please accept this letter in the context of your deliberations of Bill C-520. As Agents of Parliament, our role is to serve Parliament in a non-partisan manner within our respective legislated mandates. We wish to bring to your attention some areas of concern in relation to the Bill that is now before you.

The purpose of the Bill, as stated at section 3, is to avoid conflicts likely to arise or be perceived to arise between “partisan activities” and the official duties and responsibilities of any person who works in the Office of an Agent of Parliament. It seeks to do this by requiring a written declaration from any employee of the office of an Agent of their intent to occupy a politically partisan position while continuing to function as an employee in an Agent’s office (section 6). In addition, the Bill requires a declaration from any person who occupies a position in the Office of an Agent of Parliament, that in fulfilling official duties and responsibilities, he or she will conduct himself and herself in a “non-partisan manner” (section 7).

A first area of concern is the lack of definition for the terms “partisan activities” found in the purpose of the Bill, and “non-partisan manner” found in the declaration to be made by employees. It is unclear how they would differ from the definition of political activity found in the *Public Service Employment Act* (PSEA).

With respect to the declaration of past “political partisan positions”, that term is defined as including “ministerial staff,” a “member of parliamentary staff,” and a “member of a political staff.” In turn, the definitions of these positions refer to persons who “work” in those offices. It is unclear whether individuals volunteering would be included and consequently whether employees would need to declare volunteer work.

Of serious concern to us is that the Bill requires that an applicant for a position, as soon as possible in the selection process, declare politically partisan positions occupied in the 10 years before applying for the position (section 6). This declaration could impact on the hiring process. While the Bill effectively imposes an obligation on our Offices to collect this information during the hiring process, there is no indication of what process or decision the information is to support or for which it is to be used. As Agents of Parliament and hence Deputy Heads

under the *PSEA*, we have delegated authority to appoint employees based on merit principles outlined in that Act and its accompanying regulations. Consideration of a prior politically partisan position would not be permitted during the appointment process. If an individual had declared prior politically partisan positions and, due to reasons of merit was unsuccessful in obtaining position in the office of an Agent of Parliament, the decision not to employ that individual could be challenged under the *PSEA* on the basis that the declaration impacted the hiring process.

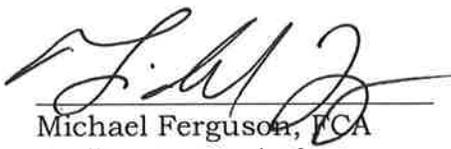
The Bill requires that all the declarations made by employees under the Bill be published on the Agent of Parliament's website. The publishing of declarations raises privacy concerns in relation to personal information being made available in the public domain. It also subjects the employees to unwarranted public scrutiny and risks hindering the independence and execution of the mandates of the Agents of Parliament. Individuals who would otherwise be interested in applying for a position in the office of an Agent may be discouraged from applying in light of the disclosure of their personal information.

As stated above, we recognize the importance of non-partisanship in everything we do. All our employees continue to be governed by the provisions of the *PSEA* and its regulations, regarding any political activities. They are also subject to the *Values and Ethics Code for the Public Sector* which provides that employees must carry out their duties and functions in a non-partisan and impartial manner. The coverage of the Bill is very broad, as it applies to all who work in the Office of an Agent of Parliament irrespective of position, level of responsibility, accountability and decision making authority.

Finally, considering the concerns enunciated above, as well as the existing mechanisms to ensure the absence of partisanship, we are of the view this Bill is unnecessary. It will have an impact on our employees' privacy rights and our independence, without furthering the objective the Bill is attempting to serve.

We thank you for considering the concerns we have raised in this letter. We would welcome the opportunity to appear before the committee during its review of Bill C-520 to further discuss these issues.

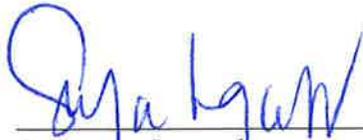
Yours sincerely,



Michael Ferguson, FCA
Auditor General of
Canada



Karen E. Shepherd
Commissioner of
Lobbying of Canada



Suzanne Legault
Information Commissioner
of Canada



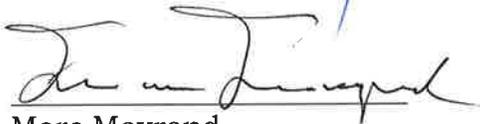
Graham Fraser
Commissioner of Official
Languages



Joe Friday
Interim Public Sector Integrity
Commissioner of Canada



Daniel Therrien
Privacy Commissioner
of Canada



Marc Mayrand
Chief Electoral Officer
of Canada

cc. Jodi Turner, Clerk, Standing Senate Committee on National Finance