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Chair: The Honourable Wayne Easter



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• (1605)

[English]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): I will call the meeting to order.

Welcome to meeting number six of the House of Commons Standing Committee on Finance.

Pursuant to the motion adopted by the committee on Thursday, November 19, the committee is meeting for its study on government spending, WE Charity and the Canada student service grant.

Today's meeting is taking place in a hybrid format, pursuant to the House order of September 23. The proceedings will be made available by the House of Commons website. Just so that you are aware, the website will always show the person speaking rather than the entire committee.

To ensure an orderly meeting.... I would normally outline a number of rules, but I think the committee today knows the rules. Also, I'm sure the Clerk of the Privy Council knows the rules.

We will start with our first witness. I'd like to welcome, from the Privy Council Office, Ian Shugart, the Clerk of the Privy Council and secretary to the cabinet. Mr. Shugart, I'm not sure if you have an opening statement. If you do, we'll allow you to make that. Then we'll go to questions.

First up on the questions list, just for the committee's information, is Mr. Poilievre, followed by Ms. Dzerowicz, Mr. Fortin and Mr. Julian.

Mr. Shugart, the floor is yours.

Mr. Ian Shugart (Clerk of the Privy Council and Secretary to the Cabinet, Privy Council Office): Thank you very much, Chair. I am glad to be here again.

The last time we went straight into questions, but given the subject matter, I do have a statement to begin with, which I hope will be helpful. It has been provided to the committee in the two official languages.

I was asked to discuss generally the cabinet confidence exclusions to public disclosure. I intend to lay out the fundamental principles underlying cabinet confidentiality.

As you know, democracies similar to ours have long recognized the need to safeguard the confidentiality of what is said at cabinet and what comes before cabinet, and the documents prepared for those discussions. The reasons are clear. The process of governance in a cabinet-style democracy works best when cabinet members

charged with government policy and decision-making are free to express themselves around the cabinet table unreservedly, free to discuss all aspects of the problems that come before them, and to express all manner of views. Confidentiality ensures candour in cabinet discussions and full and frank exchange.

Deliberations among ministers of the Crown and the documents that reflect the content of those deliberations are protected by the constitutional convention of cabinet confidentiality. It performs a vital role in our cabinet-style democratic system of responsible government. In a system of responsible government, cabinet is openly and collectively accountable to Parliament for the decisions it makes during the time it governs.

If ministers are to make decisions collectively, the privacy of their opinions and views in developing government policy must be protected. Otherwise, the collective responsibility of ministers to Parliament, which is essential to cabinet government, would be difficult to maintain.

Along with other constitutional conventions, cabinet confidentiality also serves to uphold the constitutional principle of the separation of powers between the three branches of the state. In doing so, it protects the integrity of our constitutional structure.

Canadian constitutional law has long acknowledged that sovereign power in this country is divided not only between Parliament and the provincial legislatures, but also among the executive, legislative and judicial branches of the state. Although there are limited areas of overlap, each branch plays a fundamentally distinct role.

In a recent unanimous decision, the Supreme Court of Canada reasserted that each branch must be able to perform its constitutionally assigned functions without undue interference by the others. Several doctrines work to prevent undue interference by one branch into another. This includes the secrecy afforded to judicial deliberations and the recognition of the privileges, powers and immunities enjoyed by the Senate, the House of Commons and the legislative assemblies.

In August the Supreme Court reaffirmed that the executive, too, benefits from a degree of protection against undue interference. The court specified that the deliberations among ministers of the Crown, and the records supporting and reflecting those deliberations, are protected by the constitutional convention of cabinet solidarity and confidentiality.

Of course, the constitutional convention protecting the confidentiality of cabinet deliberations does not exist just for the cabinet of the day. It exists for all cabinets: for those that came before it, and for those cabinets that will come after it. The constitutional convention and the protection it affords is for the benefit of our system of democratic governance, both the concept of cabinet solidarity in responsible government and the ability of the executive branch to do its job.

• (1610)

Recognizing this importance, Parliament resolved that access to cabinet confidences is extraordinary. Parliament chose to exclude cabinet confidences from a right of access under the Access to Information Act and the Privacy Act. It did not grant to its agents of Parliament a statutory right of access to cabinet confidences; nor, as a matter of federal law, did Parliament allow our courts access to cabinet confidences.

The committee's July 7 motion stipulated that cabinet confidences were to be excluded from the production of documents. This is in keeping with the House of Commons' long-standing practice of respecting the confidentiality of cabinet decision-making. The former Speaker of the House of Commons, the Honourable Roland Michener, said in November 1957:

...the decision of the government is one and indivisible. Inquiry into how it is arrived at and particularly inquiry into the cabinet process is not permitted in the house.

It is also the way the Supreme Court understands the practice of the House of Commons, as noted in the fundamental decision of *Babcock*.

The Prime Minister and members of cabinet appeared before committees of the House to provide answers to questions about their decisions on the Canada student service grant. The Prime Minister and cabinet chose to make public their confidences on the CSSG because of the questions raised about the delivery of the program. This is a recognized exception in law to maintaining cabinet confidentiality.

As the Clerk of the Privy Council and custodian of cabinet confidences, I directed that a principled approach be taken to the treatment of cabinet confidences in this case, to ensure a non-selective application of the protection of cabinet confidentiality. As a result, and in keeping with the public disclosures made by members of cabinet, considerable information on the grant, which otherwise would have constituted cabinet confidences, was provided to the committee.

This was one case, Mr. Chair, in the context that I have attempted to lay out, of the doctrine of cabinet confidences. I hope this is useful to the members of the committee.

Thank you very much.

The Chair: Thank you very much, Mr. Shugart.

We will go to six-minute rounds for the first four questioners.

Mr. Poilievre, the floor is yours.

Hon. Pierre Poilievre (Carleton, CPC): Thank you, Mr. Shugart, for your appearance and for your service to Canada.

Question one is, can the Prime Minister of Canada fire you?

Mr. Ian Shugart: Indeed he can.

Hon. Pierre Poilievre: Right, so you do report to him and you serve him.

How many pages of disclosures in the WE controversy have you determined to withhold or redact under the pretext of cabinet confidence?

Mr. Ian Shugart: I may not have all of the facts at my fingertips, Mr. Chair, because I understood that the purpose of this afternoon's session was the discussion of cabinet confidences generally speaking. Our internal rough estimate, however, is that less than 2.5% of all of the information provided to the committee was redacted on the basis of relevance, and that about 1% was redacted because of cabinet confidentiality.

Hon. Pierre Poilievre: That is not consistent with the numbers we have, which show that roughly half of the total redactions were justified under subsection 69(1) and the other subsections of section 69 that relate to cabinet confidence.

Do you have an exact number of documents that were either withheld or redacted, partially or in their entirety, under the pretext of cabinet confidence? I'm just looking for a number here.

Mr. Ian Shugart: No, I don't have a number today. I assume that will be clear in the law clerk's examination of the documents we're providing.

• (1615)

Hon. Pierre Poilievre: Well, he can't possibly look at those documents, because they remain redacted or withheld. We were told that you would be the one to come before us to provide us that information.

Mr. Ian Shugart: Well, as I said, Chair, I had made that offer. This is the information that my officials have provided to me, based on our analysis, but I'm here to discuss cabinet confidence generally, and—

Hon. Pierre Poilievre: That's what I'm asking about, and so far you have not told us the number of redactions or withholdings you did under that section of the act.

