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

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**EVIDENCE**

**Wednesday, January 10, 2018**

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**Chair**

**Mr. Bob Zimmer**



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

Wednesday, January 10, 2018

● (1100)

[*English*]

**The Chair (Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC)):** I call the meeting to order.

Welcome, everyone, to meeting number 86 of the Standing Committee on Access to Information, Privacy and Ethics pursuant to Standing Order 108(3)(h)(vii), a study of the subject matter of the report of the Conflict of Interest and Ethics Commissioner entitled “The Trudeau Report”.

I want to personally thank you, former commissioner, for coming today. We know that you certainly didn't have to be here. I also thank you for finishing your report before your exit.

Proceed.

**Ms. Mary Dawson (As an Individual):** Thank you.

Mr. Chair and honourable members of the committee, I understand that you've invited me to appear before you today to speak about “The Trudeau Report”. I'm not sure what I can add to what I've said in the report, but I'll try to answer any questions the committee may have.

[*Translation*]

I released “TheTrudeau Report” on December 20, 2017. It contains the conclusions of the examination I carried out under the Conflict of Interest Act and of the inquiry I conducted pursuant to the Conflict of Interest Code for Members of the House of Commons.

I will limit my observations today to issues pertaining to the act, in light of the mandate of the committee.

[*English*]

I understand that you also want to talk about the amendments that I've proposed, and we'll see what we can do about that. It's not what I've focused on in the last couple of weeks, but I have a copy of them here and whatnot.

I launched the examination and inquiry into Mr. Trudeau's conduct in January 2017 in response to requests for investigation from two members of the House of Commons. Those requests were prompted by media coverage of a vacation that Prime Minister Justin Trudeau and his family, along with several friends and their families, took on a private island owned by the Aga Khan from December 26, 2016 to January 4, 2017. I subsequently learned that Mr. Trudeau, his family, and other relatives had also vacationed on the island in

December 2014, and members of his family and their guests had done so in March 2016 as well.

The Aga Khan, as the founder and chair of various charitable organizations, has a long-standing relationship with the Government of Canada, which since 1981 has contributed nearly \$330 million to projects supported by the Aga Khan Foundation Canada. The foundation's CEO is registered to lobby the Government of Canada, including the Prime Minister's Office.

Briefly, I found that Mr. Trudeau contravened four provisions of the Conflict of Interest Act, namely sections 5, 11, 12, and 21. I found that he did not contravene two other provisions: subsection 6 (1) and section 7 of the act. I also found that he did not contravene the members' code.

As most of my findings hinged on Mr. Trudeau's acceptance on behalf of himself and his family the gifts of vacations on the Aga Khan's private island, I'll speak specifically about my findings of a contravention of subsection 11(1) of the act.

Subsection 11(1) sets out the act's gift rule. It prohibits public office holders and their family members from accepting “any gift or other advantage...that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.” The test is not whether the donor intended to influence the recipient or whether the recipient was indeed influenced, but whether it might reasonably be seen that the gift or other advantage was given for that reason.

The evidence showed that there was ongoing official business between the Government of Canada and the Aga Khan and his institutions at the time each invitation to visit the island was accepted and that Mr. Trudeau, as Prime Minister, was in a position to be able to advance some of the matters of interest to the Aga Khan, whether he did so or not. I therefore found that the gifts could reasonably be seen to have been given to influence Mr. Trudeau “in the exercise of an official power, duty or function.”

Subsection 11(2) sets out a number of exceptions to the gift rule set out in 11(1), including where the gift or other advantage is from a relative or friend, so I had to consider whether Mr. Trudeau and the Aga Khan were friends for the purposes of the act, and interestingly, that exception is not in the code; there's not an exception for friends in the code.

The act does not define the word “friend”. It’s a word that’s used in different ways by different people and can apply to a range of relationships, from the closest of lifelong companions to neighbours, colleagues, acquaintances, or business associates who see each other only occasionally and have little emotional attachment.

Mr. Trudeau’s relationship with the Aga Khan was based on a family connection rooted in a friendship between the Aga Khan and Mr. Trudeau’s father. However, Mr. Trudeau had no personal or private interactions with the Aga Khan from 1983 until 2013, when Mr. Trudeau became leader of the Liberal Party of Canada, other than on the occasion of his father’s funeral.

• (1105)

These factors led me to conclude that their relationship could not be described as one of friends for the purposes of the act, bearing in mind that friends can have all sorts of different meanings to different people. Instead, it appears to be one of two world leaders with common ideas and goals who have great respect for each other and whose families share a connection.

I also observed in “The Trudeau Report” that Mr. Trudeau said that he felt that as Prime Minister, he could now pursue a friendship with the Aga Khan. However, public office holders must put on hold the pursuit of friendships with individuals with whom they are likely to have official dealings when they are in public office.

“The Trudeau Report” has focused renewed attention on the Conflict of Interest Act and its perceived weaknesses, particularly the lack of penalties for breaches of its substantive provisions. The only penalties it provides for are administrative monetary penalties, which the commissioner may impose on reporting public office holders who fail to meet certain reporting requirements of the act.

I’m not of the view that more stringent penalties are required. It was never Parliament’s intention that the act form part of the criminal system. Indeed, the act requires the commissioner to suspend an examination and notify the relevant authorities if he or she has reasonable grounds to believe that an offence has been committed under another act of Parliament. In my view, publicity and the test of re-election make up the appropriate form of redress for contraventions of the act and are sufficient to encourage compliance.

I also wish to address some comments that have been made on the time required to complete this report.

In my years as commissioner, I conducted all my examinations thoroughly and with a high degree of diligence, in keeping with the standards and practices I established for the office, the requirements of the act, and respect for procedural fairness. In each of my reports I provided a detailed description of the process that was followed and the information that was obtained. The amount of time it took to complete this or any other examination depended on a number of factors. They included the number of investigations under way, the number of case files being reviewed, the delays in scheduling witnesses and obtaining relevant documents from a variety of sources, and the report drafting and editing process, which can take some time as well.

Before I conclude my opening statement, I note that the committee has undertaken to conduct a new review of the act in early 2018. My experience in the last 10 years has been that the act has worked well

overall. However, I believe there’s room for improvement. I listed a large number of suggestions in the submission I made to this committee at the time of the five-year review. I’d be pleased to discuss my recommendations for amendments with the committee when it takes up the study.

Now I’ll be happy—I hope—to answer any questions the committee may have.

**Some hon. members:** Oh, oh!

**The Chair:** Thank you, former commissioner. I don’t know how to refer to you anymore, other than as Ms. Dawson.

**Ms. Mary Dawson:** That’s fine. You can call me Mary if you like. I don’t mind.

**The Chair:** Mary will work. Thank you once again, Mary.

First up, for seven minutes, is Mr. Erskine-Smith.

**Mr. Nathaniel Erskine-Smith (Beaches—East York, Lib.):** Thanks very much for attending here today and for all your work over the years.

I said yesterday that the report speaks for itself. Do you think that would be a fair statement?

**Ms. Mary Dawson:** Yes.

**Mr. Nathaniel Erskine-Smith:** We are in early 2018, and we’ve committed to undertake a study of the act, and in fact have committed to inviting you to discuss your 2013 recommendations. One of those recommendations was adding administrative monetary penalties for breaches of the act’s substantive provisions. Perhaps you could speak a little bit to that. You spoke a little bit about it in your opening statement. What additional punishments were you asking to see in the act?

• (1110)

**Ms. Mary Dawson:** I probably named a few in my report. I’ve forgotten what they were now.

What I really meant was just the odd one that was easy—not a complicated one that would take a lot of investigation to figure out. I’ve used other mechanisms occasionally, such as compliance orders, when I wanted to do something a little more quickly. Those administrative monetary penalties are meant to make sure that people get their reports in on time and that sort of thing, and meet their deadlines.

**Mr. Nathaniel Erskine-Smith:** To bring it back to “The Trudeau Report”, we have a Prime Minister who immediately apologized upon the release of your report, accepted the findings and used the language “I take full responsibility”, and committed to implementing measures in his office to communicate with the future, or now current, Ethics Commissioner, so that something like this would never happen again.

What more should the act require?

**Ms. Mary Dawson:** I think that's probably all that the act should require. There's a political overlay here, and that's not my bailiwick. As far as I'm concerned, the act has done what it needs to do.

**Mr. Nathaniel Erskine-Smith:** In 2013 you recommended increasing transparency around gifts and other advantages. Would any of those recommendations be relevant for the purposes of "The Trudeau Report"?

**Ms. Mary Dawson:** Yes. I had a number of different kinds of recommendations on transparency with respect to gifts. For example, reporting public office holders have to report gifts if they're worth over \$200. Non-reporting public office holders don't have to do that. That, I think, was one of the examples I gave of one of the reporting requirements that might be put on a non-reporting public office holder.

I also had some discussions on the \$200 limit, because that limit creates no end of confusion. A couple of years go by, and if you haven't talked about it, people forget. They think that if it's under \$200, it's okay. That's not the rule. The rule is that no gift is okay, except I have—

**Mr. Nathaniel Erskine-Smith:** Would you recommend reducing it to \$30 to make it clearer for us?

**Ms. Mary Dawson:** I had guidelines that were 10 or 12 pages long, with lots of detailed instructions on how to handle exceptions for gifts and things.

**Mr. Nathaniel Erskine-Smith:** You didn't order any reimbursement in "The Trudeau Report", even with the reimbursement rules. I note that you didn't have any recommendations in 2013 for improving such rules. Do you think those rules in the act are sufficient as well?

**Ms. Mary Dawson:** There are no rules on reimbursement.

**Mr. Nathaniel Erskine-Smith:** On tickets and invitations, I understand that there are.

**Ms. Mary Dawson:** That's not a rule in the act. That's the way to get out from having received a gift that you shouldn't have received, basically.

**Mr. Nathaniel Erskine-Smith:** Understood.

**Ms. Mary Dawson:** If you do it within 30 days, you haven't created an offence.

**Mr. Nathaniel Erskine-Smith:** Sure. That makes sense.

We have a Prime Minister who apologized and said that he made a mistake. I think you were fair in your opening statement in saying that there are different definitions of "friend" and that the act has, in your view, a particular interpretation. Obviously, as we might talk about a neighbour, we would use the word "friend" differently from what the act might consider it to be. Do you think that in the case of the Prime Minister, it was an honest mistake? Do you think the Prime Minister knew it was wrong and went ahead and intentionally did it anyway? You've had conversations with the Prime Minister that we haven't had. What's your view of the Prime Minister's mindset and intention in this?

**Ms. Mary Dawson:** I take the Prime Minister at his word.

I've reported a number of things he said in the report. I'm not going to report anything I didn't put in the report. As I said, I can't.

Anything I do is confidential, except what I feel is necessary to report. This was almost double the length of any report I've done. I tried to make it as thorough as I could. I'm sure there are statements in there that answer the question you just asked.

**Mr. Nathaniel Erskine-Smith:** There are two prime ministers who have vacationed with the Aga Khan. Their last names are both Trudeau. The first invitation to our Prime Minister was not when he was Prime Minister, of course, but when he was the leader of a third-place party. Your view in the report is that he was invited on the basis of his office, but based on the fact that he was invited when he was in third place, and that Mr. Mulroney, Mr. Harper, and previous prime ministers not named "Trudeau" did not vacation with the Aga Khan, perhaps it had something to do with the last name "Trudeau" and not with the office of the Prime Minister.

**Ms. Mary Dawson:** You know, I didn't say that was the only reason he was invited. I gave three or four factors. When you're making a decision under a piece of legislation, every case is a little bit different. You look at the various factors you have in front of you and you make a judgment call as to whether something's the case.

