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Chair

Mr. Bob Zimmer

Standing Committee on Access to Information, Privacy and Ethics

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• (1530)

[English]

The Chair (Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC)): I call the meeting to order of the Standing Committee on Access to Information, Privacy and Ethics. This is meeting number 84, pursuant to Standing Order 111.1(1), on the certificate of nomination of Mario Dion to the position of Conflict of Interest and Ethics Commissioner, referred to the committee on Monday, December 11, 2017.

I'd like to welcome you today, Mr. Dion, and you have 10 minutes. Thank you.

Mr. Mario Dion (Nominee for the position of Conflict of Interest and Ethics Commissioner, As an Individual): Thank you very much.

Mr. Chairperson, members of the committee, I am truly honoured to appear before you this afternoon to discuss my nomination as the next and second Conflict of Interest and Ethics Commissioner. I sincerely hope that, after we've had a chance to discuss my credentials and my plans, my nomination will be approved by the House of Commons.

As you know, this office was established some 10 years ago as an independent officer of the House of Commons to provide assistance to appointed and elected officials in ensuring that conflicts between their private interests and their public duties are prevented. This was deemed necessary by Parliament to maintain and to further enhance the confidence of Canadians in the House of Commons and its members, as well public office holders.

[Translation]

The Conflict of Interest and Ethics Commissioner is responsible for administering two texts: the Conflict of Interest Code for Members of the House of Commons and the Conflict of Interest Act. The code, which was adopted in 2004 and subsequently amended several times, applies to the 338 members of Parliament. The act governs the conduct of current and former public office holders, including ministers, ministers of state, parliamentary secretaries, staff members, political advisers and the members appointed by the Governor in Council. In her last annual report, Commissioner Dawson, estimated that there were 2,254 incumbents on March 31.

The role of the Office of the Commissioner is first and foremost preventive, although the Commissioner has the necessary powers to investigate when a breach of the code or the act is alleged. This is in

fact what the Commissioner has done a number of times since her appointment in 2007.

[English]

The main responsibilities of the office are to provide advice to individuals whose conduct is governed by the code or by the act, to review the confidential reports that they are required to submit, to establish compliance measures, to maintain a public registry and confidential files, and to administer a penalty regime under the act.

I understand that you've had an opportunity to consult my curriculum vitae. As you know, I am currently chairperson of the Immigration and Refugee Board. I have played a number of roles in the public sector since joining it as a legal adviser. I am originally from Montreal.

[Translation]

However, I am not a lawyer in Montreal. I left that city in 1973 and have been in Ottawa ever since.

[English]

My family moved to the national capital region shortly before I entered law school at the University of Ottawa.

I am married and the father of three adults now in their thirties. I chose the public sector originally because I wanted to contribute to issues that matter to society as a whole, as opposed to purely personal and private interests. I've always been intellectually curious, and I also wanted to ensure that I would not be restricted to the same duties for the duration of my career.

I have been privileged to be able to work in areas that are important to Canadians and that also correspond to my personal strengths as a jurist and as a leader of professionals in the public sector. I spent a total of 18 years at the Department of Justice in several senior positions, including that of associate deputy minister, and four years as assistant deputy minister with the Correctional Service of Canada.

I have been a deputy head since 2003. I've been an agent of Parliament for four years as Public Sector Integrity Commissioner between 2011 and 2014, as well as head of two independent tribunals, the national Parole Board and now the Immigration and Refugee Board.

My most important achievement is, without any doubt, the finalization of the Indian Residential Schools Settlement Agreement in 2005, while I was the deputy head responsible for the resolution of issues arising out of this terrible chapter of our history.

[Translation]

I am therefore a career civil servant, proud to have served Canada and my fellow Canadians. This is what we have in common, whether as members of Parliament, senators or public servants.

• (1535)

[English]

When I saw that Mary Dawson's term was coming to an end about a year ago, I did not apply, as I had a number of objectives to finalize at the IRB. I only decided to apply late this summer after having finalized an action plan to face an almost unprecedented increase in the number of refugee claims being made at this point in time. We've developed a very organized action plan to try to maximize the use of our resources and to increase the number of claims that we are able to deal with, and we have increased by 25% the number of claims compared with last year, with very few additional injections of resources.

I also wanted to recruit a few key senior managers at the IRB before thinking about going anywhere else.

[Translation]

On August 18, when I sat in front of my computer—I think it was a Saturday or a Sunday—I decided it was time to apply for the position of commissioner.

[English]

Even though there wasn't a deadline per se, they were saying they would start to review candidates on July 28. They said that if you wish to apply, you nevertheless can do so afterwards—on the poster itself—so I applied. I got a call in mid-November, basically to invite me to an interview. I was interviewed less than three weeks ago, and here I am today.

[Translation]

I think I have the attributes to meet the requirements of this position that is very important for our democracy.

For 30 years I have been leading groups of professionals in the federal government, jurists, but also people who work in the social sciences and economics. I have the reputation of being a good leader of professionals. I enjoy running teams, planning things, and getting results. I like working on concrete and meaningful things. I love being independent, although I understand that I must be accountable.

For over 10 years, I was the associate deputy minister for Justice John Tait, the first deputy minister to give me those powers. As for the two deputy ministers who followed, they sent me all the conflict of interest issues within the Department of Justice. I have had to make hundreds of decisions about requests for outside activities, publishing papers or articles, and outside legal practices. I had to deal with codes that were constantly changing, and I did so between 1992 and 2003.

I also have some experience with investigations. When I was the public sector integrity commissioner, we conducted about 100 investigations. Those investigations often involved senior officials and took place in a difficult climate. Of course, when someone is being investigated, they are not particularly happy about it. So I had to face

very difficult situations that had to be carried out with great care and discernment.

The position of commissioner also includes an education component, meaning the education of the people who are covered by the code and the act, but also the education of the general public. Both at the Office of the Public Sector Integrity Commissioner and at the Department of Justice, I led a lot of sessions that focused on education, training and teaching things that are often complex. It gives me great pleasure to try to simplify complex things without compromising the accuracy of the systems I'm trying to explain.

[English]

This is essentially why I believe I'm qualified for this position. I would like to make a direct contribution as Canada's second Ethics Commissioner, and I hope that I will enjoy your confidence to do so.

It's always difficult to make statements about one's priorities when you are not fully informed. As you know, everything that Ms. Dawson's office does is confidential, so I don't actually know much. All I know is what I see on the web and what I read in the media, so it's hard for me to launch a very informed description of what my priorities would be.

Based on what I have read—I did allude earlier to the education aspect—I think that's very important. The code and the act are very complex, in my view. Mary Dawson said the same thing three years ago when she appeared before this committee. They are complex. Therefore, it's hard to imagine that every public office holder is able to essentially, within a few hours, grasp precisely what is expected of her or him.

I would like to do more education in order to disseminate the information as well as possible. I believe that people are fundamentally honest, that people do not get up in the morning with the intent of breaching the law. Therefore, it's important to make sure they understand what the expectations are. I would like to do more of that.

One of the things I've done in several positions that I've occupied is to focus on trying to increase efficiency, to optimize the use of resources the government makes available to us. Not knowing much about the current operations, I sense that maybe there is potentially more room for increased use of technology, which I would be looking at.

Mr. Chairperson, I once again thank you for inviting me to meet with the committee this afternoon. I will be pleased to answer any questions that members may have for me.