Can you confirm that every single document you redacted or withheld under the pretext of cabinet secrets actually appeared at a cabinet meeting?

Mr. Ian Shugart: I presume that they would because they would be either records of decisions or documents that would have been available in the cabinet process.

Hon. Pierre Poilievre: All of those documents were there, physically in the cabinet room when the cabinet met.

Mr. Ian Shugart: I presume so, Chair, but I won't make a categorical statement to that effect.

Hon. Pierre Poilievre: You presume so. We've been told by Liberal members that you're the one who decided to withhold or redact them, so it wouldn't be a presumption. You would know if it is actually true that you made the decision to withhold or redact these documents.

Mr. Ian Shugart: It's a separate question. The question was whether I could affirm that all the documents were present, physically, in the cabinet room.

Hon. Pierre Poilievre: Okay.

Mr. Ian Shugart: That, I suspect, is a very precise question with a very precise meaning and I will not declare it emphatically.

Hon. Pierre Poilievre: We don't know if they were actually at a cabinet meeting. They are cabinet secrets, but we don't know if they were actually in the cabinet meeting.

How many of them were memoranda to cabinet?

Mr. Ian Shugart: Chair, I'm not in a position today to describe that, for the reason I've mentioned.

Hon. Pierre Poilievre: How many were discussion papers for the purposes of the cabinet decision-making?

Mr. Ian Shugart: The same answer applies, Chair.

Hon. Pierre Poilievre: How many were actual agendas of cabinet meetings or records of deliberations?

Mr. Ian Shugart: It's the same answer, Chair. I'm not going to quantify that. They would all have been of those types and categories of documents.

Hon. Pierre Poilievre: How many were records used for reflecting communications and discussions between ministers?

Mr. Ian Shugart: That would be the same answer, Chair.

Hon. Pierre Poilievre: How many were for the purpose of briefing ministers?

Mr. Ian Shugart: It's the same answer.

Hon. Pierre Poilievre: How many were draft legislation?

Mr. Ian Shugart: It's the same answer, Chair.

Hon. Pierre Poilievre: Okay, how many were records that contained information about the contents of any record related to cabinet?

Mr. Ian Shugart: As to quantification, it's the same answer.

Hon. Pierre Poilievre: We're not getting any answers, actually, with respect, and I do have a great deal of respect for you, Mr. Clerk.

We're told that you're the one who made the decision to withhold or redact all of this information. I've just listed all the legal justifications for withholding or redacting cabinet secrets that exist in the Access to Information Act, to find out which of them you actually used for these redactions and you can't give me any number to prove that these redactions were actually related to the legal authorities in the act.

How can we be sure that, one, you were the one who even made this decision, and two, that there was any legal foundation, purported or otherwise?

Mr. Ian Shugart: Chair, I indicated in my statement that I directed the public service. Specific redactions were made by departments under the authority of their deputy ministers, but I gave the direction as to the approach that would be followed consistent with statements that had been made by ministers and my commitment to this committee—

Hon. Pierre Poilievre: It sounds like it wasn't your decision.

The Chair: Mr. Poilievre, give the Clerk time to finish his answer and we'll go on to Ms. Dzerowicz.

Mr. Clerk, are you completed on your answer?

Mr. Ian Shugart: I'll finish the sentence, Chair. I committed to this committee that I would provide the committee with as much information as transparently as possible and an expansive definition of access to these documents.

I have answered the committee that less than 1% of the information provided to the committee was redacted by cabinet confidentiality.

I've given a percentage, not a number of pages.

• (1620)

The Chair: Thank you very much, Mr. Clerk.

Ms. Dzerowicz, you have six minutes.

Ms. Julie Dzerowicz (Davenport, Lib.): Thank you so much, Mr. Chair.

I want to say a huge thanks to you, Mr. Shugart, for coming before our committee again. Thank you for your tremendous leadership.

Sometimes when we're in the bubble, we go through these committee meetings and we forget that we're going through an unprecedented pandemic. I want to say a huge thanks to you, to your team and to the entire public service for the tremendous work that they're doing through this pandemic, and which they continue to do as we move through it.

Thank you for coming back.

You've actually disappeared. Should I be worried about that?

The Chair: No.

I think that was Mr. Poilievre who disappeared.

Mr. Ian Shugart: I'm still here.

Ms. Julie Dzerowicz: Okay, sorry, Mr. Shugart.

I want to be clear because it seems like my colleague Mr. Poilievre is holding out that redactions made by the public servants, by various departments, were conducted in a non-compliant manner. Can you just be clear with us, because you said you provided direction to the deputy ministers of the various departments? Who actually makes the decision about which cabinet confidences need to be redacted? Who actually makes that decision about the cabinet confidences that need to be excluded from what is submitted?

Also, can you speak to how the public servants do their job in a non-partisan, professional way and follow their obligations under the Privacy Act?

Mr. Ian Shugart: Yes.

On the matter of the redactions, I gave general direction to departments, supported by staff in the Privy Council Office well trained in this area.

There were two principal aspects. Documents that normally would be cabinet documents, covering material the Prime Minister or members of cabinet had already publicly commented on, anything answering that description, was to be released even though it was in the form of a cabinet confidence.

The second thing is that, as I committed to the finance committee in July, because the question was at the heart of discussions in cabinet, I would be as transparent as we possibly could be with relevant information, even if it were contained in cabinet confidences.

That direction was given to departments, to deputy ministers and to the people in the departments who do the actual work. They reviewed their documents and made the redactions.

Sometimes there is a question that an official in a department will be uncertain whether or not to redact, and that will be referred to their counterparts in the Privy Council Office for advice. That's what occurred in this case.

What was provided, then, in this case is a very large number of cabinet documents, either because they were in the public interest going directly to the matter before the committee and the public controversy at the time, or because the Prime Minister and ministers had already commented on those matters and, in a sense, cabinet confidence was already waived.

To answer your second question, we do this with an absolute conviction about applying the law and the principles in the law. Whether it is convenient for a minister, on the basis of any partisan consideration, does not enter into it.

I have to say that in my experience, whether working for Conservative or Liberal ministers, whether answering questions from New Democrat or Bloc or government members, we are trained to do our work without regard to partisan interests. We work very closely with politicians, the elected branch of government, but our conviction in Canada, our values in our public service, are to do it without regard for the partisan interest of the government of the day.

That, I can affirm to the committee, was how we went about our business in this case, and I would say in every case.

• (1625)

Ms. Julie Dzerowicz: Thank you so much, Mr. Shugart.

I'd say to you that you were very clear that there is proper training about what to actually redact. I heard that very clearly. I also heard very clearly that it was done in a completely non-partisan way.

Maybe the last thing I just want to make sure is clear is this. There wasn't a different process when the Conservatives were in power versus what is happening right now. I say this because there

seemed to be some question as to whether or not there was a different process then. If requests were made for documents to be submitted to committee under the Conservatives, and to exclude cabinet confidences, and they had been redacted in a particular way, it was done following the same rules under the previous Conservative government as what we've asked for under our Liberal government this time around.

Can you confirm that?

Mr. Ian Shugart: No two cases, of course, are exactly the same, but the principles are the same. One of the situations in a previous House of Commons under a Conservative government.... I should be clear that the House of Commons was not under a Conservative government; there was a Conservative government at that time.

The Afghan detainees issue has been very important in affirming and establishing the details of cabinet confidentiality. Although each case is different, the principles are the same. The process that public servants will follow in applying the rules to the redactions would be the same.

The Chair: Thank you, both.

We'll go to Mr. Fortin for six minutes, please.