I'm not quite sure if that answers your question, but basically there was no one factor that led me to my conclusion.

• (1115)

**Mr. Nathaniel Erskine-Smith:** Okay.

The other question I have is about implications for world leaders interacting. The Aga Khan is not your average lobbyist, of course. He's a spiritual leader of 15 million—

**Ms. Mary Dawson:** [*Inaudible—Editor*]

**Mr. Nathaniel Erskine-Smith:** He's a chair of a foundation that is a registered lobbyist, as I understand. It's not your typical situation, though. He is also a spiritual leader of 15 million Ismaili Muslims. When we have a situation of a world leader building bridges, and the goal is to increase friendship in many ways between these world leaders and to improve relations, do you think that a rule such as this...?

I'll use a hypothetical example. Theresa May invites the Prime Minister to her private residence and talks about free trade and has an agenda in talking about free trade, because the United Kingdom has just left the EU. Is Trudeau in accepting that gift of visiting that private residence a concern that we should, as the Canadian public, be concerned about?

**Ms. Mary Dawson:** No. There are world leaders and then there are political leaders. This has been a very interesting exercise, because it raises all sorts of interesting questions.

Obviously, world leaders have to have relationships with each other, and it's a good thing for the country that they have relationships with each other. I think, in this case, the problem was that specific requests were being made for funding from the Government of Canada, but the Government of Canada has had, as I say in my report, a long, very good relationship with the Aga Khan. I tried to make comparisons between relationships with Obama, for example, and those sorts of things. You can have all sorts of interesting discussions around that, but the fact of the matter is that I think the Aga Khan is almost like a pope. That's the closest thing I could associate him with. In fact, he is the leader of a religious group. They have very interesting and good tenets. I learned a little bit about the Ismaili religion in doing this report and I found it quite interesting.

Sorry, I'm wandering off. I'm not sure quite what answer you're looking for.

**The Chair:** Thanks.

Thank you, Mr. Erskine-Smith.

Next up, for seven minutes, is Peter Kent.

**Hon. Peter Kent (Thornhill, CPC):** Thank you, Mr. Chair.

Happy new year and thank you, Commissioner, for attending today. As I said when you entered the room this morning, I think you deserve the lingering honorific, at least this close to your stepping down from office.

The Prime Minister has said he fully co-operated with you and your office through the year, but we learned from your report that after you began your investigation and made the initial invitation to the Prime Minister to meet with you to discuss the allegations or complaint against him, it took fully two months for him to make time to see you. Did you see that as somewhat less than full co-operation?

**Ms. Mary Dawson:** No, given that he's the Prime Minister and he has lots of stuff on his plate.... He had travels and stuff. What can I say? It took a bit of time, but other people have taken similar amounts of time. I was getting documentation as well during that period, but that was the first face-to-face meeting I had.

**Hon. Peter Kent:** In that first meeting in April and then the latter meeting in October, you would characterize it as full co-operation, with no reluctance, no disputing any of the—

**Ms. Mary Dawson:** I didn't have the sense there was a reluctance, no.

**Hon. Peter Kent:** Your report is thorough and detailed. As you say, it's an exceptionally detailed report, somewhat longer than most of the reports from your office over the last 10 years now, almost.

**Ms. Mary Dawson:** It actually has the record. It's the longest.

**Hon. Peter Kent:** It has the record.

Your findings in the four areas where you found that the Prime Minister clearly violated the act are very clear. He has yet to address with members of Parliament your report's findings. It was released by your office a week after the House rose, and the Liberal members

**Ms. Mary Dawson:** Believe me, I tried very hard to get that out as quickly as I could. In fact, I worked very hard that last couple of weeks to get it out before I was gone.

**Hon. Peter Kent:** I'm not finding fault at all, Commissioner.

Yesterday, as you probably know, the Liberal members of this committee voted against a motion to invite the Prime Minister to come to this calm and respectful setting to discuss your findings with the members.

• (1120)

**Ms. Mary Dawson:** Hopefully it stays that way.

**Hon. Peter Kent:** He said in a news conference yesterday that his only conversation needs to be with you. I'm wondering whether you feel, in retrospect, as a former commissioner, that the Prime Minister has a duty and responsibility, now that you have made these findings in "The Trudeau Report", to address them with his fellow members of Parliament.

**Ms. Mary Dawson:** I have the utmost respect for Parliament, but I think it's Parliament that decides the answer to that question. It's not for me, the former Ethics Commissioner, to say what action either Parliament or the Prime Minister should take. I would not wade into that.

**Hon. Peter Kent:** Still respecting the confidential aspect of remarks made to the Prime Minister that you don't refer to in your report, could you say whether, in general, any of his answers to you took less than 35 seconds—which, as we all know but the public may not know, is the length of time for the Prime Minister to answer questions in question period?

**Ms. Mary Dawson:** There were a variety of different lengths of answers.

**Hon. Peter Kent:** I would guess that very few of them were less than 35 seconds.

**Ms. Mary Dawson:** There was probably a yes or no, hither and yon.

**Hon. Peter Kent:** Right.

Were there any times when the Prime Minister requested to submit a written response or a correction of a response that he made during the interviews with you?

**Ms. Mary Dawson:** Was there any time that he would request that?

**Hon. Peter Kent:** Well, did he make any written...? Did he have any written correspondence?

**Ms. Mary Dawson:** The Prime Minister had lawyers, and there were some submissions made by the lawyers, as I think I mentioned.

Part of my process.... Maybe I should just say what the normal process is towards the end of doing a report.

**Hon. Peter Kent:** Sure.

**Ms. Mary Dawson:** I will have a last interview with the person. I always have a first interview and a second interview, unless the person doesn't want the second interview or I tell them that I don't think it's necessary and they don't care, but usually there's a second interview. After that second interview, I then sort of team back and finalize my facts. When I'm ready and I think the facts are complete, I will share them with the person who is alleged to have contravened. They are then given a couple of weeks to come back and tell me whether they think there's anything I've misrepresented or if they think there's an additional little thing that is necessary to add, or something. Many don't, and some do.

After that happens, I then team back again and take into account any comments they make, because of course due process underpins all of this. I then proceed to finalize my analysis and the report. I have an editor, and it gets edited. Then it goes to translation, and then it's released.

**Hon. Peter Kent:** Then the Prime Minister was well aware, weeks before Parliament rose in December, of the fundamental findings in the report?

**Ms. Mary Dawson:** Of the findings, but not the conclusions.

**Hon. Peter Kent:** Ah.

**Ms. Mary Dawson:** The conclusions are not shared.

**Hon. Peter Kent:** Right. Did you—

**Ms. Mary Dawson:** I always have in my reports the position of the person who is alleged to have contravened, which they check as well.

**Hon. Peter Kent:** Did you or your office receive any communications from the Prime Minister's Office or the Privy Council Office, or from lawyers, concerning the timing of the eventual release of the report?

**Ms. Mary Dawson:** No. It was more me....

**Hon. Peter Kent:** One of the elements of the report that hasn't received a great deal of discussion involved your findings regarding the bilateral meeting with the Aga Khan, from which you found the Prime Minister should have recused himself but which he justified on the basis that he considered himself to be there only to build relationships and not in an official capacity.

I'm just wondering whether we should be concerned—whether Canadians should be concerned—that this may extend to his attitude with regard to compliance with the Conflict of Interest Act when others are seeking favours or funding from the Government of Canada. Did he not consider himself as responsible as all other MPs and public office holders are to the articles of the Conflict of Interest Act?

• (1125)

**Ms. Mary Dawson:** You know, I don't think there's much I can say in response to that statement. I know that it's a political discussion point. I think he has certainly taken cognizance of the decision that was made in this report and I think it will have an effect on his thinking.

**Hon. Peter Kent:** Going forward...?

**Ms. Mary Dawson:** Yes.

**Hon. Peter Kent:** Right.

**The Chair:** Thank you, Mr. Kent.

**Hon. Peter Kent:** Thank you.

**The Chair:** Next up, for seven minutes, is Mr. Cullen.

**Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):** Thank you, Chair.

Good morning, Ms. Dawson. As I mentioned to you just before we got started, I'm of course interested in the largest report you've ever done and in some of its findings and the learning we can take from what happened, not just in this instance but also in going forward as parliamentarians.

I thank you for accepting the committee's invitation. Hopefully, you have found the discourse civil and it will stay that way for our time together.

**Ms. Mary Dawson:** Yes. See that it stays that way.

**Mr. Nathan Cullen:** I'll do my best. I foresee no reason why not.

I want to circle back to something that exists within the act. If I or a member of Parliament were to receive a gift that was deemed inappropriate, I could pay it back within 30 days, I think you said.

**Ms. Mary Dawson:** Unless you had eaten it, or something, I suppose you could pay—

**Mr. Nathan Cullen:** Unless I'd eaten it. Okay.

**Ms. Mary Dawson:** Basically, the funny thing in our act is that the penalties are for failures to meet deadlines, and there's a deadline of 30 days to tell me that you've received a certain gift. If somebody receives a gift and then thinks, "Oh, my God, I shouldn't have received this gift", and they decide they'll pay for it, then it sort of erases itself.

**Mr. Nathan Cullen:** Right, so that's an option.

**Ms. Mary Dawson:** It has to do with whether they get an administrative monetary penalty.

**Mr. Nathan Cullen:** Right, but that monetary penalty, as you said, was an encouragement to file.

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** People were just slow on filing or—

**Ms. Mary Dawson:** Sometimes people will accept a gift and then come in and say, "Gosh, I wonder if we should have accepted this gift." I'll say no or I'll say yes, and they'll return it.

**Mr. Nathan Cullen:** And then what?

**Ms. Mary Dawson:** That's the end of it, if they've returned it within 30 days. If they haven't told me about it for a year.... I think I did a case like that once and found that they'd contravened the act.

**Mr. Nathan Cullen:** Under this scenario, if the Prime Minister returns from this trip and says, "This doesn't seem right".... Is it correct to say that a meeting was held a few days after returning, or a number of days afterward? When did the meeting...?

**Ms. Mary Dawson:** It's in the report. It was in fairly close proximity.

**Mr. Nathan Cullen:** We'll take that to the side. If, upon returning back to Canada from the Caribbean, the Prime Minister said, "That didn't feel right, going on a trip with the family and friends with somebody who lobbies my office or whose foundation lobbies my office, so I'm going to pay for it. I'm going to figure out the cost as if I had just decided to go on a trip to the Caribbean", what would your involvement be at that point?

His office could have notified you and said, "This trip happened over the holidays. The Prime Minister took it, but then paid for it, reimbursed it." What would—

**Ms. Mary Dawson:** It would have been much better to check before.

**Mr. Nathan Cullen:** Of course, that's the ideal: ask for permission, not forgiveness. Isn't that right?

**Ms. Mary Dawson:** Yes, but the fact of the matter in this case is that I didn't know about any of this stuff for a long time.

**Mr. Nathan Cullen:** Therefore, the highest bar would be, "Hey, I'm thinking of taking this trip, Ethics Commissioner, but it's a trip being offered to me by somebody who also lobbies my office. Is it okay?", and you would have said no.

**Ms. Mary Dawson:** I think I've heard in the Prime Minister's statements that he's now going to check with the office all the time when he's taking a trip.

**Mr. Nathan Cullen:** I bet.

• (1130)

**Ms. Mary Dawson:** It had an effect.

**Mr. Nathan Cullen:** If that higher bar is not reached, then another bar down is when a trip is accepted inappropriately, or a gift of some kind, a painting, whatever, a watch, and the person says, "Now that I think about it, that's inappropriate", and they are going to pay that person back for the gift, you don't have anything to do with it at that point—do you? You might get notified, but you're not going to follow that up.