Thank you very much.

• (1540)

The Chair: Thank you, Mr. Dion.

It sounds like a good place to start: trust and efficiency.

We'll start off with Mr. Saini, for seven minutes.

Mr. Raj Saini (Kitchener Centre, Lib.): Good afternoon, Mr. Dion. Thank you very much for coming here this afternoon. We want to assure you that we will greet you very warmly here. We appreciate the three decades of service that you have given to this country. I think that's a phenomenal achievement.

You spoke a bit about education. The context you were speaking of was your own education in terms of the conflict of interest office. There may be some Canadians who may not understand the role of the office, and they may not understand the responsibilities. They may hear it once in a while in the media.

Do you think it's important for Canadians to understand? What do you see as your role in educating Canadians going forward?

Mr. Mario Dion: I think it's important that Canadians understand that there are a number of mechanisms, institutions that exist to continue to improve. We are already seen as a model of democracy, a model of integrity as well. Canada is already very well positioned, but the average Canadian probably does not appreciate fully the institutions that do exist, in addition to this office, to ensure that this remains so. There is a solid foundation, essentially, to ensure that we continue to be solid and to further increase the probity, the integrity of our elected officials.

Albeit that everything, in particular, that the office deals with is confidential, I've had a media presence in previous positions. To the extent that it would be possible and compatible with the duties of this position, I have a natural tendency; I like doing media, unlike several of my former colleagues. This position has clear limitations, of course. This is not, first and foremost, a public relations position. To the extent possible, I would like to use the media as well to try to increase the understanding of the position and its role in maintaining integrity within government, within the legislative branch. I would be looking at that.

Mr. Raj Saini: I want to ask you about the comparison with your current role as the chairperson of the Immigration and Refugee Board of Canada. The decisions that you make on a daily basis have a huge impact on people's lives. In this new role you would be carrying similar weight. You would be making decisions on people's careers, their reputations, and potentially their lives.

How has your experience as chairperson of the board prepared you or will help guide your decisions in this new role?

Mr. Mario Dion: I think decision-making is a discipline. It comes with the ability to analyze facts in an impartial manner, in an objective manner. It is transportable from one area to another.

As chairperson of the IRB, I do not actually make decisions involving refugees and immigrants, but I'm responsible for overseeing, for ensuring that we have the tools for our members. We have about 250 members who make decisions, who are appointed by the Governor in Council or are public servants, depending on which division they work in. My job is to make sure that they have the tools to be in a position to make objective decisions, to make reasonable decisions, and so on and so forth. I have experience in crafting guidelines, interpretation guides, and jurisprudential guidelines.

The ethics commissioner actually makes all the decisions. In this instance, if I'm appointed, although that's a marked difference from what I'm doing now, it's identical to what I was doing as Public Sector Integrity Commissioner, making all the decisions myself.

Mr. Raj Saini: Now, after three decades of running, I'm sure, very different departments in the public service, you've had a vast amount of experience, lessons learned. What lessons have you learned? If

you could, give us some examples of how you would bring those lessons of what you've learned to this new role.

Mr. Mario Dion: I speak often about Pareto's law. I don't know if you've ever heard about Pareto. Essentially, he was a mathematician. One of his theories is that in order to accomplish a certain objective, you basically invest 20% of the time in order to accomplish 80% of the objective. The last 20% takes a lot of energy and effort. Therefore, perfection...the best is the enemy of the good. That's what I've learned. It has to be commensurate to the importance of the issue. Everything cannot always be perfect.

In our society, timeliness is also a very important reality. I've tried to classify, in several positions, what is important, what is slightly less important, to have a system and an approach that actually reflects the importance of what is at stake, and not to treat every matter in an identical way because every matter is not equally important. People should not have to wait several years in order to know the outcome when they make a complaint or when they apply for something, irrespective of what it is in government.

Often we are very risk averse in the public sector, and this creates inefficiencies. That's one lesson.

Another lesson is that, in a society where we have knowledge workers, people really appreciate being given the trust and confidence of their superiors that they know what they're doing, that they are given the tools to do their work, that there is oversight. They really appreciate not being micromanaged. That's a second lesson.

I have several little lessons like that, but I think it would be inappropriate this afternoon to go on further.

• (1545)

Mr. Raj Saini: As my final question, you talked about efficiency and how important efficiency is to you. I know in this new role, you may not be up to speed exactly on how the office works. As you said, you had to read about it in the media.

As an overview, there must be some things that you know already you find compelling, something you would like to take a leadership role on, or some aspect of the office generally where you feel that efficiencies could be improved.

Can you maybe comment on that?

Mr. Mario Dion: As soon as I am appointed, if I am appointed, I'll be speaking with Mary Dawson. She was a colleague of mine for several years, by the way. I know Mary Dawson very well, and as soon as I am appointed, if I am, I'll be talking to her.

I have the organizational chart. It's a small office. It has 48 individuals working in it at this point in time, so that's much smaller than the Department of Justice, where we had 5,000 people when I was there. It seems to be well organized. I know Ms. Dawson is a very well-organized person, but I would have a discussion with her to see how we can improve.

I've mentioned timeliness as one dimension. Another dimension is communications in a way that reflects the times, so not necessarily always by way of a letter. That would be another possible approach. Again, depending on the importance of the matter, sometimes you have to adapt the mode of communication to the importance of the matter as well.

Mr. Raj Saini: Thank you very much.

The Chair: Next up for seven minutes is Mr. Kent.

Hon. Peter Kent (Thornhill, CPC): Thank you very much, Chair.

Thank you very much, Mr. Dion, for being able to appear before us on such short notice.

By your application, I'm sure that you anticipate a very busy time in this office. Certainly, based on the performance of this Liberal government in the past couple of years, one might expect much to investigate.

We're told that Commissioner Dawson is working diligently on a couple of very important investigations that the House is concerned about, two involving the Prime Minister, and the most recent involving the finance minister, but I'm concerned by the word from her official spokesperson that there is nothing to compel her successor to complete investigations still under way or incomplete at the time of the transfer of authority.

I'm wondering if this committee could ask you to assure us that you will, in fact, complete those investigations that are or may be incomplete at the time of your taking office.

Mr. Mario Dion: What I'm able to assure you of is that it would, of course, be among the top priorities. I discussed the issue of prioritization a few minutes ago. Of course, it would be one of the first things I would attempt to review, the whole genesis of those investigations that you are mentioning. If they are not completed prior to my appointment, the entering into effect of my appointment, my job, my responsibility, would be to ensure.... Because I would own the final results, I therefore have to assess what has been done to date to determine whether I am supportive of that, but abandoning an investigation completely without reason is not something I would do. I don't think that would be appropriate by way of a process.

I have to do my own analysis. I have to make a decision as to whether anything needs to be redone, and whether there is anything incomplete, but I will work on those pending investigations, of course.

• (1550)

Hon. Peter Kent: You mentioned part of your learning process is informed by media coverage, and I'm sure you're aware that we in the official opposition are very concerned about the lack of meaningful consultation with opposition parties with regard to the appointment of a new commissioner. Basically the letter that we received a few days ago said take it or leave it. The deadline was Monday, and we are operating effectively under time allocation before the House rises, perhaps as early as tomorrow. Our quarrel is not with you because of that, but I'm sure you're aware of it.