The floor is yours.

[*Translation*]

Mr. Rhéal Fortin (Rivière-du-Nord, BQ): Thank you, Mr. Chair.

Thank you for being with us today, Mr. Shugart.

Redacting a document more than 5,000 pages long is a colossal job. I understand the principle of confidentiality for various documents, what belongs to Cabinet and so on. That's not what I want you to address, you have already done it.

How did you technically determine what should be redacted or not? First, what individuals are involved in the process? You are certainly not single-handedly reading the 5,000 pages with a felt-tip pen in hand and striking through item after item. Who is physically involved in doing that?

Mr. Ian Shugart: They are public servants at various levels. We have an element of supervision. For example, they are not junior public servants, they have enough experience. They take the documents and read them in their entirety. It's a huge job.

Mr. Rhéal Fortin: I'm sure it is.

Mr. Ian Shugart: They take a pen and if lines, groups of words, paragraphs, or one or more pages match the definition of a Cabinet confidence, then they cross out the text. In those instances, and in every situation, we need to ask ourselves whether the words or paragraphs can legitimately be read or not. That's the principle we apply.

Mr. Rhéal Fortin: All right. We have strayed somewhat from the question, but thank you for that nice clarification.

However, you didn't tell me who did it. You spoke of a few public servants who are not rookies. So I assume they are experienced public servants. How many individuals were involved in the process?

• (1630)

Mr. Ian Shugart: Again, it depends on the situation. For example, all documents can be shared among the members of a review team of a dozen or 25 people. I must point out, that is an estimate.

The documents requested by the House as part of the Standing Committee on Health's study constitute millions of pages. I don't have the exact number, but it's a lot. So, many public servants have to do it.

Mr. Rhéal Fortin: I don't mean to be rude, Mr. Shugart, but we have a limited time for questions. Unfortunately, that means I have to rush you a bit.

You say that 12 to 25 people are involved in the process. Did I understand correctly?

Mr. Ian Shugart: It's more theoretical than that.

I can provide a few examples of the exercise to the committee.

Mr. Rhéal Fortin: Thank you.

As I understand it, you're unable to tell us exactly how many individuals took part in this redaction process. However, I gather you were the directing mind or the supervisor for the whole operation.

Is that correct?

Mr. Ian Shugart: In principle, it is, yes.

Mr. Rhéal Fortin: Why "in principle"? In practice, was it not?

Mr. Ian Shugart: No, but, I started the ball rolling in the system, and if people had questions, doubts, trouble interpreting the instructions, the departments could ask the Privy Council Office for a judgment call. In that sense, yes, and ultimately, I am responsible.

Mr. Rhéal Fortin: All right.

Can you provide us with a document indicating who was involved in the redaction process in the various departments and in your own department, the Privy Council Office?

I'm having trouble understanding how you went about it. I understand your position very well. It must be difficult for you to answer all questions, if you didn't personally determine which passages could remain and which passages had to be removed.

If you don't mind, I need to understand a bit better how you went about it, Mr. Shugart. Would you be willing to provide me with that information? Thank you.

I have a second factor to verify. Which Cabinet members were consulted in this process?

[*English*]

The Chair: That will be the last question, Mr. Clerk.

[*Translation*]

Mr. Ian Shugart: I did not consult with any ministers to have our decisions approved. As I recall, I informed the Prime Minister

of my approach to this exercise, but I didn't consult with the ministers or the Prime Minister in making specific decisions.

[*English*]

The Chair: Thank you, both.

It's over to you, Mr. Julian, for the first round of six minutes. The floor is yours.

Mr. Peter Julian (New Westminster—Burnaby, NDP): Thank you, Mr. Chair, and thank you, Mr. Shugart, for your contributions and service to Canada. We hope you, your family and loved ones are safe and healthy during this pandemic.

In response to a previous question, you said that about 1% of the documents were redacted according to cabinet confidences. Can you just confirm that this is about 50 pages of the 5,000 pages that were redacted or withheld on that basis?

Mr. Ian Shugart: Mr. Chair, it hadn't occurred to me to do the arithmetic in answer to the previous questions, but if that were the total number, then it would be in that order of pages. I don't know if it would be full pages.

As I said, a redaction can be a line or a paragraph. As I said, our estimate is that about 1% of the information provided to the committee was redacted on the basis of cabinet confidences.

Mr. Peter Julian: I find that disturbing because, as you know, well over 1,000 pages were substantially or completely redacted—about 1,500 pages of the whole. If we're talking about—

• (1635)

The Chair: Mr. Julian, to interrupt and not take time away from you, can you move your mike a little away from your mouth? The translators are having difficulty. It's coming through a little noisy. Try that.

Mr. Peter Julian: Thank you, Mr. Chair. Is that better?

The Chair: That's much better.

Mr. Peter Julian: I apologize. I didn't want to shout in anybody's ear.

Since we have about 1,500 pages substantially or completely redacted, it's disturbing, quite frankly, to me that you don't have the ability to answer more fulsomely the questions we are asking you. That, of course, was the objective in bringing you here—not the theoretical approach, but rather to have a sense of why things were redacted so substantially.

I have two questions flowing from that.

First off, when you testified on July 21 to us, you stated that there were two cabinet discussions about the WE Charity. Can you confirm that those two discussions were subject to the cabinet confidences?

Secondly, a disturbing number of pages are marked “not relevant”, including references directly to the Canada student service grant. Can you confirm with us how many pages that were marked as “not relevant” were redacted before they were sent to the law clerk? To an untrained observer's eyes, they are very relevant.

Mr. Ian Shugart: Chair, I want to assure the committee that I don't want to be argumentative, but I also don't want to leave the impression that I have not responded to the committee's request. I wrote a letter to the committee indicating my willingness and that of my colleagues to come to explain redactions. That request was changed by the committee to an invitation for me to come to discuss cabinet confidences in public disclosure. My understanding is that today I have followed exactly the request of the committee. We can follow up with further information and are happy to do so.

On the issue of what is redacted, we're talking about those redactions that were specifically cabinet confidences. There may very well have been other reasons for the redactions, including, as the member points out, relevance, commercial confidence in some cases—not, I suspect, in this one—and solicitor-client privilege, which is a frequent basis of redactions. No one should think that all of the redactions were made because of a certain cabinet confidence. In fact, it's far from it. The majority of redactions were for other reasons. We can provide, perhaps in writing to the committee, a further elaboration of what those redactions were based on.

The Chair: Mr. Julian.

Mr. Peter Julian: Thank you, Mr. Chair.

I thank you for your answer, but it's very clear what the motion stated. I was the one who moved the motion. There were matters of cabinet confidence and national security being excluded from the request. That has been a justification for some of the redactions, but the redactions went far beyond that. As you've pointed out, there's a whole number of other categories that didn't reference what the committee clearly indicated.

I have two questions. First, do you understand that when the committee asks specifically for documents, it's not the prerogative of the government to decide unilaterally on a different approach? That's why we're currently still discussing—though it's suspended—a privilege motion. Second, why wouldn't the Privy Council and public servants follow strictly what the committee actually requested back in July?

Mr. Ian Shugart: Chair, this question—the first question in particular—goes right to the heart of what we are talking about. I consider it a natural and a perfectly justifiable thing for a committee of the House of Commons to ask for information, including cabinet confidences, in this case or in any other. Equally, as I said at the outset, the executive branch has the constitutionally affirmed privilege of withholding certain information in order to be able to do its job. In the case of the WE Charity question, the government provided considerable cabinet confidence. The Prime Minister and ministers spoke to the issues even though they contained cabinet confidences, and, pursuant to that, the documents themselves were provided in considerable volume.