**Ms. Mary Dawson:** Hypotheticals are very difficult to deal with because every time you have an issue that you have to deal with, you have to look at it afresh in the general context. There's no one case that's going to be an exact, perfect model for a decision on a next case.

**Mr. Nathan Cullen:** There are some learnings that we need to take from this, as you've said, because it's an interesting case.

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** We've never had a prime minister found in violation of the act before.

Can I also circle back to this point about the Prime Minister's statement that in being in a meeting with the Aga Khan, he was not there in his official capacity but in the capacity of relationship building or as a friend? Did I hear you correctly?

**Ms. Mary Dawson:** Those tests are reasonably seen to have been given. The tests are objective, as opposed to subjective. I'm not sure this is answering the specific question you're asking, but each section is drafted a little differently, so you have to look at the exact—

**Mr. Nathan Cullen:** I'm just trying to clarify what is not even a philosophical point but maybe a legal point, which is that if the

Prime Minister, or anybody, has received a gift when there is this sort of association, he can say, "I'm in the meeting, but they're just a friend. I'm not there in my official capacity as a member of Parliament, or Prime Minister, or cabinet minister." That was the argument I understood he made and that you reiterated this morning. Did I hear you wrong?

**Ms. Mary Dawson:** I think there were two or three different instances, and the circumstances were different. Sometimes he was there in his official capacity, sometimes he was there when things were being discussed, and sometimes he was there—I don't know—out of courtesy because they were wanting to meet the leaders.

Every case when there was a meeting was different, so you have to figure out which one you're talking about.

**Mr. Nathan Cullen:** Yes, but what was not different was that in all of those cases he was still the Prime Minister.

**Ms. Mary Dawson:** No; actually, he was the leader of the Liberal Party.

**Mr. Nathan Cullen:** He was in the previous ones, but in the meetings that followed—

**Ms. Mary Dawson:** There was one when he was a member, but there were no consequences.

**Mr. Nathan Cullen:** Right, but even as a member of Parliament, as leader of a federal party, and then as Prime Minister, I just don't imagine a scenario in which I say, "I'm taking that elected hat off and I'm just here hanging out with a buddy." If you follow that line of logic, you could be popping hats off and on as almost a convenient way to—

**Ms. Mary Dawson:** It depends. If you're meeting with an old school buddy who has nothing to do with anything the government's doing—

**Mr. Nathan Cullen:** But if I'm meeting with someone who does have something to do with what the government is doing, \$330 million—

**Ms. Mary Dawson:** You're talking about a specific case.

**Mr. Nathan Cullen:** Sure I am. If my old school buddy is also someone who lobbies the government and has—

**Ms. Mary Dawson:** Then you'd better be careful.

**Mr. Nathan Cullen:** You'd think so, yes. You'd better be careful.

I got the sense from your original testimony that your definition of friendship is actually quite broad.

**Ms. Mary Dawson:** There are lots of people, I would say—

**Mr. Nathan Cullen:** You're not restrictive in your thinking on friends.

**Ms. Mary Dawson:** No. It depends. It's a circumstantial thing as well. A friend is probably the broadest.... I have had several cases on friendships. There was one guy who was exonerated because I really didn't think he was a friend. He was just someone who liked to drop a name. You just have to look at each case and figure out what you're doing.

**The Chair:** Thank you, Mr. Cullen.

**Mr. Nathan Cullen:** I'll come back.



**The Chair:** There will be more time, I'm sure.

Next up, for seven minutes, is Mr. Saini.

**Mr. Raj Saini (Kitchener Centre, Lib.):** Good morning, Commissioner. I will refer to you as "Commissioner" because I still think of you as the commissioner.

**Ms. Mary Dawson:** Well, I think the best would be "former commissioner".

**Mr. Raj Saini:** Well, okay, former commissioner.

Anyway, I want to thank you very much for coming. I know that you noted to the press that this report almost killed you and that you needed some rest afterward.

**Ms. Mary Dawson:** It was an overstatement.

**Mr. Raj Saini:** I'm glad that you're here in full health. As a pharmacist, if there's anything I can offer for your health, I would be more than happy to do that.

**Voices:** Oh, oh!

**Mr. Raj Saini:** I have a couple of specific questions regarding the report and a couple of general questions. As a new MP, I would like to explore the question of friendship a little bit more broadly.

Referring to page 30 of your report, you lay out the test that must be applied when determining whether a breach of section 14 of the members' code has taken place. If I understand it, this test is used to determine whether a gift may be seen to have influence. Now, you determined that there was no contravention of section 14.

**Ms. Mary Dawson:** Yes. It was because there was no business.

**Mr. Raj Saini:** What kind of procedure or process did you use to ensure that the test was applied fairly and appropriately?

**Ms. Mary Dawson:** I'm not sure what kind of answer you're looking for.

**Mr. Raj Saini:** You mentioned in your report that there was a test that applied. I'd just like you to explore or comment on that test you used and how it was applied.

**Ms. Mary Dawson:** I don't know quite how I used that. I'd have to look at the exact wording. Basically, if it's a gift, what you have to do is see whether it could be seen to have been given to influence you. You stand back and ask, "What would a reasonable man on the Clapham omnibus think?", as they say in legalese. You try to stand back and take an objective reading of something.

• (1135)

**Mr. Raj Saini:** Okay.

Also, in your analysis of section 7 of the Conflict of Interest Act, you noted that there is no evidence that the treatment of the Aga Khan or his institutions by this Prime Minister was more favourable than by previous prime ministers. Is that correct?

**Ms. Mary Dawson:** That's on the section 7 investigation. Yes.

**Mr. Raj Saini:** Given that, is it fair to say that while you concluded that certain behaviours might have been inappropriate, there does not appear to be any evidence that this trip changed the relationship between the Aga Khan and his institutions and the office of the Prime Minister, or the Aga Khan and his institutions and the Government of Canada?

**Ms. Mary Dawson:** You know what? I'm going to have to look at this. This is on section 7, is it?

**Mr. Raj Saini:** Yes. It's in your report.

**Ms. Mary Dawson:** Run that past me again. What page are you on?

**Mr. Raj Saini:** You know what? Let's move to another question. I'll ask a more general question.

**Ms. Mary Dawson:** All right.

**Mr. Raj Saini:** Some of us in the medical community from urban areas, whether small or large, tend to accumulate a lot of patients if we've been in medical practice for many years. In a smaller area, those patients tend to have interactions with us publicly and privately—that is, as patients and socially. Sometimes we have friends who become our patients, and sometimes we have patients who become our friends. In that scenario, could you comment on how one should approach the test of friendship and the definition of friendship? What guidelines should be followed?

**Ms. Mary Dawson:** There's a paragraph somewhere in this report in which I say that when you get into a position of power and there is some kind of a relationship that may be developing, watch out in the development of that friendship, because whenever you're in a position of power and somebody is in a position in which they're wanting to get something from you, that is a situation where you have to be very careful.

**Mr. Raj Saini:** Do you think the term "friendship" should be defined in the act?

**Ms. Mary Dawson:** I don't think you could ever define it properly. The trouble is that it means many different things to different people.

**Mr. Raj Saini:** Should there be some guiding criteria, some guidelines?

**Ms. Mary Dawson:** You know, friendship is used all the way through the act. It's in the quasi-definition of what a conflict of interest is. It applies on both sides of the scale—whether you can accept gifts or whether you can do favours when you're in a position. I think I mentioned as an aside in the course of my opening remarks that I'm not so sure it's very helpful to have that exception in the act, as I look at this whole situation. It isn't in the code. With regard to the "reasonably seen to have been given to influence", there's a whole history on the code's gift thing, which I find interesting but which you probably don't want to hear about. There were a number of changes to that provision in the code. It was tightened up in about 2010. Anyway, it's never had an exception for friends specifically.

You take a look and ask yourself whether it could reasonably be seen, and that's a better test. In the act there's no way that having someone as a friend should always obviate the obligation under section 11. The real test should be whether it could reasonably be seen to have been given to influence you. Having that exception for friends confuses the situation. An improvement—not one of the original 89 amendments I suggested, or however many there were, but one that has occurred to me since—would be to maybe take a page out of the code's approach and not have that as a specific exception.

**Mr. Raj Saini:** I want to talk to you about that specific recommendation. In 2013 you said that Parliament should try to harmonize the Conflict of Interest Act and the conflict of interest code for members.

Do you think that would be necessary? Do you think there would be benefits to harmonizing them?

**Ms. Mary Dawson:** I think attempts should be made to harmonize them. I don't think it would be possible in all circumstances. Some rules need to be different.

I'm just saying that a lot of confusion is created through the use of slightly different terminology in the two. For example, the code covers relatives and the act covers family. Different terminology is used, and it has slightly different definitions. What I'm really saying with that recommendation is, for heaven's sake, take a look. I mean, the ministers and the parliamentary secretaries are under both the old act and the code. Sometimes it might be useful if the same rule were there if there weren't a reason for there to be a different rule. That's all I'm saying.

• (1140)

**Mr. Raj Saini:** Thank you very much.

**The Chair:** Thank you, Mr. Saini.

Up next for the five-minute round is Mr. Gourde.

[*Translation*]

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

Ms. Dawson, thank you for being here. I want to congratulate you...

**Ms. Mary Dawson:** I'm having some trouble hearing you. Also, since I am more comfortable in English, I will probably answer you in that language.

**Mr. Jacques Gourde:** That's fine.

I want to thank you for being here, and to congratulate you for all of the work you have done.

I was quite anxious and impatient to read the report. When I read it, I understood all the scope of the work and investigations that you did. I am not surprised that it took 11 months.

Did you address your questions directly to the Honourable Prime Minister of Canada, Mr. Justin Trudeau, or to the Office of the Prime Minister?

**Ms. Mary Dawson:** They were addressed to the Prime Minister. I received replies from his lawyers, and I also had some meetings with the Prime Minister.

**Mr. Jacques Gourde:** So, you put questions to the Prime Minister, but you received answers from his lawyers, and not the Prime Minister himself.

**Ms. Mary Dawson:** No; it was in writing, and the answers were from the Prime Minister. I've forgotten what the document said exactly.

**Mr. Jacques Gourde:** Your report says that attempts were made to discredit some of your questions. They said, for example, that there were differences in meaning in the French and English versions of the Act, such as in the meaning of the words *avions* and "aircraft", for instance.

**Ms. Mary Dawson:** Are you referring to the matter regarding the aircraft?

**Mr. Jacques Gourde:** Yes. I want to know if the Prime Minister's lawyers attempted to discredit some of your questions. Did you have to ask again in order to find out what type of transportation the Prime Minister was referring to?

**Ms. Mary Dawson:** You want me to talk about this issue?

**Mr. Jacques Gourde:** Yes. I want to know if the Prime Minister's lawyers attempted to discredit some of your questions.

**Ms. Mary Dawson:** Yes.

**Mr. Jacques Gourde:** Yes? I see.

Were these the Prime Minister's personal lawyers, Privy Council lawyers, or lawyers from the...

**Ms. Mary Dawson:** They were the Prime Minister's lawyers.

**Mr. Jacques Gourde:** I see. So these were the lawyers the Prime Minister paid himself in the context of this case.

**Ms. Mary Dawson:** I suppose he did.

**Mr. Jacques Gourde:** You don't know?

**Ms. Mary Dawson:** No.

**Mr. Jacques Gourde:** So that is one question we can put to the Prime Minister in the House.

**Ms. Mary Dawson:** The Privy Council had nothing to do with this.

**Mr. Jacques Gourde:** Okay, that's fine.

My next question is about the third trip, when the Prime Minister's family went to the island. I'm referring here to the Prime Minister's wife, their friends and their children, probably.