Just in passing, the Liberal House leader on social media just an hour ago released details of the four members of the committee that

interviewed you, I guess three weeks ago. Two of those members are in the Privy Council Office, one is the comptroller general of the Treasury Board of Canada, and the other is chief of staff to the President of the Treasury Board. Because the Prime Minister has had to recuse himself, and because other members of the Prime Minister's Office have had to recuse themselves, this could be seen as something of an imbalanced committee because, of course, as you mentioned, the commissioner's position was created by the House of Commons to serve Parliament, and the House is not represented in the Privy Council Office. That, again, gives us great concern.

That aside, it is undeniable that you've had a long and distinguished career in the public service with a couple of black marks associated with your leadership at different times as the leader of the more challenging organizations, agencies, and departments of government, but I wonder if you could speak to the specifics of the Auditor General's criticisms regarding your time and those two cases in the Integrity Commissioner's office?

Mr. Mario Dion: I'll try to be brief, of course, as the chairperson would appreciate I'm sure. You always have to bear in mind that much of what is the underpinning of those two reports is confidential. Anything that does not appear in the report is still confidential.

With those limitations, essentially under the Public Servants Disclosure Protection Act the commissioner is appointed pursuant to that act. We were basically doing two things. They're still doing two things. Joe Friday, my successor, is responsible to receive complaints of wrongdoing and is responsible to receive allegations of reprisals for people who have disclosed wrongdoing in the past.

There is a provision in the act that says that if somebody wishes to lodge a complaint of wrongdoing that relates to the operation of the office itself, the Office of the Public Sector Integrity Commissioner of Canada, the Auditor General is responsible to handle these things. In other words, the Auditor General does exactly what the office would be doing vis-à-vis complaints made against other organizations. It's as a result of two distinct complaints, these investigations were launched by the Auditor General under the Public Servants Disclosure Protection Act.

When I was appointed there—I said in 2011, and in fact I started on December 14, 2010—it was a few days after a scathing report, as journalists usually put it, by the Auditor General, in which the former Auditor General, Madam Fraser, basically.... I recall precisely what she said. She said she had absolutely no confidence in any policy or procedure that this office had been using in making determinations since its creation. She was recommending very strongly that the new commissioner essentially review each and every one of the 228 files that had been dealt with at that point in time in late 2010.

When I arrived as interim commissioner from a short period in the private sector—I did retire in 2009 and came back on December 14, 2010 as interim commissioner—I was faced with the situation that there was a 50% vacancy rate in the office. We did not actually know how many pending files there were because there was no system whatsoever. We had to attend to a number of things. We had a profound morale problem as well.

In terms of what the Auditor General dealt with in 2012-13 in these two complaints, I admit that we dropped these two balls essentially. I did not dispute the conclusion. The context was very difficult. My responsibility was that of a leader. I was not personally blamed for something I had done myself, but we had an investigator who basically had serious difficulties at that point in time with hundreds of days of unplanned absences. That was a factor as well, as I said in my response in the report.

It was an unfortunate combination of factors that led to these two reports having come to that conclusion. We did not do the work as we should have done it, but it was taking place in the middle of a crisis, essentially, involving hundreds of other files as well.

•(1555)

The Chair: Thank you, Mr. Kent.

Next we have Mr. Cullen for seven minutes.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you, Chair, and thank you, Mr. Dion, for appearing.

I share Mr. Kent's frustration with the process that we are engaged in right now. It sounds like you were interviewed a couple of weeks ago.

Mr. Mario Dion: Yes. I would say it will be three weeks tomorrow.

Mr. Nathan Cullen: Three weeks.... We were given notice just late last week from the government, and here you are today, with Parliament perhaps closing tomorrow. For such an important position to hire for, as you would agree, this may be expeditious, but it is not satisfactory to the opposition, as you can probably imagine. A single name on a letter is not consultation by anybody's definition that I know of.

I have a question for you. You may have said it in your opening comments, but perhaps it's more philosophical.... No, it's not philosophical; it's legal. Who do you believe the position of the Ethics Commissioner works for?

Mr. Mario Dion: It's Parliament, the House of Commons.

Mr. Nathan Cullen: The concern, and I thought you might take the opportunity to address it in your opening comments, is that Mr. Ferguson's audit came in 2014. You'd been the commissioner for the public sector integrity office for how long by that point?

Mr. Mario Dion: The report was tabled on April 15, 2014, so it would have been three years after I came to the office.

Mr. Nathan Cullen: The previous commissioner had some serious problems and left. It's not for your comment, but it's generally understood they left in some disgrace. The department was falling apart. There was, as you said, a scathing previous report from the Auditor General.

I'm quoting now from the AG's 2014 report, which said, "The lack of oversight by PSIC senior managers amounted to gross mismanagement". Do you agree with that finding?

Mr. Mario Dion: Yes, the expression "gross mismanagement" is one that's defined in the act, and his view was that it did constitute gross mismanagement. I don't necessarily agree with his decision that it fits the definition.

Mr. Nathan Cullen: You don't agree with the assessment from the Auditor General.

Mr. Mario Dion: Because gross mismanagement is.... Most statutes leave room for interpretation, but it doesn't matter what I think. The Auditor General made the decision that it fit the definition, and I respect that.

Mr. Nathan Cullen: But you don't agree with it.

Mr. Mario Dion: I don't. I still don't, and I didn't at the time, and I told him so.

Mr. Nathan Cullen: I'm also quoting:

On the basis of the information gathered during this investigation, we concluded that the...Commissioner committed wrongdoings as defined in subsections 8(a) and (c) of the Public Servants Disclosure Protection Act.

Do you agree with that finding?

Mr. Mario Dion: Yes.

Mr. Nathan Cullen: In other words, it was delaying a decision, ensuring that the PSIC managers understood and followed through on their responsibilities, and not having a process in place to manage declared conflicts of interest.

I want to underline that last part a little bit. You're applying to be the conflict of interest commissioner.

Mr. Mario Dion: At the time, the PSIC office did not have a written policy on conflict of interest.

Mr. Nathan Cullen: This is three years after you had taken the job.

Mr. Mario Dion: That's correct, but it wasn't really three years, because the report was tabled in April, but it took them a year to conduct the investigation. It described matters that arose a year before that.

Mr. Nathan Cullen: Okay, but you'd been in the position.... I'm just doing the sequence of time to understand. I know AG reports sometimes cast further back, but this AG report and this particular criticism of not having that policy on conflict of interest written down was at least for the two years—not three years, but two years for certain—under your watch.

Mr. Mario Dion: We did not have a policy, although the general policies, of course, applicable to the public sector were there and did exist.

Mr. Nathan Cullen: Okay. In an earlier response to a question about continuing the investigations, you were not definitive. You said essentially—and I don't want to put words in your mouth—that you wanted to look at the evidence that Ms. Dawson had accumulated on the investigations under which Mr. Morneau, the finance minister, and Mr. Trudeau, the Prime Minister, are right now. Is that—

•(1600)

Mr. Mario Dion: I think it would be my responsibility, if I were appointed as the new commissioner, to review the whole situation.

Mr. Nathan Cullen: Ms. Dawson and others have argued that the act needs to be fixed and not left to the discretion of a new appointee coming in, and that as in a court—as you as a jurist know—any judge coming in midway through a case would be committed to following through on the case. Yet for this commissioner, you have the discretion. It's in your power, and you're not able or willing to commit to following through on these investigations.

Do you think the act needs to be fixed to ensure that investigations continue, regardless?