That does not change the constitutional convention that, for reasons of supporting responsible government and the prerogatives of the executive branch of government to do its job, the executive

does have the prerogative to withhold cabinet confidences even when the legislature asks for them. This is a point of tension between the two branches of government, and it is not always convenient, but it is a part of our constitutional structure, and indeed it has been affirmed by the court—as recently as this summer, by the Supreme Court of Canada.

● (1640)

The Chair: We'll have to end that round there, Mr. Julian. We're about a minute and a half over.

My apologies, committee, but I do want to clear this up in fairness to the Clerk of the Privy Council.

The motion that we passed at the meeting the other day that brought the Clerk of the Privy Council here today said this:

and that the Clerk of the Privy Council and the Conflict of Interest and Ethics Commissioner appear no later than November 25, 2020 to discuss "cabinet confidence" exclusions to public disclosures

It then goes on to talk about the law clerk. I just want to clear that up because there seems to be some confusion about the original motion and the reason we asked the clerk to be here today according to the motion.

Mr. Poilievre, you are on for a five-minute round. The floor is yours.

Hon. Pierre Poilievre: Thank you, Chair.

Mr. Clerk, you are here to discuss exclusions under cabinet confidences according to the motion. How many such exclusions or redactions of so-called cabinet secrets were a part of the package that was released?

Mr. Ian Shugart: Chair, I regret, but I think we're back to the initial round. I am not in a position today to get into the numbers of documents.

Hon. Pierre Poilievre: Okay. You don't have that number.

Mr. Ian Shugart: That's right.

Hon. Pierre Poilievre: You can't tell us whether all of the documents, excluded or redacted, actually appeared at a cabinet meeting. Now it seems that you're saying that you didn't even see all of the documents, even though we were told that you were going to be coming here to explain why they were redacted or excluded. Effectively, we're not getting any new information or a rationale today that we didn't already have, which brings back memories.

The Ethics Commissioner reported that nine witnesses could not provide information in the SNC-Lavalin investigation because, again, of cabinet confidences, as defined by your office and by the Prime Minister. In it he says, “I was, therefore, prevented from looking over the entire body of evidence to determine its relevance to my examination”—as requested democratically by Parliament. He said, furthermore, that he was unable to fully discharge his investigatory mandate, again, because of the application of so-called cabinet confidentiality.

Has the Ethics Commissioner been in contact with anyone in the government to acquire information regarding the WE scandal, to your knowledge?

Mr. Ian Shugart: No.

Hon. Pierre Poilievre: He has not asked for any documents or any witnesses in the government, to your knowledge.

Mr. Ian Shugart: That is correct.

Hon. Pierre Poilievre: You have not been summoned to testify in his investigation or answer any of his questions.

Mr. Ian Shugart: No, I have not.

Hon. Pierre Poilievre: If he were to ask to see the documents that you have redacted or excluded under the pretext of cabinet secrecy, would you take the same approach in this WE scandal investigation that you took in the SNC-Lavalin investigation?

Mr. Ian Shugart: As the custodian of cabinet confidences, I would take the same principled approach to every case.

Chair, given that the member has opened the door to the SNC-Lavalin case, I think it is worth pointing out that I indicated to the Ethics Commissioner that had he grounds for believing that specific cabinet confidences might assist him in his work, I was more than prepared to receive such overtures, and I did not receive any. I applied the doctrine of cabinet confidence in that case, the Prime Minister having already waived substantial cabinet confidence—

• (1645)

Hon. Pierre Poilievre: Mr. Shugart, but with respect to his report, which is a matter of public record that you have not publicly disputed until now—

The Chair: Mr. Poilievre, if I look at the time, I see that the Clerk, from the combination of your last two questions, needs a few more seconds to complete his answer. I'm not going to—

Hon. Pierre Poilievre: I hope it won't come off my time.

The Chair: Mr. Clerk, finish your statement, please.

Mr. Ian Shugart: I would just say, Chair, that the Ethics Commissioner and I did have an exchange of letters. I was entirely prepared to hear from him with respect to his reasons and the grounds for requesting further information, and there was no further request. The matter stayed there. I do not dispute his report except to say that the Ethics Commissioner is likewise a servant of the House of Commons, and I deeply respect that role; but I am a servant of the—

Hon. Pierre Poilievre: Okay. Sure, but—

The Chair: We'll let it to go back to Mr. Poilievre. Go ahead.

Hon. Pierre Poilievre: —with respect, the Ethics Commissioner has indicated there were nine witnesses prevented from providing information to his investigation into the SNC-Lavalin scandal, but they were prevented from doing so—

Ms. Julie Dzerowicz: Mr. Chair, I have a point of order.

The Chair: Mr. Poilievre, there's a point of order.

What's your point of order?

Ms. Julie Dzerowicz: We are starting to get into SNC-Lavalin, a completely different case—

The Chair: I hear you.

Ms. Julie Dzerowicz: —and I don't find it relevant to what we're discussing now. I don't see the relevance to this motion now.

The Chair: Thank you, Ms. Dzerowicz. We'll try to keep it relevant to the motion asking the clerk to be here.

Mr. Poilievre, you have time for one last quick question.

Hon. Pierre Poilievre: The Ethics Commissioner, then, did provide a rationale for what he needed and why he needed it in the context of that cabinet confidentiality dispute—we are now discussing another today—and still the government prevented him from receiving it.

So allow us, Mr. Clerk, to be suspicious about the government's, and particularly the Prime Minister's, good faith when it comes to the application of so-called cabinet secrets. If so-called cabinet secrets were used as a pretext to prevent the truth from coming out in the last scandal, why should we not believe it would happen in this scandal?

Ms. Julie Dzerowicz: On a point of order, Mr. Chair, I am sorry, but this is completely irrelevant to what we are supposed to be—

The Chair: The question has been asked. We'll let it go.

Mr. Clerk.

Mr. Ian Shugart: Well, I would never presume to limit the suspicion of members of the opposition, or any members of the House, but I would say that as a servant of the executive branch, I applied the principles of cabinet confidence in terms of whether disclosure outweighed the public interest. In that particular case, as in every other case on which I have to make a judgment, that was the outcome.

I think the Ethics Commissioner understands that, even though undoubtedly he doesn't agree. But that dynamic tension between the legislature and the executive branch is part of our system.

The Chair: Okay, thank you both.

Mr. Fraser and Mr. Fragiskatos are splitting their time.

Mr. Fraser, you have roughly the first two-and-half minutes.

Mr. Sean Fraser (Central Nova, Lib.): Thank you, and please cut me off so that I don't intrude upon my colleague's time allocation.

Mr. Shugart, thank you for being here. I appreciate your willingness to testify before the committee.

During your opening remarks, I believe you described your approach as “a principled approach” that would “ensure a non-selective” redaction of the documents.

I take that to mean that there were certain rules in place that you would have employed to ensure that no one could game the system to have, for partisan reasons, certain documents redacted.

Could you explain in your own words what you meant by “a non-selective” approach?

Mr. Ian Shugart: Gladly, Chair.

One can imagine that if there were not any application of principles at the outset of the exercise, even neutral public servants might be inclined to look at one document and say: “Oh, this will be awkward, and we won't release it, but this one will be all right, so we'll release it.”