Did the family ask for that trip, or did the family of the Aga Khan insist that the Prime Minister's family return to the island a third time?

**Ms. Mary Dawson:** I don't understand your question.

**Mr. Jacques Gourde:** Who asked for the third trip?

In your report, you mentioned that there were communications between the wife of the Prime Minister and the daughter of the Aga Khan. Was it the daughter of the Aga Khan who absolutely insisted that the wife of the Prime Minister return to the island in March 2016, or was it the Prime Minister's wife who liked the island and wanted to return to it herself?

**Ms. Mary Dawson:** I have no idea. I don't know.

**Mr. Jacques Gourde:** And yet, you saw emails that were exchanged, since you spoke about them. There were also phone calls and letters.

**Ms. Mary Dawson:** Yes, but I am not going to disclose anything besides what I wrote in the report. However, I can say that there was no important information in that area.

**Mr. Jacques Gourde:** Ms. Dawson, could this whole saga have been avoided if the Prime Minister had asked you to authorize the trips, and discussed the transportation issues with you?

If he had told you he had no choice but to travel in the way that he did, and gave you the reasons, would you have given your approval?

**Ms. Mary Dawson:** It would probably have depended on the quantity of information I was given. If I had been asked about a vacation on the Aga Khan's island, I would probably have discovered that that person has a relationship with the government, and we probably would have asked some questions. It is quite possible that we would have provided some advice on the matter.

• (1145)

**Mr. Jacques Gourde:** The Prime Minister's lawyers said that there were exceptional circumstances. But whenever the Prime Minister travels, there are exceptional circumstances.

Is it true that the lawyers asked you that, or said that?

**Ms. Mary Dawson:** What did they ask me?

**Mr. Jacques Gourde:** They said that any travel on the part of the Prime Minister is done in exceptional circumstances, and that this was not necessarily the case for the Prime Minister's predecessors.

**Ms. Mary Dawson:** The lawyers did not say that; it was Mr. Trudeau.

**Mr. Jacques Gourde:** Mr. Trudeau himself said that?

**Ms. Mary Dawson:** Yes. As I indicated in the report, Mr. Trudeau said that all of his trips were exceptional. In a way, they are always exceptional, because there is always a lot of security involved and all that. My point here is that you cannot use the argument that all travel is exceptional to claim that the holidays in question were exceptional. The circumstances were known, it was well planned, they had taken the helicopter before, so these were not circumstances that...

[English]

Let me go into English for a bit. It's easier.

You know, it's interesting, because the rules of the Prime Minister, the guidelines of the Prime Minister, require checking with the commissioner even if it is exceptional, so there's a dissonance in those two rules as well.

In any event, I found that it wasn't exceptional in this case, so it didn't matter.

**The Chair:** Thank you, Mr. Gourde.

Next up for five minutes is Monsieur Picard.

[Translation]

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

Good morning, Ms. Dawson.

[English]

Please answer in the language of your choice to be more at ease in your explanations. My questions will be in French.

**Ms. Mary Dawson:** Okay.

[Translation]

**Mr. Michel Picard:** You said that the definition of a “friend” was very broad and was not as circumscribed as all the other definitions contained in other laws.

In the public interest, and for those who will be reporting the information, I would like everyone to understand the challenges you face in cases where friendship is involved.

Earlier, you referred to criteria defined in a document that is about a dozen pages long. Did you attempt to apply those criteria so as to determine who should or should not be defined as a friend in as objective a manner as possible?

[English]

**Ms. Mary Dawson:** As I said a couple of times, I think you have to look at the circumstances, at all the surrounding circumstances, to decide whether you should be applying an exception because they're a friend. That's why I'm suggesting that it might be a very good idea to take that exception out. If you didn't have that exception in there, then in most cases if it were given to you by a friend, it would not reasonably be seen to have been given to influence you. I think the addition of that exception creates an unnecessary burden of decision, and not only that: it's insulting to the people who.... It's not nice if Mr. Trudeau has to say “The Aga Khan is not a friend of mine”, and he liked him. It just is the wrong.... I think it's not helpful.

[Translation]

**Mr. Michel Picard:** In your definition of a friendly relationship, you also must consider the perception of the other side. I'll explain what I mean. In certain cases, it would be rude, if not insulting to the other party, to refuse the offer, either because of the logistics involved, or because it would be related to the hospitality being extended.

Since this is a bilateral relationship, where two parties are involved, did you take into account the cultural or ethnic aspects that are necessarily a part of what are inevitably international relationships, at least in the Prime Minister's case?

[English]

**Ms. Mary Dawson:** We've had, in different circumstances, cases in which cultural questions have come in. For example, there were cases of people I think in the citizenship area or the refugee area who may have been so thankful to have been heard by somebody in Canada that they'll bring a gift. Well, those are delicate situations that you have to deal with. The way you have to deal with it is to say, “Look, in Canada this creates a problem. Thank you, but perhaps you could share it with everybody here or something. I can't accept this gift.”

Now, that's a specific example of that kind of cultural problem. I think you have to abide by the expectations in this country to some extent, but you have to be very nice about it.

• (1150)

[*Translation*]

**Mr. Michel Picard:** The degree of friendship is not defined, so no difference is made between a friendly acquaintance and a close friend of long standing. When assessing whether a gift is admissible, what criteria are used to define who qualifies as a friend?

Personally, I have a friend I've known since I was 14, Charles, and I say hello to him in passing. Even if we haven't seen each other in 40 years, he remains a friend, because there are some things that stay with you.

You have to consider the cultural aspect and the specific circumstances of travel with friends who also have a business relationship with the government. In those circumstances, it is possible that the conversation might take a turn toward work-related topics. In any case, only one person makes the decision concerning the admissibility of a claim, and that person is you.

**Ms. Mary Dawson:** Yes.

**Mr. Michel Picard:** Is this determined on a subjective basis?

**Ms. Mary Dawson:** I don't know that there is any other way to do it.

[*English*]

Because every situation, as I keep saying, is different, you have to judge it in the context. I have in, I think, the Watson report a description of what a friend is. That was eight years ago now. I might change that a little bit now. Each time I've done a decision on "friend", which I've done two or three times now, I've tried to give my reasons, and it's sort of an inductive system. Maybe it's not familiar to the civil law mentality and aligns more to the common law mentality, but I think we have to build up our precedents and understand it. As I say, getting rid of that exception might help.

[*Translation*]

**Mr. Michel Picard:** Thank you.

[*English*]

**The Chair:** Thank you, Mr. Picard.

Next up is Mr. Kent for five minutes.

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

Ms. Dawson, you observed in your report that in 2015 the Prime Minister issued a guidance document for ministers and ministerial exempt staff entitled "Open and Accountable Government", and you found that he violated not only his own guidance letter but also the Conflict of Interest Act.

**Ms. Mary Dawson:** I made that comment. I'm not the judge of the guidelines. That's PCO or...I don't know who it is, but it's not me.

**Hon. Peter Kent:** Absolutely, but as you say, in this case the Prime Minister did not follow his own rule.

**Ms. Mary Dawson:** No; if you look at that guideline, it says exceptional circumstances "and" consulted the commissioner, whereas the act says "or".

**Hon. Peter Kent:** Were you surprised that the Prime Minister didn't see the conflict in his decision to take this vacation, or that his advisers in the Prime Minister's Office did not see the several areas of potential conflict and vulnerability?

**Ms. Mary Dawson:** Well, I think it's unfortunate. I don't know if I'm going to say "surprised".

Some of these rules are not easy, and it's a question of getting your mindset into them. What can I say? I wouldn't say I was surprised.

**Hon. Peter Kent:** You've reminded us today that the penalties at the commissioner's disposal are symbolic and rather small. They're meant to, as you said—

**Ms. Mary Dawson:** They're meant so you can get your reports in on time, basically.

**Hon. Peter Kent:** Right, but you said publicity and the prospect of re-election would be considerations that anyone considering violation, knowingly or unknowingly....

**Ms. Mary Dawson:** Actually I'd like them to do it just because it is the right thing to do, but those are the two things that I could see falling out.

**Hon. Peter Kent:** You have said you don't believe there should be stiffer penalties for violation of the act. This is an unusual violation in the sense that for this improper vacation, the four violations you found associated with the decisions and the actual vacation itself generated almost \$250,000 in costs to the Canadian taxpayer in security, in staff, in technology, for friends and camp followers, if you will, taking part in this unauthorized vacation. Do you not see that there is some sort of moral, if not ethical, obligation to repay beyond the mere payment of the equivalent of commercial airfares?

• (1155)

**Ms. Mary Dawson:** If the Prime Minister had gone somewhere else on his own initiative, and it wasn't with a problematic person—not that the Aga Khan is problematic—or in a problematic situation, a lot of those costs would have been incurred anyway.

**Hon. Peter Kent:** Understood.

**Ms. Mary Dawson:** The security costs are huge, I think. Actually, that's not my bailiwick at all. That was not my bailiwick. That is PCO or whoever pays that money. There's a whole establishment there that looks after the Prime Minister's security, and that expense is incurred whatever he does.

**Hon. Peter Kent:** I would just say that many suggest that on personal vacations, particularly problematic personal vacations, there should perhaps be a better exercise of judgment with regard to the amount of costs.

**Ms. Mary Dawson:** By the same token, he shouldn't be a prisoner. Even if you're a senior politician, you should be able to have a holiday occasionally.

**Hon. Peter Kent:** Absolutely. There's no argument with that. I'm sure Canadians enjoyed observing his holiday in British Columbia from a distance this past couple of weeks.

I have one other question. What are the requirements for a former member who benefits from a gift such as the Aga Khan vacation and who becomes a public office holder? Should that person record on the registry the fact that benefit was received from, in this case—?

**Ms. Mary Dawson:** A rule of thumb is that we sort of generally look upon something that happened a year or two ago as long enough ago, but it depends a little bit. In other words, if you got a gift from somebody five years ago and then you became an MP, I don't think it's going to be a problem that you have to report.

**Hon. Peter Kent:** But if a member a year ago on that vacation is now a public office holder, a minister, should he, in the—

**Ms. Mary Dawson:** Once he becomes a—

**Hon. Peter Kent:** —instance of transparency, make that record and say that he will recuse himself from any involvement, perhaps, with the Aga Khan's organizations?

**Ms. Mary Dawson:** I think you're hitting a limit of one year, which is kind of where you have to think about it a little bit. That's kind of where we would look at it, I think, but you don't have to report something that you did when you were not a public office holder. You maybe should be cognizant of it if three months before you became somebody or other you had a meeting or you had a situation where you were making a decision. Then you should recuse, but it depends on the time and the whatever.

**The Chair:** Thank you, Mr. Kent.

Next up is Ms. Fortier for five minutes.

[*Translation*]

**Mrs. Mona Fortier (Ottawa—Vanier, Lib.):** Thank you very much, Mr. Chair.

Ms. Dawson, I too will ask you questions in French, but please feel perfectly comfortable answering in the language of your choice.

First, I would like to thank you for the co-operation I have received from your office since I was elected, last year. I know that you receive many requests, because many things are left open to interpretation. When you are a new MP, you have to be very careful. Your office always answered all my queries fully, and I thank you.

In my opinion, your report is complete, so I won't necessarily ask questions on its content. And my colleagues have already asked some. I would instead like to hear a bit more about the context of assessments.