Mr. Mario Dion: I frankly don't have a view at this point in time, because I have not studied in depth everything that has to do with the act. I know that Commissioner Dawson has made several recommendations for amendments. That's—

Mr. Nathan Cullen: You have no opinion on this continuation.

Mr. Mario Dion: No.

Mr. Nathan Cullen: Let me ask you about another recommendation Ms. Dawson has made, because you're applying to be her replacement. She has suggested that the conflict of interest be expanded to include entities, so-called numbered companies, that can receive benefit from a member but that don't fall under the act because they exist as an “entity under Canadian law”, even though all the benefits might flow to that member.

Do you agree with that recommendation?

Mr. Mario Dion: You know, based on my knowledge of Ms. Dawson, I would agree prima facie with the recommendation, because she is very effective, so if she made that recommendation, it most probably makes sense. However, I would like to see the foundation upon which it was based.

Mr. Nathan Cullen: That's a conditional yes.

Mr. Mario Dion: Yes.

Mr. Nathan Cullen: Let me ask you about a scenario of conflict of interest.

I have seven minutes to decide whether or not we should hire you. It's a strange scenario. When I'm hiring somebody, I like to give them scenarios to see how they would judge things.

It's a scenario in which the person who is in charge of the hiring process for a new Ethics Commissioner is the same person who is publicly defending the Prime Minister and the finance minister, who are under an ethics investigation. Do you see any potential conflict of interest in the scenario I just described?

Mr. Mario Dion: There was a balance on the selection board that I met. You mentioned most of the people who were there. There was a balance.

Of course, as a candidate, I am not responsible for how the selection board is constituted.

Mr. Nathan Cullen: I understand.

When you say “balance”, the law requires consultation with the other parties. None of the other parties were involved in the selection board process. The person who made that board is the House leader for the government and is the same person who is publicly defending the Prime Minister and the finance minister on an ethics

investigation. She is also in charge of the process of finding a new Ethics Commissioner.

Would that raise any conflict of interest flags for you?

Mr. Mario Dion: What I can assure the member, Mr. Chairperson, is that if I am appointed as the Ethics Commissioner, I will feel completely independent. I have had several positions in which independence was an important trademark, and I can assure you that in making decisions and in conducting the affairs of the office, I would have complete independence of mind, to the extent that—

Mr. Nathan Cullen: What we're trying to find, and it's difficult to determine in such a short time, is your conflict of interest compass, your ethical compass on these questions. Assurance that the investigations that have been ongoing for months will continue would greatly reassure me and I think a great number of Canadians, and would be an assurance of that strong voice and independence.

Hopefully I can get through another round and ask some questions about that period as Integrity Commissioner.

Thank you, Chair.

The Chair: Thank you, Mr. Cullen.

Up for seven minutes is Mr. Erskine-Smith.

Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.): Thanks very much.

You've had a number of different appointments over your long career in the public service. Why did you apply for the Ethics Commissioner in particular?

Mr. Mario Dion: The opportunity to apply for the Ethics Commissioner arises very infrequently. It can be seven years minimum, and it can be much longer than seven years. You can see from my CV that I would probably not be available 15 years from now when the second Ethics Commissioner might retire. That's one factor.

Another is the importance of the position. I was talking about institutions that are there to protect Canada's democracy. I have a deep interest in that, in playing that role in each individual case I would be dealing with, and that has a lot of appeal to me. That's the second reason.

I have done 11 years at the Department of Justice, where I had to make hundreds of decisions of a much smaller but similar nature whenever employees and people associated with the Department of Justice were seeking permission to do something.

Mr. Nathaniel Erskine-Smith: Mr. Cullen understood your assurance to be that you wouldn't necessarily be proceeding with the investigations. I understood it differently in your answer to Mr. Kent. I understood you to say that you would review every existing case in the office and on its merits determine whether you would proceed with the investigation. Is that fair?

•(1605)

Mr. Mario Dion: That's fair. In fact, I will go a bit further. Of course, I will not make any arbitrary, completely unreasonable decisions to discontinue anything for no reason. It would be following an analysis, and I will determine whether it continues and how it continues.

Mr. Nathaniel Erskine-Smith: You have been appointed on previous occasions by Conservative governments. It's especially important that this role be non-partisan, of all things. Is there anything in your past record that would in any way preclude or affect your ability to hold this government or any future government to account?

Mr. Mario Dion: In fact, I have been an order in council appointee since 1995. I have been appointed seven times. It's about half and half, Conservatives and Liberals.

I've never had any political activity. I've never held a card of any party. I jokingly say to people that I don't necessarily vote the same way each time there is an election.

I don't think there is anything impeding my objectivity vis-à-vis political parties.

Mr. Nathaniel Erskine-Smith: You said that you applied online in late summer.

Mr. Mario Dion: Yes, it was August 18.

Mr. Nathaniel Erskine-Smith: You had previously applied for and held any number of positions in the public service. In your experience, were these positions in the past publicly posted in the same way?

Mr. Mario Dion: No, they were not. I was usually approached by somebody to consider it, and there was an interview. There were assessments, if you wish, but it was not a public, open process.

Mr. Nathaniel Erskine-Smith: Not like this one....

You received a call in mid-November, and you were interviewed. How long was that interview?

Mr. Mario Dion: It was about an hour.

Mr. Nathaniel Erskine-Smith: Were there any follow-ups to that interview?

Mr. Mario Dion: Of course, I had done psychometric testing previously, so some of the testing had to be redone. I also redid my English proficiency test. I had been exempted in 1985 and I couldn't find the document, so I passed again within 17 minutes. I was pleased about that.

There was no other meeting following the selection board. There was no meeting with anyone for the purpose of determining whether my candidacy would be put forward.

Mr. Nathaniel Erskine-Smith: You mentioned that you are most proud of the accomplishment in relation to residential schools and what led to the 2006 historic agreement with respect to residential schools. It strikes me as an incredibly important accomplishment.

My colleague Mr. Saini asked whether you learned anything, but I will be more specific. Everyone has failures. Were there failures along the way that you have learned from? Obviously, your most significant achievement was about residential schools, but would

you point to other experiences where you would say, "I have learned from this and I'll improve going forward"?

Mr. Mario Dion: Yes. I was involved in program review exercises under the Martin government, the Chrétien government, and the Harper government. I found those exercises very difficult, very imprecise, and very dangerous, because we were essentially shooting for a target and we had little time to make decisions. Sometimes we recommended to government certain things that did not prove to be the best thing with the passage of time. That's one example that strikes me. I'm not the only one, of course, who has done that in government. Hundreds of us have had to do that.

Mr. Nathaniel Erskine-Smith: Sure.

I have a last question. Ms. Dawson has made certain recommendations that this committee has agreed to look at in the new year. Obviously, you've not been fully briefed by Ms. Dawson; you're still the nominee.

We had agreed to come back at the end of January or early February to discuss her 2013 recommendations, and I would expect, have Ms. Dawson before us. If you are in fact the new commissioner it would be useful to have you before us as well.

Will you have sufficient time over December and January to be briefed and come to your own views on those 2013 recommendations?

Mr. Mario Dion: I think I'm a quick study. The minute I'm appointed, if I am appointed, I'll be touch with Ms. Dawson. I'll be ready.

Mr. Nathaniel Erskine-Smith: If we invite you at the end of January or early February, you'll be ready?