That is not the application of the principle of cabinet confidentiality, and it can't be allowed to stand. I therefore gave direction, as every other clerk before me has, to apply the redactions, if there were to be any, on a consistent basis, so that if there was anything that the Prime Minister or ministers had already spoken to, they were to be released. If they went to the core of the issue about timing, about the advice that had been given in this particular case, our bias was to release them.

Now, there might be other principles, such as national security—I don't think it would have applied in the WE Charity case, but it would in others—by virtue of which a public servant might say, “we need to think about this one” or “we need advice on this particular issue”, and such a question would be examined from that point of view.

This is what I meant by a principled approach at the outset.

• (1650)

The Chair: Make this a quick, snappy question, Mr. Fraser.

Mr. Sean Fraser: Sure.

You also gave testimony today, Mr. Shugart, that there was no consultation with the Prime Minister or any cabinet ministers who would be the custodians of these documents during the process. Given that there wasn't ministerial intervention of that nature and given the non-selective approach, do you have confidence that all of the redactions were in fact made independently, without any partisan considerations, as should be in the normal course?

Mr. Ian Shugart: I am completely confident that public servants consistently did their job and applied, according to the principles that had been set out, all of the examination of the records. I'm very satisfied.

Mr. Sean Fraser: Including that they were done free from partisan considerations?

Mr. Ian Shugart: Absolutely.

Mr. Sean Fraser: Thank you.

The Chair: Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you very much, Mr. Chair.

Mr. Shugart, I want to quote something. It's from the National Post, so my Conservative colleagues can avoid saying that I'm biased here in citing the quotation. It's attributed to you. I just want to read it to you and you can confirm whether or not you said it. It's

from a 2019 piece around the time you were appointed Clerk of the Privy Council. It says that speaking to a parliamentary committee last June, you also provided some perspective on your role as a public servant. Then here's the quotation:

“Under both (Harper and Trudeau) governments I have personally had the experience many times of giving ministers unwelcome advice and welcome advice, good news and bad,” he said. “That is our responsibility....”

Mr. Shugart, I ask this question because of what has been accused by Mr. Poilievre. First of all, did you say that? Is that quote accurate?

Mr. Ian Shugart: That quote is indeed accurate. It sounds very much like something I would say and did say.

Mr. Peter Fragiskatos: So you serve cabinet, you serve the Prime Minister. But first and foremost is it fair to say that the Clerk of the Privy Council serves Canadians?

Mr. Ian Shugart: Yes, but I have to be clear. I'm a bit of a stickler about these things. The public service serves Canadians in some of our functions very directly. The agent at a call centre serves Canadians very directly. The agent at a Canada Revenue Agency call centre or service centre does it directly. But we serve Canadians through serving the executive branch of the government. We are part of the executive branch; we serve the government of the day regardless of stripe.

Mr. Peter Fragiskatos: Understood, but you are not under the thumb of the Prime Minister. That's what's been implied subtly by Mr. Poilievre and Conservative opposition colleagues at this committee in previous meetings, unfortunately. Have you ever had—

The Chair: We'll have to leave it—

Mr. Peter Fragiskatos: —pressure on you to offer partial advice?

The Chair: That will be the last question, Mr. Fragiskatos.

Mr. Clerk.

Mr. Ian Shugart: My advice, to the very best of my ability—and I don't want to personalize it, as this is true of all public servants—is impartial in the sense that [*Technical difficulty—Editor*] to have an interest in the partisan benefit or interests of the government of the day, or any other party. We give our advice. We also take direction as to the decisions of the government of the day. But we do our best to give professional, truthful advice. Is there human bias in that? Of course there is, but it is professional and non-partisan.

• (1655)

Mr. Peter Fragiskatos: Thank you for your service.

The Chair: Okay, thank you.

We only have about five minutes left.

Mr. Fortin, we're into two-and-a-half-minute rounds. In any event, we'll have Mr. Fortin, and then Mr. Julian.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Mr. Shugart, you told me earlier that 20 or so senior officials were tasked with studying the documents. Basically, you were responsible for that process.

Did you personally see each of the texts before they were redacted? When someone said that they were going to redact a page from line 3 to line 10, for example, did you read the redaction they were proposing?

[English]

Mr. Ian Shugart: No, Chair, I did not. This was delegated responsibility to other public servants.

[Translation]

I would like to point out that—

Mr. Rhéal Fortin: We only have two minutes.

Mr. Ian Shugart: Okay.

Mr. Rhéal Fortin: Thank you, Mr. Shugart. We could discuss this for a very long time and I'm sure it would be very interesting.

I am asking you to give me the names of the people who supervised the operation, if it was not you.

Did those documents contain information about the WE Charity Foundation or were they all about the WE Charity? You understand the distinction, they are two different entities: the WE Charity and the WE Charity Foundation.

Was the WE Charity Foundation mentioned in the redacted passages or in the documents that you studied?

[English]

The Chair: Mr. Clerk, when you're answering Rhéal, could you adjust your mike a little bit. The sound is not coming through clearly.

The translators were having a little bit of a problem, Rhéal.

Mr. Rhéal Fortin: I don't know why. It's fine over here, and I'm not new.

The Chair: Mr. Clerk—

Mr. Rhéal Fortin: The mike is just there. What do you want me to do?

The Chair: Put it up or down.

[Translation]

Mr. Ian Shugart: Mr. Chair, to the best of my recollection, the documents were about the WE Charity only.

As for the names of the officials, I just wanted to know the names of the responsible deputy ministers in the departments.

Mr. Rhéal Fortin: I want to know who decided to redact the passages. I need those names.

It's up to you to decide how you can get them to me. What I want to know is which individuals decided to redact which passage or number of passages.

Mr. Ian Shugart: I will give you the names of those responsible and they are deputy ministers. Everything is the deputy ministers' responsibility. It is not our practice to provide the names of public servants, particularly those at lower levels.

Mr. Rhéal Fortin: Okay, but I also understand from your testimony that, today, you are not able to tell me—

[English]

The Chair: Mr. Fortin, we're at the two-and-a-half-minute mark. The clerk will finish his answer.

We're at two and a half. Those were the arrangements we made at the beginning. That's what we're sticking with.

Finish your answer, Mr. Clerk.

Mr. Ian Shugart: No, that was all.

[Translation]

Mr. Rhéal Fortin: Let me finish my question first, Mr. Chair.

You interrupted me just now to tell me that—

[English]

The Chair: Mr. Fortin, you're well over time. I'm not going to argue with you.

Mr. Rhéal Fortin: I understand.

The Chair: Mr. Clerk, please sum up your answer, or Mr. Julian will not have any time at all.

Mr. Ian Shugart: No, I'd rather hear from Mr. Julian than from me.

The Chair: Okay.

Peter, you're on for two and a half minutes.

Mr. Peter Julian: Thank you, Mr. Shugart, for being here today. What you're indicating to us, though, is disturbing: that the executive branch basically can turn its back on very clear committee direction.

I have three questions coming out of that. First, can you provide us with detailed information about the classification for each of the redactions that were done in the month of August, including information on the issue of documents that, according to some people's criteria, were not relevant? If you could provide us with that information, I think it would be very helpful.

Secondly, are you not saying, then—I don't want to put words in your mouth—that the executive has the right to do the same redaction for documents that go to the law clerk this time around? If the executive can expand its exclusion far beyond the committee's mandate, is that not a concern?

Thirdly, could you explain the uneven distribution of redaction or cabinet confidences by the fact that different public servants may have applied differing criteria when they were excluding some of the documents on the basis of cabinet confidence?