Your inquiry took place over a period of 11 months. We are nearing the end of the fiscal year. Do you think that in future inquiries similar to the one you've just carried out, certain steps or questions should be added to the process?

**Ms. Mary Dawson:** No, I think the process we have is a good one. I don't have anything to recommend in that regard for the moment.

**Mrs. Mona Fortier:** The context is that there is going to be a review of the Conflict of Interest Act. In light of the exercise you've just been through in the past 11 months, would you have any recommendations to make regarding the review of the act? The definition of friendship was discussed. There may be other

definitions that need to be revised, for instance the ones regarding decisions, or the exercise of a public office.

Do you have any suggestions to make regarding the review of the act?

• (1200)

**Ms. Mary Dawson:** I have no suggestions to make for the time being. I did not think of these things before coming here.

**Mrs. Mona Fortier:** Following an exercise like this one, is there anything you would like to propose, or that you feel we should discuss?

**Ms. Mary Dawson:** No. Basically, I don't think this inquiry differed from other inquiries I've conducted. I followed the same process. It was not a special investigation, aside from the person concerned, perhaps.

**Mrs. Mona Fortier:** Thank you.

I'd like to go back to my position as a new member of Parliament. In your report, you mentioned that public office holders should cease cultivating friendships with people they may have to work with. For senior public service officials, this could mean that they would have to do this for several years.

If I became a public office holder and had the privilege of remaining in that position for many years, what would you recommend concerning the management of my new friendships or of those I might have, in the context of that office? From that perspective, would you have any recommendations to make to parliamentarians?

**Ms. Mary Dawson:** There is a difference between new parliamentarians and public office holders. In both cases, however, my office has always encouraged everyone to ask questions. There is an adviser that all parliamentarians and all public office holders can call at any time to ask questions. In some cases, the questions are addressed to the Conflict of Interest and Ethics Commissioner. I was always available to meet with anyone who wanted to meet with me.

My suggestion is simply to ask questions if you encounter a problem. You can also read the guides, as they contain several guidelines. I would suggest that you ask questions of an adviser; it's quite easy.

**Mrs. Mona Fortier:** So, there are already several measures in place.

In the context of the upcoming review of the act, we should perhaps suggest some new measures, or propose changes to certain measures. Is there anything you would like to suggest in the context of this exercise?

**Ms. Mary Dawson:** No, not in this context. If I had a problem, I would try to resolve it. However, at this moment, I can't think of any particular problem.

**Mrs. Mona Fortier:** Fine.

[*English*]

I've asked all of my questions.

[*Translation*]

Thank you very much.

[English]

**The Chair:** Thank you, Ms. Fortier.

The last questioning in this round is three minutes to Mr. Cullen.

Just for everybody's information, we're going to suspend briefly for a bathroom break and to grab a coffee, and then we'll come back. After Mr. Cullen's questioning, we'll have that break.

Go ahead, Mr. Cullen.

**Mr. Nathan Cullen:** We're almost through the first half.

Let's pop back to this "friend" exception. If someone gave a gift that contravened the act and they weren't a friend, that's a problem, but there's this loophole that if they were a close friend, it would be okay, even if that friend has dealings with the government, under the act as it is right now.

**Ms. Mary Dawson:** That's where there's some confusion. If it was obviously the case that they shouldn't be giving a gift... We've had some cases sometimes of the gift being sent to an office, as opposed to being given under the Christmas tree. You have to look at the circumstances in which the gift is given as well.

**Mr. Nathan Cullen:** Of course. I'm trying to look at this through the eyes of, as you said, the average Canadian who is seeing this and says, "Wait a second; if somebody who's lobbying the government, lobbying a minister, lobbying the Prime Minister, is a friend, there might be some sort of exclusion for that activity if they give them a nice gift—if they buy them a nice watch or whatever."

You say it's if it's an egregious case, but the reason it's a concern is that the Prime Minister, in your report, attempted to use this exception to say this was all okay, that somebody he hadn't had any contact with for 30 years, since the age of 13 until the time he became leader of a federal party, whom he saw at his dad's funeral....

**Ms. Mary Dawson:** I actually found it didn't fit within the definition of "friend".

**Mr. Nathan Cullen:** But even the attempt to use that definition to make the trip exceptional is—

• (1205)

**Ms. Mary Dawson:** The other side of the coin in this act is that when you're exercising your powers—you're going to a meeting, you're making a decision—that's when a friend is exactly on the other side of the coin. They're excluded.

**Mr. Nathan Cullen:** That's right, which would have been a problem for Trudeau in a different way. If you had accepted the friend thing, he went to two meetings in which the Aga Khan's interests were involved—

**Ms. Mary Dawson:** Yes. One way or another, there was going to be a problem.

**Mr. Nathan Cullen:** One way or another, there was going to be a problem.

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** This whole thing, the trip and then the follow-up meetings about the Aga Khan Foundation, if you had accepted the friend argument—

**Ms. Mary Dawson:** That's right. I would have had a problem on the other side.

**Mr. Nathan Cullen:** Right, so there were only versions of losing in this situation.

**Ms. Mary Dawson:** Right.

**Mr. Nathan Cullen:** Okay.

Can I just circle back for a moment? In your report, you said initially it was the Trudeau family that contacted the Aga Khan's daughter, I believe, for the March 2016 trip. Is that...?

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** That's what you said in your report, anyway —

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** —but we don't know who asked for the second trip, the trip that has been the attention of "The Trudeau Report".

**Ms. Mary Dawson:** No.

**Mr. Nathan Cullen:** Did you ask anybody?

**Ms. Mary Dawson:** I got an awful lot of that information from my documentary evidence on the first one, so it wasn't necessary for me to find that out.

**Mr. Nathan Cullen:** Isn't that an interesting question to ask?

**Ms. Mary Dawson:** It's interesting as all get-out, but it's not important for the purposes of the decision.

**Mr. Nathan Cullen:** Why not? Do you see what I mean? If I—

**Ms. Mary Dawson:** It wouldn't have changed any decision.

**Mr. Nathan Cullen:** That's interesting. On an occasion of an MP asking for a gift or being offered a gift, you make no distinction on that.

**Ms. Mary Dawson:** I didn't see the need for it here.

**Mr. Nathan Cullen:** Again, to go back to the average Canadian watching this, if a politician was out there asking for stuff, as opposed to being offered, motivation becomes an interesting thing.

**Ms. Mary Dawson:** Yes, but it didn't matter here. There was no need to get into details that I didn't need.

**The Chair:** Thank you, Mr. Cullen. It seemed short because it was. It was only three minutes, but we'll be coming back.

We're going to suspend again for five minutes. We'll see you back in five minutes.

• (1210)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1215)

**The Chair:** Thank you, everybody. We'll call the meeting back to order.

The structure for the second half of our meeting will be seven minutes for each party, starting off with Mr. Erskine-Smith.

**Mr. Nathaniel Erskine-Smith:** Thanks very much. I may not take the full seven minutes, but we'll see.

You've talked about an objective reading of "reasonably be seen to have been given to influence".

**Ms. Mary Dawson:** I'm sorry. I'm having trouble hearing you.

**Mr. Nathaniel Erskine-Smith:** You talked about an objective interpretation of the definition of "reasonably be seen to have been given to influence". I think you said that you took the Prime Minister at his word. In reading your report, we see what the Aga Khan states:

In his written submissions, the Aga Khan described this invitation as an expression of the personal relationship between Mr. Trudeau and his family and the Aga Khan and his family, adding that he and his family have extended such standing invitations to a few close friends.

I wonder how that statement was used and/or relied upon in your objective interpretation of "reasonably be seen to have been given to influence".

**Ms. Mary Dawson:** Well, you know, I did note in my report that there were quite a few people who got invited to the Aga Khan's island—

**Mr. Nathaniel Erskine-Smith:** It says a "standing invitation", though, which he extended to only "a few close friends", according to his written testimony.

**Ms. Mary Dawson:** Yes, that's what he said.

Yes. You know, what can I...? It seems to me that I've put out all the facts.

**Mr. Nathaniel Erskine-Smith:** Sure.

**Ms. Mary Dawson:** I've put out all the circumstances. The fact of the matter is that these invitations resumed when the Prime Minister was in a position of power, either as the leader or as the Prime Minister.

I don't know.... The facts are all there, and—

**Mr. Nathaniel Erskine-Smith:** Sure.

**Ms. Mary Dawson:** —you can make of them what you will.

**Mr. Nathaniel Erskine-Smith:** Sure.

Also, you didn't find in the course of your report that the Prime Minister acted to further the private interests of the Aga Khan.

**Ms. Mary Dawson:** No, I didn't find that he took any decision, but he did take part in some discussions.

**Mr. Nathaniel Erskine-Smith:** In looking into recommendations that this committee might make in relation to the Conflict of Interest Act more generally, you've suggested—not in your 2013 recommendations, but today—perhaps removing the "friend" exception from the act. Do you think that's preferable to setting out certain indicia in the act of what a friend is?

• (1220)

**Ms. Mary Dawson:** I don't think you'd ever get a decent set of indicia on what a friend is.

**Mr. Nathaniel Erskine-Smith:** Is there any worry with the definition of "reasonably seen to influence"? I'll use an example of a friend of mine giving me a gift on my birthday or at Christmas. They also happen to be a registered lobbyist, and I'm a public office holder. Probably why the "friend" exception is there in the first place is to codify what a reasonable person might expect, which is that

when you get a gift from a friend in the ordinary course of that friendship, it's not seen to reasonably influence you.

**Ms. Mary Dawson:** Yes, but you know, it seems to me that you could say to your friend, "Look, we have a situation here. Right now you're looking for something from my office, so could we desist with the gifts for a while?" or—

**Mr. Nathaniel Erskine-Smith:** Sure.

**Ms. Mary Dawson:** —"Let's both pay for our lunch", or whatever. If he's a good friend, for heaven's sake, why can't you say that to him?

**Mr. Nathaniel Erskine-Smith:** We could improve the act and make it more stringent in the sense that by removing the "friend" exception, we could make it very clear to public office holders, while they are public office holders, to hit "pause" on—

**Ms. Mary Dawson:** Well, it would make it clear... I think it would just remove a bunch of confusion from it.

**Mr. Nathaniel Erskine-Smith:** Sure. That confusion maybe led to this situation in the first place.

**Ms. Mary Dawson:** Yes. I think it might help.

**Mr. Nathaniel Erskine-Smith:** We have a motion, which was previously approved, to discuss your 2013 recommendations. We'll now have Mr. Dion before us to discuss potential recommendations of this committee with respect to the Conflict of Interest Act. Would you want to add anything to your testimony today, not specific to "The Trudeau Report" but specific to the recommendations that we perhaps ought to make as a committee in relation to the Conflict of Interest Act more generally?

**Ms. Mary Dawson:** I'm sure I could probably dream some up. Those recommendations were made five years ago, and I think—

**Mr. Nathaniel Erskine-Smith:** Yes, so I guess the question is... You've added removing the "friend" exception to your 2013 recommendations. Would you simply say that otherwise you stand behind your 2013 recommendations?

**Ms. Mary Dawson:** By and large, yes.

**Mr. Nathaniel Erskine-Smith:** There are no other additional recommendations you would make.

**Ms. Mary Dawson:** I'm sure there are some, because every year when I do an annual report, I probably have recommendations that are not listed in that five-year thing. I've made recommendations over the years. This is a new one: just take "friend" out. I hadn't put that in any annual report and I won't get to do another annual report, but the source of my recommendations is not only this five-year review.

**Mr. Nathaniel Erskine-Smith:** Okay. We can ask the analyst to pull out any recommendations from the annual reports, but if you do think of other recommendations that you, as the former commissioner, would want this committee to review and consider in the course of our study of the Conflict of Interest Act, would you submit those in writing so we don't waste any more of your time?