Mr. Mario Dion: Yes.

Mr. Nathaniel Erskine-Smith: All right.

Thanks very much.

The Chair: Thank you, Mr. Erskine-Smith.

Next up, for five minutes, is Mr. Gourde.

[*Translation*]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you very much, Mr. Chair.

Mr. Dion, thank you for appearing today, despite the short notice.

I was very impressed by your career and your curriculum vitae, which describe your experiences in the last 30 years.

In addition, congratulations on the work you have done for our country.

In your opinion, in the future, will the Conflict of Interest and Ethics Commissioner increasingly use the new communication technologies, such as Twitter or Facebook? Do you think it's necessary?

•(1610)

Mr. Mario Dion: The two media you mentioned are a bit superficial. I do not think we can use Twitter or Facebook to communicate very important things. The office is already using Twitter to communicate raw information, and we will continue to do so. However, it is not a platform for disseminating complex issues. I do not think much can be done about that.

I was thinking of videos or tools that we can use for presentations. Today, videos are completely accessible. They cost nothing and they are easy to make. Those are the kinds of things I would like to be able to do.

However, this is not the case for Facebook, which is about social relations. It's not serious.

Mr. Jacques Gourde: In your presentation, you talked about the Conflict of Interest and Ethics Commissioner's relationship with the 338 members of Parliament, and with public office holders. There is a difference between the two groups.

Can you tell us about the additional obligations for public office holders?

Mr. Mario Dion: In fact, the code applies to all the MPs, including the Prime Minister and ministers. It contains obligations that are similar to those contained in the act, but many of the obligations in the act do not apply to private members.

The only members the act applies to are ministers or parliamentary secretaries. There are several additional obligations, but I would have a hard time listing them. I brought the table of contents of the act. Many aspects that were not regulated in the code are regulated once the individual is appointed as a minister or parliamentary secretary.

However, the question you are asking me is very complex. It would take a seven- or eight-page comparative table to try to answer it.

Mr. Jacques Gourde: I admit that the question is very complex. In fact, it is so complex that it can confuse some members of Parliament and cause them major problems.

How will you advise them? How will you check that public office holders have fully understood what the act and their obligations mean?

Mr. Mario Dion: Just now, I mentioned a comparative table, a table defining obligations and differences, among others. I don't think this has been done.

There are also caucus meetings and potential cabinet briefings. The Privy Council Office could organize a meeting with cabinet so that we can discuss it with the ministers. More specifically, there are meetings with parliamentary secretaries. They would deal with factual matters and would include a description. It would be a sort of legal education. That's how I would like to do it.

This work could be done one-in-one, but also in groups, because discussions are sometimes conducive to understanding. Adult education is not done in a lecture hall. You must be able to take part in a discussion with other participants. We must organize short meetings.

It's complex and it's abstract, until a practical situation arises. So we have to give concrete examples, just as practical cases are used in teaching at university.

Mr. Jacques Gourde: Even when someone loses their title of public office holder, they still have obligations for a while.

Can you tell me how many months or years those obligations may stay with us?

Mr. Mario Dion: It varies according to the nature of the position we have held. In some cases, it can be forever. In other cases, it is for five years, two years or one year.

Mr. Jacques Gourde: Okay.

For a while, people have an obligation to maintain discretion with respect to their communications. It could also be for life.

Mr. Mario Dion: It's for a five-year period, or depending on the last position the person has held in the government.

Mr. Jacques Gourde: Could that hurt them in subsequent jobs?

Mr. Mario Dion: Yes.

Mr. Jacques Gourde: Okay.

Mr. Mario Dion: When you accept a position, that's why it's important to understand the consequences that it could have on a potential job.

Mr. Jacques Gourde: The people appointed to certain positions are not necessarily always well informed. At the end of the career, the consequences may be less, but when the person is about 40 or so years old, the consequences can stay for the next 25 years. You should pay particular attention to that, so that people accept a position knowingly. They may want to be protected. Political life can be very long or very short. The consequences can last a long time afterwards.

•(1615)

Mr. Mario Dion: In terms of conflicts of interest, I would like to provide another piece of advice: once a year, it is important to reread the code and the act. It's a little tedious, but it's important to do so. We cannot assimilate that information in a few minutes, it's complex.

The Chair: Thank you, Mr. Gourde.

[English]

Next up, for five minutes, Mr. Baylis.

Mr. Frank Baylis (Pierrefonds—Dollard, Lib.): Thank you, Mr. Dion, for being here.

I'd like to give you a chance to clear up some of the points that Mr. Kent and Mr. Cullen brought up. They mentioned a black mark on your impeccable resumé.

It reminded me a little of my mom. One time I came home with 99% on my math exam, and she looked at me and said, "Frank, why didn't you finish the job?" I think they're holding you a bit to that level.

If I understand correctly, the Auditor General had looked at two out of several hundred files. Is that correct?

Mr. Mario Dion: Yes, it was two.

Mr. Frank Baylis: There were just two files.

You probably had 99% too, if I had to guess.

Mr. Mario Dion: The Auditor General basically did not audit anything else. He only reviewed....

He had received a number of complaints. I don't remember the precise number—five or six—and he decided to investigate two of them. Nobody else complained.

Mr. Frank Baylis: Do I understand that those files existed before you came in? Is that correct?

Mr. Mario Dion: One of them was before. The other one arose after I was appointed.

Mr. Frank Baylis: With that one that existed before, you couldn't impact it anyway. There was a delay that had nothing to do with you. You weren't even there.

Mr. Mario Dion: It was a hybrid file. It started in 2008, as the report says, but it was continuing after 2011 as well.

Mr. Frank Baylis: Yes, but we can't—

Mr. Mario Dion: I was accountable for part of it, but not for the early portion of it.

Mr. Frank Baylis: Okay.

I note that, and I'll quote the Auditor General here. He says:

Given the recent history of PSIC—

You had mentioned that you had to come in and do a lot of work there.

—and the enormous transition within the organization while it was dealing with this file, we did not expect that 100 percent of its files would have been managed without error.

Can you elaborate on that, then?

Mr. Mario Dion: I was very pleased when I saw that in the draft report. It was an acknowledgement of the very unusual, difficult, generalized situation. I was pleased that the Auditor General was cognizant of the inherent difficulties in managing in that context, and that he would say so in his report. I was very pleased with that.

Mr. Frank Baylis: You mentioned that when you came in, there was an awful lot of work that needed to be done to get the organization back up to speed.

Mr. Mario Dion: We basically redid the whole thing.

I was appointed in late December, and I hired Deloitte. We did a complete checklist of things to be looked at, and their job was to tell me how many files were defective, how many files did not meet one of the 15 points on the checklist—at least one, some of them more than one.

I was able to reduce the size of the problem. Within three months, we knew we had 71 files that had defects.

Mr. Frank Baylis: There were 71.

Mr. Mario Dion: The difference of 147 did not have any defects, according to Deloitte, which did the study.

Step two was a decision. I had to make a decision in each and every one of those 71 files as to what would be fair to do for the complainant in light of the defects. Some of them were very defective. Some of them had a single little defect. We crafted a custom-made solution in each of the 71 files.

We informed the claimant. We consulted with the claimant and we made a final decision. We implemented the final decision in each of those 71 files. I think within about nine months the process was over, so we were back to some form of normality.