● (1700)

Mr. Ian Shugart: Chair, as to the first question, I am happy to provide further information. I propose that it be in written form, but that was the offer to the committee, and I'm happy to follow up with further information on that.

With respect to the third question, no, I don't believe that there was differentiation between different departments and public servants with respect to the principles applied to the redactions. That's why we set out the direction to departments at the outset. We've done the same with respect to the current request for documents for the health committee. We've provided direction on what should be included in order to do our very best to meet this monumental task that the House has given us.

With respect to the second question, yes, I'm afraid that it is a fact that if the executive branch were to give all of the documents of cabinet confidence or commercial sensitivity or solicitor-client privilege or national security to the law clerk, it would be, in a sense, waiving that privilege, because the law clerk is a servant of the legislature, not of the executive.

That is not a reflection at all on the law clerk, who is a professional, experienced, highly qualified individual. It's a function of his being a servant of the legislature. The executive has a responsibility to preserve its ability to do its job as the executive, and frequently, that requires not divulging cabinet confidences, solicitor-client privilege or other kinds of information.

Now, we want to be as co-operative in this matter with the law clerk as we can. Meetings have been held, but at the end of the day, this does come down to our system of governance and this dynamic tension between the executive and the legislative branches of government.

The Chair: We will have to end it there. Thank you, Mr. Shugart, for spending this time with us.

I believe there are two or three areas where you have agreed to provide further information to the committee, and we will figure that out, I guess, when we see the blues.

Mr. Ian Shugart: Very good, Chair.

The Chair: With that, I thank you again.

We will suspend for a couple of minutes and bring up Mr. Dion.

• (1700) _____ (Pause) _____

• (1705)

The Chair: We shall reconvene.

Welcome, Mr. Dion.

We have for this session for the next hour, from the Office of the Conflict of Interest and Ethics Commissioner, Mario Dion, Conflict of Interest and Ethics Commissioner.

I believe you have an opening statement, and we will then start into a round of questions, I believe, with Ms. Jansen first.

Mr. Dion.

[*Translation*]

Mr. Mario Dion (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Thank you, Mr. Chair.

I would like to thank the Standing Committee on Finance for inviting me here today to speak to a matter that has already generat-

ed a great deal of attention at many parliamentary committees. I have obviously followed the committees' work with interest.

You have asked me to speak about documents that I have already received within the framework of examinations related to the WE Charity matter. You probably wish to know if they contained redactions, omissions or exclusions. In particular, you have asked me to discuss "Cabinet confidence" exclusions.

As we have already received a large portion of those documents, I believe that I might be able to help.

[*English*]

First of all, however, I'd like to explain to members of the committee how the examination process works in order for the office to obtain documents. Examinations may be initiated by the commissioner himself, or through a member of Parliament or a senator. There are two ongoing examinations in the public domain, requested by several members of Parliament who have brought me before you today, involving the conduct of the Prime Minister and the former minister of finance.

The first step we go through in any examination—they are called "examinations" under the Conflict of Interest Act—is to seek documents, which we ask be in writing. We seek documents from organizations and individuals and ask that they be shared with us. As always, we ask to be provided documents without edits or redactions. It is expressly mentioned in the letter that we send each individual or organization. We do not want information to be redacted, and that is made clear in those letters.

In our view, to ensure a proper examination that is fair and impartial, we need to be the arbiter of what is and what is not relevant to an examination.

Since my arrival almost three years ago, there has only been one instance in which I did not receive the information I requested, and I explained that situation in the "Trudeau II Report", which was just discussed with the Clerk of the Privy Council.

The second point I would like to make, however, is that there are strict confidentiality provisions under subsection 48(5) of the Conflict of Interest Act that severely limit my ability to share information collected in the course of an examination. We ask; we get, and we examine, but I am working under some constraints under subsection 48(5) of the act, which says that unless otherwise required by law, the commissioner, and every person who works with me, may not disclose any information that comes to their knowledge in the performance of their duties and functions under this section, unless the disclosure is essential for the purposes of carrying out my powers to examine, or in order to establish the grounds for any conclusion contained in a report. Then there is another exception, which is not applicable to the situation we are discussing today.

On cabinet confidences, we seek all information. We say, “Please do not send us redacted, excluded, exempted material. Do not exempt material. Do not exclude material.” On cabinet confidences—and my position is based upon my reading of the relevant parts of the act—my view is that we have a right to have access to all needed information for an examination, including cabinet confidences.

In Part 4 of the act, under Mandate and Powers of the Commissioner, subsection 44(9) reads as follows:

The Commissioner may not include in the report any information that he or she is required to keep confidential.

So the protection is there for cabinet confidences.

Former commissioner Mary Dawson addressed the Standing Committee on Access to Information, Privacy and Ethics on the topic of cabinet confidences, as did I in the “Trudeau II Report”.

In her submission back in 2013, regarding the five-year review of the Conflict of Interest Act, she said:

It must be clearly understood that the Commissioner has the authority to access any document needed to conduct his or her investigations. Moreover, these documents must be provided directly to the Commissioner and not vetted by any other party, so as not to compromise the integrity of the investigative process.

We’ve talked about the “Trudeau II Report”. I have made the observation that to avoid potential delays in examinations and to carry out my proper investigative mandate, I must have access to all information I consider necessary to carry it out.

I’ve mentioned some sections. There are some further other obligations under section 51 of the Conflict of Interest Act that pertain to recusals when a matter is under cabinet confidence, as well as under section 90 of the Parliament of Canada Act.

They are a vital component. I must see those cabinet confidences, and they are properly protected by the office, both in preparing the report and in making the report public. As an independent officer of Parliament, I must have unfettered access to that.

• (1710)

[*Translation*]

Since your committee began its study last summer, there have been dozens of hours of witness testimony. If only I could use this testimony, I would be able to finalize my reports more quickly and avoid wasting the time of the many witnesses involved in the matter. From a legal point of view, I am not able to refer to it at the moment as it is protected by parliamentary privilege.

The Speaker of the House of Commons informed me about 10 days ago that he did not have the sole authority to grant my request. I actually asked if I could use the testimony given before the Standing Committee on Finance. He therefore suggested that I direct my request to the Standing Committee on Finance. I am doing that this afternoon.

Therefore, for the purposes of the Office’s two ongoing examinations that I have mentioned, I respectfully ask, Mr. Chair, that you recommend that the House waive the privilege associated with witness testimony before the Standing Committee on Finance in the context of its study on WE Charity and the Canada Student Service Grant.

Mr. Chair, those are my remarks. I would simply like to remind members of the committee that there are considerable limits to how open I can be in answering your questions here today as I must be mindful of the strict confidentiality obligations set out in the Conflict of Interest Act.

Thank you, Mr. Chair.

• (1715)

[*English*]

The Chair: Thank you, Mr. Dion.

We’ll start into the six-minute round with Ms. Jansen, who will be followed by Ms. Koutrakis

Ms. Jansen, the floor is yours.

Mrs. Tamara Jansen (Cloverdale—Langley City, CPC): Mr. Dion, first of all, thank you very much for coming.

Mr. Chair, I want to ask him about the letter he sent in regard to the inquiry we had talked about concerning Mr. Morneau. I’m really confused by your ruling on not beginning an inquiry into Mr. Morneau’s unpaid travel with his family funded by WE Charity.

It’s my understanding that since 2017—

Ms. Julie Dzerowicz: Mr. Chair, on a point of order, what does this have to do with discussing cabinet confidence exclusions to public disclosure?