**Ms. Mary Dawson:** Yes, but I won't submit them in writing unless I know you want to hear from me or you're going to look at them or something.

**Mr. Nathaniel Erskine-Smith:** Certainly. We've adopted a motion that says we want to hear from you, so we certainly do want to hear from you, and we will want to hear from Mr. Dion. The fact of the matter is there's you and there's Mr. Dion who has just taken on the role, and I think it would be very useful for this committee to understand what reflections you, with your experience, would have, and what changes we have to make.

We had started to explore this idea of world leaders, and you indicated that the Pope was the closest thing to the Aga Khan in terms of an analogy. The Pope and the Vatican council are hosting a conference in, I think, April. One of the items in that conference is healthy eating and promoting healthy eating around the world. If they invite world leaders and they say, "We'll pay for you to stay for the purpose of the conference, and we're pushing you to spend money on healthy eating strategies globally and in your domestic countries", is there a concern about accepting the gift of the stay at the residence or the hotel?

**Ms. Mary Dawson:** There's a difference. If a gift is broadly offered, then it's usually not a problem. I've looked at lots of examples of that over the years. If you invite all of the MPs to something or other, that's fine, but if you target some of them....

Another thing I want to say is that people are always talking about lobbyists. The act that I administered doesn't focus on lobbyists: it focuses on stakeholders, and they're a much broader group than just lobbyists. Just remember that just because you're not a lobbyist doesn't mean you're not necessarily caught.

**Mr. Nathaniel Erskine-Smith:** The simplest answer for us as politicians and for public office holders is to make sure we confirm in writing with the Ethics Commissioner in advance of undertaking any action or accepting any gift to ensure that we're compliant with the law.

•(1225)

**Ms. Mary Dawson:** If you have doubt, yes, or you phone up and talk to an adviser and just talk it through.

**Mr. Nathaniel Erskine-Smith:** Thanks very much.

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

Next up, for seven minutes, is Peter Kent.

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

Your last answer provides a nice segue into my next question.

In the addendum to your report and your list of witnesses, you included a written submission from the Aga Khan and from four other representatives of Aga Khan organizations or the Ismaili Council for Canada. With regard to lobbyists, you've noted before that lobbyists used to be covered by the conflict of interest protocols and so forth. You have noted, as you did today, that public office holders are defined in quite a different way by the Ethics Commissioner, in the Conflict of Interest Act, and under lobbying.

**Ms. Mary Dawson:** Those things are very confusing because of the terms.

**Hon. Peter Kent:** You are on record as saying that the only person the lobbyist commissioner is concerned about is the lobbyist. You're concerned with both sides, and you've recommended in the past that in fact you believe the two offices should be joined one way

or the other. I'm wondering, because of the exceptional circumstances in this case, whether there is yet work to be done by the lobbyist commissioner with regard to the other side of "The Trudeau Report".

**Ms. Mary Dawson:** I can't speak for the lobbying commissioner.

As you say, lobbying rules used to be under the conflict of interest regime. There's certainly a good rationale for putting them together. The thing that's kind of unusual about the Lobbying Act is the power for the lobbying commissioner to establish some rules. That's not unusual with somebody who is administering an act. I don't establish any of the rules that I'm administering; I just interpret them and apply them. For the commissioner to be able to establish the rules is an unusual power.

My feeling on whether the two should go together depends on the extent of the.... There's nothing that necessitates their being connected and consistent with each other. There's terminology used under the lobbying regime that is the same as what's used under my former regime, but it means different things. It's very confusing. There are a number of terms there, and I'd have to dig them out. Care needs to be given to make sure...and it's the same with the difference that I mentioned between the code and the act.

In the code, by the way—it must have been with the recommendations for the code—it's not organized very well. I did a bunch of drafts because I'm a former drafter, of all things, so I actually did a number of drafts as to how the code could be better presented. There are lots of technical improvements that could be made to these things, but none of them is earth-shaking.

**Hon. Peter Kent:** Just to come back, do you believe there are any loose ends, as a result of "The Trudeau Report", that are beyond your purview and that would be better considered by the lobbying commissioner?

**Ms. Mary Dawson:** No, not per se. I haven't thought that through.

**Hon. Peter Kent:** Okay.

In the past you've also suggested that some of the considerations of friends and associates in the Conflict of Interest Act be broadened in terms of who is covered. I would assume that would be in your continuing list of recommendations for Parliament, for—

**Ms. Mary Dawson:** Do you mean who's covered by the...? By what?

**Hon. Peter Kent:** The code and the act, in terms of friends and—

•(1230)

**Ms. Mary Dawson:** No. I was talking about relatives and the family. There's different terminology.

It's worth looking at. I mentioned that in one of my recommendations.

As well, I was very pleased that at the end of the last government, a number of amendments were made under the code. For example, they went from the \$500 limit for reporting gifts to \$200. A number of good changes were made, but there were still a whole bunch under the code that had been recommended that weren't looked at, particularly the technical ones.

**Hon. Peter Kent:** Right.



When your 2013 recommendations were presented to government, it was quite a long list.

**Ms. Mary Dawson:** I think there were 87 or something. There were masses of them.

**Hon. Peter Kent:** If you were to revisit that list of recommendations today, would it be the same list? For example, I think the recommendation or the advice to close the ministerial loophole between divesting and blind trusts was in there, but it wasn't at the top of your list. Would you reshuffle your priorities today?

**Ms. Mary Dawson:** I think that one has captured people's attention—

**Hon. Peter Kent:** It has now.

**Ms. Mary Dawson:** —and why not?

Just to explain why I didn't go beyond what.... First of all, I had recommended that the amendment be made in 2013, so then how could I start interpreting it in a different way? That's one thing. Also, in making my decision on how to interpret that, I looked at masses of other legislation, parallel legislation, either in other jurisdictions or in financial-type legislation federally, and almost to an act it says "direct or indirect". In my act, it just said nothing, so you have to interpret that by looking at all the other uses in the legislation. That was the rationale behind that interpretation.

There are masses of things I could say about that area. There's much controversy amongst certain circles as to whether conflict of interest screens are appropriate. Conflict of interest screens are an additional mechanism to cover situations that aren't covered well by divestment.

I have recommendations relating to divestment that go to.... I think it's overly broad for some people. It matters if you have controlled assets. In many situations, it matters. You should get rid of them—put them in a trust—but in some cases, if somebody holds a public office that has nothing whatsoever to do with that and would never have a power that they could use with respect to the particular holding they have, sometimes that's a bit draconian. Some people like to manage their financial affairs, and I think there should be a conflict test in there for certain levels of people. There are a lot of interesting things in that area that could be fixed.

**The Chair:** Thank you, Mr. Kent.

Next up, for seven minutes, is Mr. Cullen.

**Mr. Nathan Cullen:** Can I stay with that conflict test for a moment?

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** Sure, there might be a public office holder who has no influence on a certain field where they may own some assets, but as you move up the chain of influence—

**Ms. Mary Dawson:** Precisely. Every time you change your position, you have to reassess.

**Mr. Nathan Cullen:** Particularly if you move up to places such as Prime Minister and cabinet minister, the field of influence you have grows dramatically, so you would imagine that the measures people would have to take if they want to have that job should also grow. With great power comes that great responsibility.

**Ms. Mary Dawson:** Right.

**Mr. Nathan Cullen:** To be clear, this loophole that exists.... I don't know what you want to call it; I'll call it a loophole or an escape clause. It says that if something is directly controlled, here are all the rules that guide an office-holder, a cabinet minister—

**Ms. Mary Dawson:** Yes.

**Mr. Nathan Cullen:** —but if it's indirect, if it's in a numbered company, if it's....

• (1235)

**Ms. Mary Dawson:** Then we look for other measures. There's—

**Mr. Nathan Cullen:** Yes, but that makes no sense, does it?

**Ms. Mary Dawson:** No. I'm recommending that they get rid of that distinction.

**Mr. Nathan Cullen:** Yes, let's do that.

**Ms. Mary Dawson:** Even if the distinction is gotten rid of, if you own 100% of your assets in one entity and you put it in a blind trust, what do you suppose is in your blind trust? You know.

**Mr. Nathan Cullen:** Yes. You'd be pretty stupid not to figure that out.

**Ms. Mary Dawson:** You need additional measures. The act has the powers in sections 29 and 30 to establish those, and that's what our office has done.

**Mr. Nathan Cullen:** Thank you. That's helpful.

As the committee pursues strengthening the act, I hope, because it needs some strengthening, anything that has 70, 80, or 89 recommendations from the watchdog sounds to me like an act that could use some—

**Ms. Mary Dawson:** Some of them are tiddly little things, but some of them are really important.

**Mr. Nathan Cullen:** Yes, not all are equivalent, but just the sheer number should strike most Canadians. Canadians are going to look back at this and ask, "Are the rules sufficient right now, in 2018, to keep ethical behaviour as the norm?"

**Ms. Mary Dawson:** But you know, they're not bad. The fact of the matter is that compared to the rest of the world, we're pretty good. Also, the other thing is that people are pretty good generally. This stuff can get blown out of proportion. Generally, people want to do the right thing.

**Mr. Nathan Cullen:** Sure, but the reason we have rules is that when people do the wrong thing intentionally—

**Ms. Mary Dawson:** We need the rules. We need the rules, of course.

**Mr. Nathan Cullen:** Yes, and we need watchdogs, not for the good people doing the good things—

**Ms. Mary Dawson:** No.

**Mr. Nathan Cullen:** We need the watchdogs and the rules for people—even the good ones—when they're doing the wrong things.

**Ms. Mary Dawson:** Actually, we need them for everybody so that they know what the rules are.

**Mr. Nathan Cullen:** Yes.

**Ms. Mary Dawson:** Yes, and some people will say, “Look, I know I’m good, so I don’t need to worry about these rules.”

**Mr. Nathan Cullen:** No, you can’t legislate out stupid. We’ve tried.

I want to know about when the Prime Minister or the Prime Minister’s Office saw the findings, because you said they didn’t see the conclusions until you reported this. Is that right?

**Ms. Mary Dawson:** That’s right.

**Mr. Nathan Cullen:** When were the findings seen? I’m looking through the findings. They’re all pointing in one direction. When were the findings shown to the Prime Minister’s office?

**Ms. Mary Dawson:** When I showed the facts.... Sorry; what do you mean by “findings”?

**Mr. Nathan Cullen:** Well, you said this earlier—

**Ms. Mary Dawson:** I don’t know what that term means.

**Mr. Nathan Cullen:** Oh, excuse me.

**Ms. Mary Dawson:** There are the facts, and there’s the analysis, and there’s the conclusion.

**Mr. Nathan Cullen:** Yes. When did you show the Prime Minister’s office the facts that were going to be in your report?

**Ms. Mary Dawson:** It will say. I think it was in October.

**Mr. Nathan Cullen:** Okay, yes; it’s “findings of fact”. Sorry. I said “findings”; it’s “findings of fact” in full.

The findings of fact in your report are in part II, on pages 49 through 58.

**Ms. Mary Dawson:** Yes. I list the four sections in the front in my description.

**Mr. Nathan Cullen:** Right. Where the whole “friend” argument breaks down, for example.... As you said earlier, if the Aga Khan was, by definition, a friend, here are the problems, and you’ve broken down the act this way, but if the Aga Khan was not determined to be a friend, you’ve broken down the act this other way. That was sometime in October.