The staffing problem was a real one. We had a 50% vacancy, and 50% of those who were there were demoralized—profoundly demoralized. It's not good to have your organization described as a complete disaster.

Mr. Frank Baylis: If I understand, you come in and you have a 50% vacancy rate. You have 71 files that are not meeting the criteria that you have to get to work on. You have a demoralized staff. Lo and behold they say, "You know what? These two files didn't get done on time." My personal view is that's not really a black mark. I would look at it as the glass being 99% full. I think you did a fantastic job. I would like to commend you on that.

I also understand that it's not just a Liberal thing. You've served under many prime ministers who were not Liberal, is that correct?

Mr. Mario Dion: I was appointed to public sector integrity by Mr. Harper.

Mr. Frank Baylis: You were also appointed by—

Mr. Mario Dion: To the Parole Board as well, between 2006-09....

• (1620)

Mr. Frank Baylis: That was by whom?

Mr. Mario Dion: It was by the Harper government as well.

Mr. Frank Baylis: Minister Stockwell Day, perhaps?

Mr. Mario Dion: Yes.

Mr. Frank Baylis: Okay. Who appointed you to the citizenship and immigration file that you were on?

Mr. Mario Dion: Again, it was the Harper government in 2015.

Mr. Frank Baylis: I find it interesting that Mr. Kent would find flaw with one or two little things that you didn't get done in an amazing set, yet time and time again, the Conservative government appointed you.

Mr. Mario Dion: I'd like to correct something. The Indian residential schools, 2003, was the Martin government. In 2006-09 it was the Parole Board, by the Harper government. In 2010-14 it was the public sector integrity office, and that was by the Harper government as well. The IRB was also the Harper government.

Mr. Frank Baylis: I know I'm running out of time, but I think it's a very important point to underline in your candidacy. Both major parties have seen fit to put you in major leadership roles time and again, not just once.

Mr. Mario Dion: That's correct.

Mr. Frank Baylis: That's correct. Thank you.

The Chair: Thank you, Mr. Baylis.

Next up, for five minutes, is Mr. Kent.

Hon. Peter Kent: Thank you very much, Chair.

Thank you again.

You mentioned a few moments ago, in conversation with my colleague, social media. Have you participated on Facebook or Twitter in the past?

Mr. Mario Dion: Yes, I have participated, as you put it—Facebook not very much; Twitter more, for a few years.

Hon. Peter Kent: I'm given to understand that you've pulled down your Twitter account or put it into limbo. I'm just wondering. Is that because of prudence, given the impending...?

Mr. Mario Dion: If I'm appointed, it's clear to me that the nature of this position makes it absolutely impossible for me to continue to publicly express views about virtually anything. I don't know what the technical word is, but essentially I did close my account many days ago, because if I am appointed I will not go on Twitter whatsoever, except insofar as the institutional account is concerned.

Hon. Peter Kent: The penalties for violation of the Conflict of Interest Act are very modest. Commissioner Dawson has said that, in effect, naming and shaming is really the only penalty. The finance minister, for example, when he was found in violation of the disclosure of holdings, was fined barely \$200. I wonder if you have any thoughts on, perhaps, stiffening the penalties for violations, serious and minor.

Mr. Mario Dion: As a citizen I have been a news buff all my life, so I'm therefore aware. I have followed the work of Mary Dawson ever since she was appointed. As a citizen, I do find those penalties.... It's a bit like the NHL, when a player gets fined \$500 and you know that he earns \$5.8 million a year. They may not be sufficient to create the disincentives we're trying to create.

Hon. Peter Kent: I have one final question. Commissioner Dawson has recommended, or called, actually, for the merger of her office and the Office of the Commissioner of Lobbying. The former commissioner and the newly nominated commissioner both disagree with that, saying that they are two sides of some of the same ethical issue but that the offices should remain separate. I wonder, again, about your thoughts on whether there should be a merger, or closer co-operation and integration at some level.

Mr. Mario Dion: One thing that's clear in my past, my career in the public sector, is that I am not territorial. Another thing that's clear is that I do abide by the law, however, as it exists. I have an open mind. If I'm appointed, I will of course, once we both have been briefed, if Ms. Bélanger is appointed.... We will meet and we will discuss the operations of each of our offices.

If we come to the conclusion that it would be more effective or more attuned to serve the public office holders and Canadians at large, I can assure you that I have an open mind vis-à-vis reorganization and restructuring, because structures should serve the purpose, as opposed to the opposite. Structures are there to serve a purpose. If they prove to be inadequate, then they should be changed. Of course, it would be for the government or the House of Commons and the Senate to decide whether to change those structures.

● (1625)

Hon. Peter Kent: Certainly, again, Commissioner Dawson some years ago submitted to this committee and to the government a list of recommendations for changes to the Conflict of Interest Act, the operation of the office, and so forth.

Again, would you commit to at some point—not early in your term but at some midpoint—offering a consideration or updating of recommendations that had been made by Commissioner Dawson in the past and whether the government should consider implementing those recommendations now?

Mr. Mario Dion: I see this as part and parcel of the role of the commissioner. I did that at PSIC. We basically started to work on the series of proposals shortly after I was appointed. You have to have enough experience, of course, to have a foundation on which to base it. I think it's part and parcel.

I've already answered your colleague earlier. I did indicate that I will study what Mary Dawson recommended back in 2013. It's part of my role, and I will be pleased to present recommendations if and when I'm in a position to do so.

The Chair: Thank you, Mr. Kent.

Next up is Mr. Picard for five minutes, but we have one more question. I'm going to let the time go a little longer than 4:30. We've had some delays.

Continue, Mr. Picard.

[*Translation*]

Mr. Michel Picard (Montarville, Lib.): Thank you, Mr. Chair.

Welcome, Mr. Dion. I'm pleased to meet you for the first time.

You talked with my colleague Kent about a fine that is clearly insignificant in terms of the ongoing financial issues. We are talking about a hypothetical fine of \$500 while the contract is \$5 million. I am curious to know what sort of culture you would like to instill in the office of the commissioner.

Would you opt for exemplary measures or a fair understanding of the facts?

Mr. Mario Dion: I really believe in deterrence. When I was the public sector integrity commissioner, our organization's work was preventive.

As I said earlier, we are trying to educate. People are fundamentally honest. When a complaint is lodged and the investigation reveals an offence, I think it's important to impose a penalty that reflects the seriousness of the situation. As with any system designed to regulate the conduct of individuals, it helps others understand the consequences of breaking the law.

Mr. Michel Picard: Many members say that from the moment we are elected, we no longer have a life, particularly because the people we know become potential sources of conflict of interest because of the professional relations that we have with them. Is that true?

In your opinion, once we become a member of Parliament, a minister or even more, do we feel the downside of the profession?

Mr. Mario Dion: Canada has systems like that. The first code is from 1973, so about 35 years ago. Since then, things have grown and grown, and the obligations have become more and more stringent. If I were a member of Parliament—which I have never been—I would always keep those obligations in mind. Those provisions regulate the conduct of individuals 24 hours a day, seven days a week. They must always be kept in mind.

Some things don't come naturally. It's not like the Criminal Code. We do not have to read the Criminal Code to avoid committing an offence. We generally have an intuition for what is criminal and what is not. But in these laws, some things do not necessarily follow an implacable logic. We must study those provisions and understand them.

Mr. Michel Picard: Does it leave room for interpretation?

Mr. Mario Dion: It leaves a lot of room for interpretation.