The Chair: I think I will allow this one, because it does relate to the WE Charity.

Go ahead, Ms. Jansen.

Mr. Sean Fraser: I have an additional point of order, Mr. Chair.

The Chair: Yes?

Mr. Sean Fraser: I am having a really hard time hearing. I think the audio is coming through both the room you’re in as well as from Ms. Jansen. I’m just having trouble hearing.

The Chair: Okay.

Mrs. Tamara Jansen: It sounds as though it’s better now.

Can I continue?

The Chair: Yes, you can continue, Ms. Jansen.

Mrs. Tamara Jansen: Okay.

It’s my understanding that since 2017, the year of his trip, WE Charity has received over \$5.3 million in federal grants and contracts. In section 15, the ethics code states that trips costing over \$200 must be disclosed within 60 days, and we all know that he didn’t do so. Yet you say, in your ruling, he didn’t travel—

The Chair: Ms. Jansen, I'm not going to allow you to go too far by talking about all of those things. Try to relate it to the purpose we invited Mr. Dion here for, not to making another case.

Mrs. Tamara Jansen: Well, I guess it's really hard to ignore the fact that the WE Charity government funding increased exponentially after his trip.

On what basis, then, do you decide that he's not wearing his MP hat? How do you make those decisions?

Mr. Mario Dion: As I mentioned, there is an examination currently underway in relation to the former minister of finance. I will, in the report that will be made public at the appropriate time, discuss the reasons for which I decided not to pursue the aspect of the trips and reimbursement for the trips. I will explain that in the public report. I have no authority to do so until then.

Mrs. Tamara Jansen: Okay, so reading through your ruling... Of course, I'm new, so I want to make sure I understand well. You mentioned in your decision that since Mr. Morneau's wife made all the travel arrangements, that was proof he didn't go officially.

Ms. Julie Dzerowicz: I have a point of order, Mr. Chair.

The Chair: I'm going to give some leeway here so that we can get a final answer from Mr. Dion.

Go ahead, Ms. Jansen.

Mrs. Tamara Jansen: What I understand from that, then, is that if my husband Byron organized a trip to, say, Kenya for the two of us to visit a charity, and later that same charity got five times the government funding it had had prior to my visit, as long as I wasn't involved in any of the coordination of the trip there would be nothing ethically wrong with that? However, from where I sit, the perception would be that I hooked them up. I wonder if you could help me with that?

Mr. Mario Dion: I will as soon as I publish the report, which will explain fully the reasoning behind the decision not to pursue that matter further.

Mrs. Tamara Jansen: Okay.

The ethics code says that a member of family or a member can accept a gift that could reasonably be seen to compromise them in their office. I realize that Mr. Morneau's family could quite easily afford that trip, but judging by the increase in funding the WE Charity got after their visit, isn't it fairly reasonable to assume that something changed? It really appears that someone put a bug in someone's ear.

Mr. Mario Dion: Mr. Chair, I don't know what to answer to that suggestion.

The Chair: Well, if you can't answer, you can't, Mr. Dion.

I would ask Ms. Jansen not to continue to go down that road concerning the family of an individual who is not a member of Parliament right now.

I'm getting calls for points of order from the room here. I've allowed considerable leeway on this, so try to hold it to the cabinet confidentiality request that we made in our submission to invite Mr. Dion and the Clerk here.

Mrs. Tamara Jansen: I'm trying to wrap my mind around how the Ethics Commissioner makes his decisions. We received this letter, so I'm trying to truly understand how someone like him makes a decision. We know, for instance, that Mr. Morneau did not recuse himself from cabinet discussions about the CSSG—he said so himself—yet you're not allowed to see those cabinet documents. How can you actually do your job that way? I'm just really trying to wrap my mind around it.

• (1720)

Mr. Mario Dion: I think I suggested in my opening remarks that I'm pleased to have an opportunity to clarify that we did receive all the documents we need in order to conduct these two examinations, including cabinet confidences.

Mrs. Tamara Jansen: Okay. I'm just trying to wrap my mind around how exactly you go about making your decisions. For instance, you mentioned in your other ruling that Mr. Morneau had no involvement in the decision to fund the WE Charity student entrepreneurship initiative because he told you he didn't.

How exactly do you determine that he had no involvement? Do you simply take his word for it? Is that how that works?

Mr. Mario Dion: No. In fact, the team that conducts the examinations, as well as the legal team—they sound like they're big things, but we're talking about four people altogether—reviewed the sum total of the documents that I was talking about, as well as the submission made by Mr. Morneau. They recommended to me—and I accepted the recommendation—that, on the balance of probabilities, we were satisfied with Mr. Morneau's assertion. That's how it happens. That's how it works in any examination. It's on a balance of probabilities. We have to decide whether we accept the version offered by the person who is the subject of the examination or accept other assertions elsewhere. It's the totality of the evidence that leads us to a conclusion as to whether the act or the code have been contravened.

The Chair: Thank you.

Ms. Koutrakis, you have six minutes.

Ms. Annie Koutrakis (Vimy, Lib.): Thank you, Mr. Chair.

Thank you, Mr. Dion, for being here before us today. I hope you and your family are keeping well. I know that you're working really hard with your team, and we're very grateful for the work that you and your team do.

Can you speak a bit more broadly about the ethical behaviour of our non-partisan public service? What policies or mechanisms are in place to ensure that our public servants will act in an ethical and unbiased manner?

The Chair: I believe you're muted, Mr. Dion. We can't hear you.

Mr. Mario Dion: I'm back.

I'm happy to receive this question in order to clarify something that's not clear to everybody involved. The Conflict of Interest Act only applies to the most senior levels of government. We're not talking about the public servants at large. We're talking about Governor in Council appointees, ministers, exempt staff, period. We're not talking about directors, directors general, and up to and including assistant deputy ministers. They are governed by something different, by the code developed under another authority.

I'm not responsible for offering educational activities aimed at public servants. It's the responsibility of the Treasury Board and of each line department. My role is to focus on the people I've mentioned: the Prime Minister, the ministers, the secretaries of state, the Governor in Council appointees and such senior people, as well as the exempt staff.

We have 3,000 people, not the 400,000 people who are governed by the other authority.

Ms. Annie Koutrakis: Thank you for that.

[Translation]

Do you think that there was political interference in the redaction of the Canada student service grant documents?

Mr. Mario Dion: As I said, we received the documents in their entirety. The question is hypothetical as far as we're concerned. I don't know. I haven't seen and analyzed what your committee received. However, from my perspective, there was no redaction.

Ms. Annie Koutrakis: In your opinion, what policies or mechanisms are in place to guard against political interference in the redaction process?

Mr. Mario Dion: I think that Mr. Shugart tried to answer this question earlier.

This really isn't within my purview. By the way, we have the same power as a superior court of justice when it comes to requesting these documents. When we send a letter to an individual or an organization, I think that the letter is taken seriously. As I said, in the past three years, I've dealt with only one redaction attempt. The issue doesn't exist for me.

• (1725)

Ms. Annie Koutrakis: If a committee came to a different conclusion on the same issue, would you find it helpful? Do you think that this could undermine trust in the process?

Mr. Mario Dion: No. I think that we have very different processes. The office has a non-partisan component, whereas a parliamentary committee by definition can be partisan, and often is. These are two different frameworks.