**Ms. Mary Dawson:** Yes. Everything I have in my facts is what the Prime Minister and his lawyers saw in October.

**Mr. Nathan Cullen:** The curious thing for me is this. We didn’t have your report and we didn’t have your facts, only this concern around this Aga Khan trip, and when repeated questions were put to this Prime Minister, this argument about friend, friend, friend was still used. Anybody looking at those facts would know that whether you determined him to be a friend or not, he had still broken the act.

It’s not necessarily for you to comment on. I just—

**Ms. Mary Dawson:** Well, there wasn’t much, on the other side, that got broken. I mean, there were four provisions, but actually one of them was section 11. Section 14 was okay. There was the recusal one, section 21. Section 5 was contravened, and that’s a general one that sort of flop-flops along with the recusal. It’s neither here nor there. It’s a general provision, like “do the stuff right”.

**Mr. Nathan Cullen:** You wrote, with regard to section 11, that you found that Mr. Trudeau “failed to meet the general duty set out” when he vacationed on the island. With regard to section 12, “Mr. Trudeau contravened section 12” when his family accepted the trip

from the Aga Khan. With regard to section 21, “Mr. Trudeau contravened section 21 when he failed to recuse himself from two discussions”.

**Ms. Mary Dawson:** Then I deliberately put section 12 in a separate part, because all of the facts that led up to it were different.

I’ll tell you that one real challenge in this—

**Mr. Nathan Cullen:** That seems like a big deal.

**Ms. Mary Dawson:** What?

**Mr. Nathan Cullen:** That seems like a big deal.

**Ms. Mary Dawson:** What is?

**Mr. Nathan Cullen:** These contraventions of the ethics act by a sitting Prime Minister. You seem to say—

**Ms. Mary Dawson:** Well, they’re contraventions, yes.

**Mr. Nathan Cullen:** A sitting Prime Minister didn’t recuse himself from meetings he ought to. He took a trip he should never have taken. If he had gone to you beforehand and said, “Should I take this trip?”, you would have said no.

**Ms. Mary Dawson:** I probably would have said no, depending on the amount of information I was given.

**Mr. Nathan Cullen:** Right. Knowing the circumstances, a reasonable person—

**Ms. Mary Dawson:** If I knew everything I know here, that’s the advice I would have given.

**Mr. Nathan Cullen:** You found that he contravened his own instruction to his own ministers when he travelled on the helicopter.

**Ms. Mary Dawson:** That’s what I found.

**Mr. Nathan Cullen:** I guess some of this is specifics, of course. What I’m drawn to are the ethical choices and the lack of prudence by the Prime Minister and the Prime Minister’s office with regard to a trip. I guess the concern is that he exposed himself to ethical violations and, as you found, exposed himself to being influenced and using the extraordinary power of a Prime Minister to exert that influence.

As I pull away from this and we look to the future as to how to improve all this, we can do what we can, but if the code is to ask for forgiveness and not permission, it will be a challenge for any watchdog to keep people on the ethical line.

• (1240)

**Ms. Mary Dawson:** The encouraging thing about it is that this particular circumstance is exposed, and it explains the rules, and now they’re noticed. Every time a report is done, it enhances the understanding of the rule.

**Mr. Nathan Cullen:** As my grandma used to say, “Never waste a good crisis.” If something shows up that causes you pain, pay attention.

**Ms. Mary Dawson:** Yes, and that's probably the best benefit of one of these reports: it enhances the understanding of the rules.

**Mr. Nathan Cullen:** In your time up until last year, is it right to say you did about 253 investigations? Would that sound like the number?

**Ms. Mary Dawson:** Oh, I don't know. We also open many, many files on which we don't proceed to an investigation.

**Mr. Nathan Cullen:** Is that fact made public?

**Ms. Mary Dawson:** In my report, I give the numbers and I give a general explanation of what sort of thing something was. I don't release the names, because I didn't feel that it was worthy of an investigation.

Sometimes I take some time to look...or I did. I'm sorry; I'm talking in the present.

**Mr. Nathan Cullen:** That's okay.

**Ms. Mary Dawson:** I looked into the circumstances behind it, even if it came in from a private citizen or from the media. If I saw it in the media or if somebody told me about something, we would follow up to see whether we thought there was anything to it—

**The Chair:** Thank you, Mr. Cullen. You're close. It's actually a minute over.

**Mr. Nathan Cullen:** Oh, my goodness. It's a violation.

**The Chair:** Next up is Mr. Gourde, for five minutes.

[Translation]

**Mr. Jacques Gourde:** Thank you, Mr. Chair.

Ms. Dawson, as you explained earlier...

[English]

**The Chair:** Hold on. I'll talk to the clerk for a second.

Just to clarify, the way it was written down in order was different from the typical structure, so we'll go next to Mr. Picard.

[Translation]

**Mr. Michel Picard:** Thank you, Mr. Chair.

I'm sorry, but we still have seven minutes to spend together.

You said to Mr. Cullen that such a report made it easier to understand the current rules. So it may be normal and natural to conclude that these rules may still be open to interpretation and give rise to some confusion. That is precisely the type of situation that makes it possible to review certain aspects of the rules. The conclusion is that a situation like this one, from the ethical standpoint in any case, is still open to interpretation.

Have I understood your comment correctly?

**Ms. Mary Dawson:** Yes.

**Mr. Michel Picard:** With regard to the application of the current rules, it is thus inevitable that all of the parties involved, your office as well as all of the other parties involved in the events, must assume their duty of interpretation and apply the rules to the best of their

ability, in the most adequate way possible, in good faith and in keeping with the spirit of the law.

**Ms. Mary Dawson:** Yes.

**Mr. Michel Picard:** You have the same understanding of everyone's actions, that is to say that everyone normally acts in good faith, rather than doing everything in their power to bypass the current rules.

**Ms. Mary Dawson:** Yes.

**Mr. Michel Picard:** During the first five or ten minutes of the meeting, you agreed that the Prime Minister had promptly apologized, and that in your eyes that was the right thing to do, and the only thing to do under the circumstances. You stated that now that the report had been published and that we had a better understanding of the details of these specific events, we could move things forward, and that there should not be any follow-up to the publication of your report, nor consequences.

Is that correct?

● (1245)

**Ms. Mary Dawson:** Yes.

**Mr. Michel Picard:** Will the report you published simply remind everyone that it is essential, in the name of caution, to be zealous in sharing any potential conflict with the Office of the Commissioner, even if the situation seems very clear, so that everyone is protected? This should not, however, make the task of the office more cumbersome. In fact I imagine that the office receives several requests a week.

In your opinion, was the report developed to such a degree as to make an in-depth review of the current Conflict of Interest Act necessary?

[English]

**Ms. Mary Dawson:** No, not any more than the proposals I've made to date. I don't think this report is a seminal change in the way we see the legislation. It's a specific case that was interpreted under the rules in the act, but I don't think much of anything new flows from it.

[Translation]

**Mr. Michel Picard:** In light of the ethics rules we must respect in our work as members, it is as though we, from one day to the next, suddenly had no lives. I am exaggerating, but I'll put the expression in quotes. We can no longer speak to the people we know in the same way. During a friendly encounter, if the conversation turns to a work topic, we are dismayed, because we have to tell the person we are speaking to that he has to send us a bill if he wants us to continue the conversation, because the topic has gone beyond the friendly boundaries that defined the encounter in the beginning.

For you, the challenge is to look at things on a case-by-case basis and to do a subjective assessment of the facts that are submitted to you. For their part, the MPs feel they can no longer speak to anyone, for fear that a conversation, innocuous in the beginning, could evolve and put them in a compromising position, and that that meeting be misinterpreted.

[English]

**Ms. Mary Dawson:** We have many guidelines that we've put out—advisories and such—and when we see problems, we have tried to give advice in a general way and to be as specific as we can, but there is a balance there. Sometimes you don't foresee the thing that's going to come up and you haven't examined every single instance that could happen.

While I'm here, another thing, again under the code, is that the office does not have the power to establish guidelines without going through the procedures committee. This is the wrong committee to be telling this to—

**Mr. Michel Picard:** We'll tell them.

**Ms. Mary Dawson:**—but I have said many times that they should allow the conflict of interest office to do guidelines without having to go through the procedures committee. The procedures committee can always negate them after the fact or something. The trouble is that I sent guidelines and gift guidelines to the procedures committee a couple of years ago, and nobody ever responded.

The other thing that's silly is that the forms have to be put through the procedures committee. Again I'm talking to the wrong committee, but I don't have a forum in front of me. There's no way I can put proper guidelines out under the code. What I say to people under the code is to go and read the guidelines under the act; they're sort of the same.

We have had quite a focus on promulgating guidelines so that people do know what the rules are, but there's no way that you can cover every instance in your guidelines.

[Translation]

**Mr. Michel Picard:** What leeway do you give MPs with regard to the interpretation of or the reasonable nature of such events?

The members have to deal with the circumstances as they are in the beginning, and must be able to react appropriately to changing circumstances. The members have good guidance and there are a lot of guidelines they can follow. However, in the same way that we value and respect the work of the Office of the Commissioner, I imagine that the office for its part must take it for granted that all members can show good judgment in the face of changing circumstances that add a particular or exceptional character to an event. Sometimes things were not anticipated in the beginning, but one finds oneself in different circumstances. Seeing the results and realizing that that can happen, the members, whatever their capacity, must have the ability to assess a situation accurately and decide on how to act as events unfold.

What leeway or latitude do you give elected representatives?

• (1250)

[English]

**Ms. Mary Dawson:** That's the role of talking to your advisers and bringing the matters forward. The other thing is that we've always offered a session to every caucus every year. Anyway, I don't know what else I can say.

[Translation]

**Mr. Michel Picard:** Thank you.

[English]

**The Chair:** Thank you, Mr. Picard.

Next up is Mr. Gourde, for five minutes.

[Translation]

**Mr. Jacques Gourde:** Thank you, Mr. Chair.

Ms. Dawson, in 2014, during his first trip, Mr. Trudeau was invited as the leader of the Liberal Party of Canada; the Aga Khan invited the leader of the Liberal Party of Canada, Mr. Justin Trudeau. I'm talking about the first trip in 2014.

**Ms. Mary Dawson:** Yes.

**Mr. Jacques Gourde:** For the second trip, Mr. Trudeau was invited as Prime Minister. I'm talking about the 2016 trip, probably in the summer. The Aga Khan was inviting people who occupied high-level positions. First, he invited the leader of the Liberal Party, and then he invited the Prime Minister on the second trip. If Marc Garneau had won the leadership race of the party, he would have received the invitation, and not Justin Trudeau. Personally, as a member of Parliament, I have never received any invitation from the Aga Khan. The Aga Khan invites people who occupy high-level positions in a country. He must also have invited people from other countries.

Ms. Dawson, the discussions the Prime Minister had with the Aga Khan, whether he says they had any or not, do not relieve the Prime Minister of his responsibility with regard to the Aga Khan's foundations that are registered as lobbyists in Canada. Everything is interrelated.

The Prime Minister says that he is not the one who deals with the foundations and all of that. In fact, he may not deal with this personally, but he nevertheless has the responsibility to provide funds to these foundations. This money comes from Canadian taxpayers.

Why is he avoiding responsibility in all of this affair? You said in your report that this was not his responsibility and that he did not deal with these matters personally. However, the matter has been discussed in the media for close to a year now. I know from experience that when this type of issue is discussed in the media, the members put questions to the Prime Minister in the House, and he must answer. The Prime Minister has to make this a priority. He has to have intimate knowledge of the issues that come up regularly in the news in order to be able to answer questions. This becomes the responsibility of the Prime Minister and of the Office of the Prime Minister.

