

## **Comments on the future role and status of the federal Commissioner for Environment and Sustainable Development to the House of Commons Standing Committee on Environment and Development.**

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The Offices of the Commissioner for Environment and Sustainable Development (CESD) and of the Environmental Commissioner of Ontario (ECO), were key legacies of the round of institutional formation that accompanied wave of public and governmental concern for environmental issues of the late 1980s and early 1990s. Both have played crucial roles in keeping environmental issues on the public and policy agenda through changes in government and shifts in the focus of public attention.

The dismantling of the ECO as a separate entity and its integration into the province's Auditor General's office in 2019 raised fundamental questions about the structure and function of the commissioners' offices. There has been a longstanding view, dating from the time of the 1995 amendments to the *Auditor General Act* creating the CESD that office should be structured like the ECO – that is as a stand-alone parliamentary officer rather than a sub-component of the Auditor General's office.

A stand-alone structure would give the CESD greater autonomy in terms of its procedures and role, and greater flexibility to evaluate and comment on the content of environmental policies rather than focusing exclusively on their management and administration. A separate office may also be able to play a more active role in the management of the environmental petitions process established through the same 1995 amendments to the Act, similar to that played by the ECO around the Request for Review and Request for Investigation provisions of the *Ontario Environmental Bill of Rights*.

The demise of the ECO as an independent entity has raised new questions about the durability of such institutions as stand-alone entities. On reflection, it seems unlikely that CESD would have survived the 2012 Bill-38 changes to federal environmental laws and institutions, had it not been structurally embedded within the Office of the Auditor General. Rather it may well have suffered the same fate as the National Round Table on the Economy and Environment (NRTEE) through that legislation. The CESD's status within OAG meant that it could not be dismantled without risking a public battle with the

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Auditor General. There may be additional advantages to being embedded within the Auditor General's office in terms of institutional status, capacity and authority.

That said, there are other significant measures that could be taken to enhance the contributions of the CESD. These could include an explicit mandate to assess the effectiveness of federal environmental initiatives in advancing sustainability, rather than focusing on their 'management.' In addition, the office should function within the Office of the Auditor General as the 1995 amendments to the *Auditor General Act* creating the office intended, with the commissioner reporting directly to the Auditor General.<sup>2</sup> The amendments' provisions implied a status for the commissioner as a Deputy Auditor General, rather than as an Assistant Deputy Auditor General as is currently the case. Status as a Deputy Auditor General would have significant implications for the independence and autonomy of the office within the OAG hierarchy.

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<sup>2</sup> *The Auditor General Act*. R.S., 1985, c. A-17 as amended s.15.1.