Mr. Michel Picard: You held the position of public sector integrity commissioner. In my opinion, the “integrity” aspect of this function from 2011 is similar to that of the new function.

What points do those two functions have in common?

In the medium term, what causes do you see yourself able to promote, based on what you know from a public perspective?

•(1630)

Mr. Mario Dion: The common point that comes to mind is accessibility, the need for a truly accessible office to make sure that people who want to make a complaint know that the office exists and know the parameters of filing a complaint. That's what the Office of the Public Sector Integrity Commissioner did. It promoted the office and the parameters of what it regulates and what it does. This is one of the things I would like to do.

The philosophy focuses on accessibility, giving full force to the act and providing every opportunity for the spirit of this legislation to be upheld. There are not many complaints. At her last appearance in 2014, Commissioner Dawson said she was surprised to find that only one-quarter to one-third of the files she was studying were complaints. The other files were about issues she had decided to investigate on her own.

Complaints are a way of self-regulation. A truly accessible office is another way of ensuring that MPs and public office holders remain honest, as a complaint might be filed at any time.

Mr. Michel Picard: Are you telling me that you would encourage the culture of whistleblowing?

Mr. Mario Dion: I think the Public Servants Disclosure Protection Act has encouraged the culture of whistleblowing, and I also encouraged it when I was in office. It depends on the spirit of each piece of legislation. In this case, members have the opportunity to file a complaint, but very few members do.

The Chair: Thank you, Mr. Picard.

[English]

Mr. Cullen, you have three minutes, then Mr. Kent will have 30 seconds.

Mr. Nathan Cullen: Thank you.

I'll take you back to an email you sent as the Public Sector Integrity Commissioner on February 2 to Mr. Wouters, who was one of the top officials in the government at the Privy Council.

I'm quoting an email that you sent to him:

There is one issue that your office is currently not privy to and that the clerk must be briefed on.

A former senior official at the office has retained legal counsel in order to pursue a claim for constructive dismissal. I will be pleased to provide details to a PCO officer to ensure Wayne—

That's Mr. Wouters.

—is not blind-sided.

Do you regret sending that email at all?

Mr. Mario Dion: It's hard for me to regret because I don't recall. Frankly, I do not remember. I'm not saying I did not write the email, but I don't recall what the subject matter was.

Mr. Nathan Cullen: The email came out through documents. It's in *The Globe and Mail*.

Mr. Mario Dion: What year was it?

Mr. Nathan Cullen: This was soon after you took office. This was after Madame Ouimet left. The Liberal chair of the committee was quite scathing about this interaction with a senior official. It was a heads-up. It was an email from you to him saying you would prepare to brief him, “to a PCO officer to ensure Wayne is not blind-sided.”

Mr. Mario Dion: I have no recollection. I'm sorry.

Mr. Nathan Cullen: You have no recollection of that.

Mr. Mario Dion: None whatsoever. I must have written hundreds of thousands of emails about the—

Mr. Nathan Cullen: I understand, but do you see my concern? As an integrity commissioner, giving a heads-up to somebody who might be falling under investigation so he's not blindsided would fall completely outside of your purview.

Mr. Mario Dion: The wording of the email that you just read would indicate that Mr. Wouters was not the subject. It was somebody else in the system who was the subject.

Mr. Nathan Cullen: It says, “...to make sure that Wayne is not blind-sided.”

Mr. Mario Dion: But it was not about Wayne. It was about somebody else who reported to Wayne.

Mr. Nathan Cullen: You were tipping off Wayne to make sure he knew that somebody in his staff was about to maybe fall under—

Mr. Mario Dion: To give the clerk a chance to organize and respond, essentially, but I don't recall who it was or what it was.

Mr. Nathan Cullen: Madam Fraser, as the Auditor General, pointed out that there were 228 cases that were not properly investigated. Of those, how many did you decide to investigate in the end?

Mr. Mario Dion: Again, Mr. Cullen, I'd be pleased to provide the answer to the committee, but frankly, I do not remember how many we investigated.

Mr. Nathan Cullen: Can you give a ballpark? Was it more than 100, less than 50?

Mr. Mario Dion: I think I said, as part of my introductory remarks, that during my term at PSIC I oversaw 100 investigations. Some of them were pre-Ouimet and some of them arose after I was appointed.

Mr. Nathan Cullen: You said earlier in testimony that people don't wake up with an intent to break the law. You're a trusting person.

Mr. Mario Dion: I used to work in the Correctional Service, so there may be some exceptions.

Mr. Nathan Cullen: Sure. My question is, what's intent got to do with it? I might not intend to speed, but if I speed, I'm breaking the law. The Prime Minister might not have intended to get on a private helicopter, but he did.

• (1635)

Mr. Mario Dion: No. All I was saying is that education is important because people want to do well, and if they do realize what the expectations are, it's less likely that they will inadvertently break the law. Inadvertently break the law...they try to avoid that.

Mr. Nathan Cullen: I'm going to quote from the AG report again on your office:

The Public Sector Integrity Commissioner decided not to investigate the complainant's reprisal file and decided to close it on 2 April 2013. As a result of internal delays, lack of management oversight, and related failures, the complainant had to wait...more than 18 months....

It concluded with:

...in the complainant's statements that trust was lost in relation to PSIC's process.

Do you agree with that finding from the Auditor General that trust was lost?

Mr. Mario Dion: Yes, it was indeed. The complainant had lost trust.

Mr. Nathan Cullen: You understand where I'm going.

I understand your difficult position in not wanting to fully commit to continuing the investigations, which I would—you read the papers, too—into the Prime Minister and the finance minister of Canada. You don't get higher than that.

In your previous role, there were challenges in continuing certain investigations. We have this process that you applied to in the middle of August, you had a one-hour interview in November, and the committee gets seven minutes to hire you for a seven-year position.

I guess what is hard for me to determine, because it's not possible in this interaction, is this: Are you tough? Are you fair? Are you a dog with a bone? Would you describe yourself as somebody who pursues it to the end to make sure that it happens? That's the confidence that we need.

The Chair: We're out of time, Mr. Cullen, but I'll let Mr. Dion answer.

Mr. Mario Dion: I'll give a very brief, final answer.

I tabled 10 reports while I was at public sector integrity. Some of them were very tough, and I did not give up. We went to court in some instances to retain the ability to go forward with the investigation and the tabling of the report, and I'd be pleased to say more. Some of these reports were hard fought, and I believe that abiding by the law is very important, and the resources should be

used on those cases where it really matters. That's essentially what I was saying earlier, as well.

The two cases that the Auditor General investigated were not, I can assure you, in the global scheme of things, very important matters to start with, unlike the matters that you have been talking about.

The Chair: Thank you, Mr. Cullen.

Mr. Kent.

Hon. Peter Kent: I have just a very short question, Mr. Dion.

Again, just for Mr. Baylis's clarification, we recognize you've had a very distinguished public service career, but in a couple of the appointments you accepted where you were the authority, the individual responsible, capacity seemed to be fairly directly connected to the criticisms that were assigned to you as the authority of those organizations or agencies.

Again, because of the nature of the Office of the Ethics Commissioner, we don't know whether Commissioner Dawson has the capacity to maintain and follow as many investigations as she has had recently. I'm not sure of the reporting command to the House of Commons. The House of Commons, of course, created the office and the commissioner's location. I'm just wondering whether you would convey the information of the need to expand capacity for the office to operate in a timely fashion.