Why did you say that he did not have to deal with this, and that it was not important that he do so? It is as though you relieved him of any responsibility for all of the files involving funds given to the Aga Khan's foundations.

[English]

**Ms. Mary Dawson:** Sorry, I think I'm missing something. Are you saying that I said that it wasn't his responsibility? I'm missing the point here. I'm sorry. Maybe I'm getting tired. Maybe I'll listen to it in English or something. Try again, please.

[Translation]

**Mr. Jacques Gourde:** No problem at all.

You said that the Prime Minister had not taken part in any decision concerning the Aga Khan and his institutions.

I understand that the Prime Minister does not deal personally with this file, but this is nevertheless his responsibility given the media circus around it. This file would have wound up on the desk of the Prime Minister, inevitably, because he has to answer questions in the House. We asked an enormous number of questions on this topic during question period. He can no longer distance himself from the dossier concerning the money provided to the Aga Khan's foundations. That is impossible in light of the fact that the Aga Khan's foundations are registered as lobbyists in Canada.

[English]

**Ms. Mary Dawson:** I'm just not with you. I'm sorry.

•(1255)

[Translation]

**Mr. Jacques Gourde:** You said in your report that the Prime Minister had not taken part in any decision-making and that he had not taken any position on any issue concerning the Aga Khan's foundations.

**Ms. Mary Dawson:** Yes, that is true.

**Mr. Jacques Gourde:** However, the Prime Minister was invited by the Aga Khan because he was the Prime Minister, and not because he is Justin Trudeau.

[English]

**Ms. Mary Dawson:** No.

[Translation]

**Mr. Jacques Gourde:** And so the Aga Khan no doubt spoke about future visions and of what Canada should provide to the foundation, and other things. We will probably never know the content of those discussions. We would like the Prime Minister to share them with us. It is not up to you to reply. We can't speak to him, but we will put the question to him later. He cannot deny the responsibility he had in these meetings.

[English]

**Ms. Mary Dawson:** He has to actually take part in making the decision, if that's what you're talking about, to be found to have contravened the decision-making. The distinction in the two circumstances was that in one case, he took part in a discussion and had the capacity to have an effect on it. The words are "an opportunity" to affect it. He should recuse himself from that, but in fact, I found that he did not make any decision.

I don't know if I'm answering your question at all, but there are two different overlays there. One is making the decision and one is participating in the discussion and having the opportunity to affect the outcome.

**The Chair:** Thank you, Monsieur Gourde.

We have about three minutes left. Last up will be Mr. Erskine-Smith.

**Mr. Nathaniel Erskine-Smith:** First I want to say thank you for coming for two hours. It's rare we have a witness for two hours. I appreciate your time.

I have two questions specific to our study of the act more generally. You recommended that section 17 be amended to cover cases in which controlled assets are held indirectly as well as directly. That seems an obvious change. We have a rule in the House of Commons that one cannot do something indirectly that one cannot do directly. You said that should be at the top of our list. I think that's right.

Are there other recommendations in that 75-recommendation report from 2013 that you would say should be at the top of our list? If nothing jumps out, you can send us—

**Ms. Mary Dawson:** There were five or six, and I've stated them on a number of occasions. You'd think I could remember them right now. If I had the list in front of me, I would have....

**Mr. Nathaniel Erskine-Smith:** That's okay.

**Ms. Mary Dawson:** There are five or six of them that I identified not too long ago.

**Mr. Nathaniel Erskine-Smith:** We'll look for that. I think it might be in the executive summary there.

The second question I have is about the de minimis. I'll give an example.

When we first got elected, I don't know if it happened for Conservative or NDP MPs, but every Liberal MP got a gram of marijuana from pot activist Dana Larsen. I think you had recommended that it be returned, on the basis that it might be reasonably seen to influence us. That strikes me as de minimis. It's \$10 or less. Do you think there's a concern that when we get into amounts of \$10 or less, we're distracting from the bigger problems? Should there be a de minimis consideration here?

**Ms. Mary Dawson:** I've established a notional de minimis of about \$35. I've done that somewhere.

**Mr. Nathaniel Erskine-Smith:** Okay. With that, I give the remainder of my time to Mr. Fergus. I know he has a couple of questions.

**Ms. Mary Dawson:** I think there was a criminality aspect to that one that coloured it. It was a different situation.

**Mr. Nathaniel Erskine-Smith:** Hopefully it will soon go away, but that's right.

**Ms. Mary Dawson:** Yes. In fact, I phoned the Speaker or somebody, I think, and said, "There's criminality in this one. Just get rid of it."

**Mr. Nathan Cullen:** You said that, or—

**Ms. Mary Dawson:** I did, yes.

**Mr. Nathan Cullen:** Oh, I see.

**The Chair:** Mr. Bittle is next.

**A voice:** Send it back, Nathaniel.

**Mr. Chris Bittle (St. Catharines, Lib.):** Thank you so much.

I'd like to narrow it down. You talked about the Prime Minister receiving facts from the report in October. Are you certain of that time frame? Can you be specific or provide the committee with the

**Ms. Mary Dawson:** I think I have the date in the report. Maybe it's in the process section. I don't know. I'm sure it was somewhere in the middle of October. We can find that for you easily enough.

**Mr. Chris Bittle:** To clarify, it's in the facts section, not in your conclusions.

**Ms. Mary Dawson:** No, no. It's probably described in the process section. Right up at the front somewhere, I think that date was mentioned.

**The Chair:** Just for the sake of the committee, we'll extend by just a few minutes to allow some paper turning.

**Mr. Chris Bittle:** Thank you.

**Ms. Mary Dawson:** Anyway, it was mid-October.

**Mr. Chris Bittle:** Okay. That's it. Thank you.

**The Chair:** Thank you, Mr. Bittle.

Last I have Mr. Kent.

• (1300)

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

Thank you, Ms. Dawson, for appearing before us today.

Chair, in light of the testimony from former commissioner Dawson, given openly and generously today, and given that I believe there's still an abundance of unanswered questions that one can draw from "The Trudeau Report", I respectfully propose to this committee the following motion, or a version of this:

That the Committee invite the Prime Minister to discuss the findings of the Ethics Commissioner contained in The Trudeau Report released in December as well as her testimony before this Committee today.

**The Chair:** Can you repeat that motion one more time, just for the clerk and me?

**Hon. Peter Kent:** You can correct this grammatically as you will:

That the Committee invite the Prime Minister to discuss the findings of the Ethics Commissioner contained in The Trudeau Report released in December as well as her testimony before this Committee today.

**The Chair:** Just give us a few minutes.

Dealing with the motion, I've heard comments that it's the same as it was yesterday, and some are saying, as Mr. Kent is, that it's different. The part I see as different is that it makes reference to Ms. Dawson's testimony this very day. I see that as a different motion, so we will discuss the motion as it is before us.

Go ahead, Mr. Fergus.

**Mr. Greg Fergus (Hull—Aylmer, Lib.):** Thank you very much.

I'm not a regular member of this committee and I would not wish to put my foot in the wrong place, but as we talked about in testimony today, it would strike me that we're really doing indirectly what we couldn't do directly. It strikes me that the substance of the motion is exactly the same as what was presented yesterday. Although there are some different words, the effect is the same and

the intention seems to be largely the same, and it was considered by the committee before.

**The Chair:** Thank you, Mr. Fergus, for that.

I was discussing with the clerk just now that very point. Again, due to the difference that it references the testimony of the former commissioner before us today, I see it as different. It's similar, but it is different.

We have Mr. Cullen speaking next.

**Mr. Nathan Cullen:** I think what would be obviously different is the two hours of testimony we've just had from the commissioner who investigated this and wrote the report we referred to yesterday.

I too join Mr. Kent in thanking Ms. Dawson for her testimony today. Two hours is unusual.

**Ms. Mary Dawson:** I would say it was cruel and unusual punishment.

**Mr. Nathan Cullen:** I don't think *Hansard* will show that I said "cruel". I hope that our treatment was tough but fair.

Obviously I voted for a similar motion yesterday. I don't need convincing, because I think it's an opportunity for the Prime Minister to come forward and answer some of the questions that Ms. Dawson can't answer because she didn't make the decisions that pertain to the four contraventions of the act. The Prime Minister did.

I saw it in his explanation at that press conference, and there was a question, I think, put to him in his town hall last night. In both cases, if you look at the record, they're non-answers. They are avoiding it. They go back to the "friend" argument, actually. Today I think a very important and incisive thing for me, following Ms. Dawson's report, is that one of the main pieces of the Prime Minister's defence of this particular decision in that same press conference was the utterance of friend, friend, friend, friend, as if that would have made it better.

What I learned today, and I hope my Liberal colleagues learned today, is that the aspect of the friendship would not in fact have made it better. It would have been a different contravention of the ethics act, that's all. He would have broken the rules in a novel and different way, but rules would still have been broken.

Obviously I am in favour of the idea of the Prime Minister coming, based upon on what I learned and what I still don't know. The appeal, similar to yesterday but now enhanced because of Ms. Dawson's testimony, would be to my Liberal colleagues to not vote as a bloc to suggest that the Prime Minister shouldn't testify. Open and accountable government, which I think is the name of the cabinet directive, would mean open and accountable government, which would be right here.

The questions that remain outstanding are whether the Prime Minister still relies on it being a friendship situation, in which it was just a gift. We don't know who asked for the trip. I asked Ms. Dawson this very specifically. It was not important to her, and I respect that, but who asked for the trip is important to me. Was the trip offered, or was the trip requested?

Motivation is important when you're dealing with conflicts of interest. If a member of Parliament—and I don't gesture towards you, Mr. Chair—goes out and solicits a gift, it's very different—maybe not in the final conclusion—from somebody offering a gift. The fact that the gift in this case, whether solicited or offered, would have broken the ethics act is just an additive, not a subtractive.

For me, the other questions that remain and that are in doubt are that the Prime Minister says he learned from this and he's admitted it was a mistake, but I don't know what specific steps his office has taken to not allow for this to happen again. I don't know if there are other circumstances in which a similar or the same thing has taken place.

Lastly, and I'll end on this, Mr. Chair, I heard from Mr. Erskine-Smith in his last question to Ms. Dawson about improvements to the act. All I've heard the Prime Minister say to this point—and his opinion matters on this, clearly, with a majority government—is a firm commitment that this Parliament will fix these loopholes and these problems within our ethics code so that future Prime Ministers, cabinet ministers, MPs—it doesn't matter—cannot attempt to exploit the same loopholes that exist within our ethics law. Until I hear the Prime Minister actually say that—and I'd love to ask him that question—the 35-second exchange in question period has proven to this point insufficient to drawing out the Prime Minister's true feelings about not only this trip but the need to improve our ethics code in this Parliament and the contravention of his own directive to his own cabinet ministers. I assume there are consequences to

breaking his rules, but there appear to be no consequences for him if he broke those rules.

These seem to be substantive and real questions. I hope committee members would have seen today that the conversation with Ms. Dawson was both substantive and respectful in the way that we approached these questions. My respect for the Prime Minister's Office is such that having a Prime Minister come before us would merit and guarantee that same level of respect for him and his testimony.

I hope my Liberal friends are not only encouraged but also have questions that are the same as or similar to questions that I have, which can only and ultimately be answered by the Prime Minister, not in 35-second prepared sound bites in question period but in a substantive conversation like the one we've had here today.

● (1305)

**The Chair:** Thank you, Mr. Cullen.

Is there any further discussion on the motion today? We'll call the vote.

**An hon. member:** I'd like a recorded vote, please.

(Motion negatived: nays 6; yeas 3)

**The Chair:** Thanks again, Ms. Dawson, for coming. We are adjourned.

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