Mr. Mario Dion: Mr. Chair, under the act, one of the very significant things is that the commissioner forwards the budgetary needs to the Speaker, and the Speaker essentially asks the President of the Treasury Board to make those allocations.

Right in the statute there is a power to essentially ask for what you need in order to meet the needs of the moment, and there is very little discretion not to give it to you. It has to be done in a responsible way, and throughout my career, I have been involved in numerous Treasury Board submissions, so I know something about calculations and preparation of submissions.

Hon. Peter Kent: We didn't get one this year.

Mr. Mario Dion: Okay.

The Chair: Thank you, Mr. Kent.

Now we have a motion from Mr. Erskine-Smith—

Go ahead, Mr. Cullen.

Mr. Nathan Cullen: One of the principles in our House is the independence of the committees to operate fully and perform our functions. One of the functions this committee has is to review certain selections for certain officers of Parliament, this being one of them. We also had lobbying as well.

I'm looking through the timeline and the sequence of events with the process, on which I think I've made fully clear my level of dissatisfaction. After three extensions, 18 months of extensions, for the previous officer, in this case, of ethics, we had a one-hour interview, apparently.

To get the point of order here, we had to call these emergency meetings to facilitate this process as the session is winding up before the holidays. The government introduced a motion to vote on the reference of Mr. Dion in this case almost simultaneous to whether this committee was even going to meet and have this brief one-hour time with him. Now Mr. Erskine-Smith has required.... I'm sure his authorship is all over this and his own insights into the wording—

• (1640)

The Chair: I would like you to get to your point of order, Mr. Cullen.

Mr. Nathan Cullen: My point of order is this. The committee's ability to do our work, which we've been asked and tasked to do from the House of Commons, is infringed upon by the government House leader who introduced the motion to have a vote on Mr. Dion prior to the committee even being assured that we would have this meeting in the first place. We invited Ms. Chagger to appear—Liberals, with one notable abstention, disagreed with that—to explain how we got to this process and this state. I would argue that it puts not only a cloud over this committee, but through no fault of the applicants, the nominees, a cloud over the officers of Parliament who are working, as Mr. Dion rightly said, on behalf of Parliament.

It's very frustrating to allow this vote now, which is what I assume Mr. Erskine-Smith will now move, a vote on the motion to proceed to the House when it was the House leader's choice to, I would argue, subvert the effort of the committee to have a proper hearing.

If we had not been able to meet today, Mr. Chair, the House would have a vote tomorrow afternoon on Mr. Dion. Is that true? So to you to the House—

The Chair: You need to get to the objective, Mr. Cullen.

Mr. Nathan Cullen: What's that?

The Chair: I still want you to get to your point of order. It's still debate up to this point. I still haven't heard a valid point of order. You've made some points, but a point of order, I don't believe, is one of them.

Mr. Nathan Cullen: Note it through this—and again I said this to our previous candidate—to participate and validate this process in any direction for us is non-tenable, as it was for Mr. Erskine-Smith over the request of the House leader to appear before us. As I said to Mr. Dion off record before this meeting started, I say to him now on record: it's nothing personal, but it's very frustrating and I think regrettable that we're at the stage of this important work the committee is charged with, to hire somebody for seven years to hold us all to account.

The Chair: Thank you, Mr. Cullen.

We'll go on to the motion.

Mr. Nathaniel Erskine-Smith: Thanks very much, Mr. Chair.

The fact is that we did meet and having heard the answers from Mr. Dion, I move:

That the Committee report the following to the House:

Your Committee has considered the Certificate of Nomination of Mario Dion, nominee for the position of Conflict of Interest and Ethics Commissioner, referred on Monday, December 11, 2017, pursuant to Standing Order 111.1(1).

Your Committee has considered the proposed appointment of Mario Dion as Conflict of Interest and Ethics Commissioner and reports its recommendation that

he be confirmed by the House of Commons as Conflict of Interest and Ethics Commissioner.

The Chair: It's before committee. Is there any further debate?

Mr. Kent.

Hon. Peter Kent: Thank you, Mr. Chair.

Let me say the official opposition agrees with the NDP's rejection of a completely unacceptable process and the lack of meaningful consultation in this process, but at the same time, we believe it is most important that we ensure continuity in the operation of the Office of the Conflict of Interest and Ethics Commissioner.

Separating our great concern with the government's process, we believe that we should hold a vote and that, in fact, Mr. Dion, should be recommended for a vote in the House of Commons for appointment.

The Chair: Mr. Cullen.

Mr. Nathan Cullen: Thank you.

I hear Mr. Kent's intervention in terms of continuity. That was one of the concerns we had raised in the media weeks and weeks ago, knowing that Ms. Dawson's term was coming due January 8 and that this committee would not sit until the end of January. In fact, we were the ones who first proposed the idea of the committee coming back together to find out what was going on and whether we were going to have an Ethics Commissioner at all.

That's simply a lack of planning on the government's part. If they conducted the interviews, as Mr. Dion testified today, in mid-August.... Excuse me, if they took the applications in mid-August—I don't want to get the record wrong—and interviewed three weeks ago, which is what I think we determined, and at the very last moments of Parliament's sitting, with the fear of having no Ethics Commissioner at all, this is the path the government has chosen.

My grandmother used to say a lack of planning on your part does not create a crisis on mine. With 18 months' notice, two years plus in government, the government knew this day was coming and chose the eleventh hour in which to put this through.

I don't know about Mr. Dion or my colleagues, but I have more rigour in hiring my legislative assistants and staff assistants in the riding in an hour's interview from a list of one. This is such an incredibly important position. The officers of Parliament have great sway, as Mr. Dion and others have said. This is the process, and the Prime Minister still today chose to call this meaningful consultation. I don't understand how my Liberal colleagues can see it as that. They would certainly not accept it if they were sitting on this side of the table.

In the past, when we've hired Sergeants-at-Arms and other officers of Parliament, other people who work for all of us, we've had multi-party committees. It worked, because every party had input into the candidates, short-listed them, and then put that forward to the Prime Minister for the nomination of a candidate. That's still giving the Prime Minister an enormous amount of discretion, to choose from a list of three or four, but importantly, with all-party support throughout the process so that, as Mr. Dion and others have pointed out, these officers remain beyond any concern of partisanship or influence or any of those things, as was rightly questioned by one of my Liberal colleagues today.

To push the opposition completely out of the process, to send what I think is an insulting letter saying, "Here's the one name. You've been consulted. Congratulations. Have a one-hour meeting and then a vote tomorrow in the House of Commons", and call that due process.... My Liberal colleagues know it's not.

It's unfortunate, because it creates this tension that, I would argue, is totally unnecessary. We want to get this right. We want the best people in the position, because they run our elections, they guide us

on ethics and lobbying, and do all these important things. To create an insulting process is really unfortunate, and it's certainly not the expectation of the promise made by the Liberal Prime Minister when he was running as a candidate for this office. It's unfortunate.

I'll be abstaining again.

As I said to Mr. Dion, it's no reflection on his candidacy. It's just a totally disgraceful process that got us to this place.

● (1645)

The Chair: Thank you, Mr. Cullen.

Is there any further debate on the motion?

(Motion agreed to)

The Chair: Thank you, Mr. Dion.

I wish everybody at committee a merry Christmas.

The meeting is adjourned.

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