My job is to conduct an examination. I do so on my own initiative or when a parliamentarian asks me to do so. My job is to get the facts, analyze them, come to certain conclusions and report these findings to the Prime Minister pursuant to the act. That's how the Conflict of Interest Act works. I submit my report to the Prime Minister, and I release it to the public at the same time, an hour later or the same day. I release my report and I tell the Prime Minister that, in my opinion, the act has or hasn't been violated.

This framework is completely different from a parliamentary committee's framework.

Ms. Annie Koutrakis: Thank you.

[English]

Do I have more time?

The Chair: You have time for one more question.

Ms. Annie Koutrakis: A recent independent audit of the administration of the CSSG by WE Charity, conducted by Mr. Matt Torigan, the former deputy solicitor general for the Province of Ontario, has shown that the government and the Prime Minister's Office did not predetermine that WE Charity would be selected to administer the program.

To what extent have you taken these findings into account, if you have, when investigating the administration of the CSSG?

I'd like to hear your thoughts on that.

Mr. Mario Dion: My team has received thousands and thousands of pages of documents. I do not know for a fact whether this report is among them, but I can assure you that, now that you've mentioned it, we will of course obtain a copy and review it to determine whether it contains any information useful to us.

In addition to what we seek and receive, we also, of course, on our own volition do web searches and obtain publicly available documents that pertain to our examination. You've just mentioned one about which I was not aware, but this doesn't mean that my team wasn't.

Thank you.

The Chair: Thank you.

We'll go to Mr. Fortin, followed by Mr. Julian.

Mr. Fortin.

[Translation]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Thank you, Mr. Dion, for joining us today.

You saw all the documents produced following the July 7 motion. Is that right?

Mr. Mario Dion: My office received them and the investigator reviewed them. I haven't seen them yet.

Mr. Rhéal Fortin: How many people in your office have read these documents? I imagine that it's a team effort. Did you share the pages? Does someone read the first 100 pages, and then another person continues?

Mr. Mario Dion: In this case, I think that the investigator read all the pages. He's supported by counsel, who also read all the pages. So it's two people.

Mr. Rhéal Fortin: Could you give us the names of these—

Mr. Mario Dion: There's also their supervisor, of course.

Martine Richard, senior general counsel, is responsible for investigations and legal services. She oversees all these activities. In this case, Marie-Josée Smith is the investigator and Michael Aquilino is the legal counsel assigned to the Trudeau and Morneau files.

Mr. Rhéal Fortin: These individuals saw all the pages and what was or wasn't proposed to be redacted. Is that right?

Mr. Mario Dion: Sorry, Mr. Chair. We didn't make any comparisons with what the Standing Committee on Finance received. We didn't try to make any comparisons, because we asked for and received tens of thousands of pages.

Mr. Rhéal Fortin: You're unable to say whether the pages were redacted correctly. Is that right?

• (1730)

Mr. Mario Dion: Because we would have needed to—

Mr. Rhéal Fortin: I'll change the subject, since you received them in their entirety.

Mr. Mario Dion: That's right. There were no redactions on our end.

Mr. Rhéal Fortin: Okay.

Mr. Dion, do you remember seeing, in the documents that you looked at, information regarding a due diligence report prepared before the awarding of the contract in this case?

Mr. Mario Dion: I haven't reviewed all the documents myself. I didn't see it, but that doesn't mean it isn't there at all. We aren't at that stage yet.

Mr. Rhéal Fortin: Can you tell us whether the documents that you received include a due diligence report?

Mr. Mario Dion: As I said in my presentation, I'm not free to tell you anything disclosed to me during an examination until I've written my report.

I can't answer your question. If it's relevant, it will be included in the report and it will be disclosed at that time.

Mr. Rhéal Fortin: Okay.

This significantly limits the questions that we can ask you. We're talking about the theory and definition of ethics. It's almost a university course.

I gather that you can't answer any questions about the documents. You can't answer any questions about the content of the documents.

Mr. Mario Dion: I can answer general questions, as I did earlier. As I said earlier to the honourable member, I don't know whether the audit report done by the former deputy solicitor general was part of the collection of documents.

I can't start discussing the relative importance of documents until the process set out in the act has been completed.

Mr. Rhéal Fortin: We may invite you back at that point.

That said, Mr. Dion, I'll focus on the theory of the issue. I want you to speak about the responsibility of people who redact a document. I understand that a process requires documents to be redacted to protect cabinet confidences and confidentiality. That's fine.

Earlier, with Mr. Shugart, I saw that between 12 and 25 individuals, not including some supervisors, see all the documents. Mr. Shugart is ultimately responsible for the redaction. From an ethical standpoint, given the disclosure obligations resulting from the committee's July 7 motion, and given the restrictions on redactions, what's the level of reliability? How can we verify that the redacted material was redacted correctly? If there was a redaction error, for example, if an individual decided to redact a section that shouldn't have been redacted, how would the committee know?

Mr. Mario Dion: I have no idea. This isn't within my purview. Only a court could decide whether the exemptions and exclusions were applied correctly. In matters of parliamentary privilege, courts have no authority.

Mr. Rhéal Fortin: From an ethical standpoint, you can say that the government authorities must comply with the committee's requests. Is that right?

Mr. Mario Dion: I've worked in the public sector for almost 40 years. I've always taken for granted that we're accountable to Parliament.

Mr. Rhéal Fortin: Okay. However, if a committee order requests documents, the authority in question should normally send the committee all the information requested. Is that right?

[English]

The Chair: This is the last question.

[Translation]

Mr. Mario Dion: I don't know. I'm not an expert in parliamentary law. I think that the law clerk could shed some light on this. However, I don't think that the committee has the power to—

[English]

The Chair: Okay.

[Translation]

Mr. Rhéal Fortin: I almost feel as if we bothered you for nothing today, Mr. Dion. That said, thank you for taking part in this exercise.

[English]

The Chair: Rhéal, I'm sorry. We have to move on to Mr. Julian.

Mr. Julian, we're in a six-minute round.

Mr. Peter Julian: Thank you very much, Mr. Chair.

Thank you, Mr. Dion, for your presence here today. We certainly hope you and your family and loved ones are staying safe and healthy during this pandemic.

You're getting a bunch of questions in part because this committee was shut down in August. At the end of July and in early August, we had important testimony on ethical considerations, and then the entire Parliament was shut down in mid-August, as you know, with prorogation. Subsequent to that, the finance committee has been held up for the last two months because Liberal members didn't want these documents discussed. So, it's been four months since the finance committee has actually been able to question a witness on these important things.

I guess I apologize on behalf of the entire committee. Because of all this shutdown and basically the committee's being suppressed, we now have a bunch of questions to ask.

My questions relate to the Prime Minister's testimony before us on July 30 and Mr. Shugart's on July 21. Mr. Shugart testified just before prorogation that there were two cabinet discussions around the issue of the WE Charity and the substantial funding that the federal government wanted to put. He also testified that the Prime Minister had concerns—and the Prime Minister testified about this as well—around possible conflicts of interest.

I want to ask you, first, if the Prime Minister or the Prime Minister's Office contacted you or the Ethics Commissioner's office around a potential conflict of interest? Would you expect that they normally would, if there were potential conflicts of interest, actually reach out to you? Have you received the cabinet documents that reference the two discussions that cabinet had around this program?

• (1735)

Mr. Mario Dion: Mr. Chairperson, I'm afraid that I will once again disappoint members of the committee by saying that whether a public office holder—whether it's the Prime Minister or a much more junior one—consults us or doesn't consult us is something that is private between the person in question and my office. There are clear provisions in the act that any advice we give to a public office holder is confidential and that I'm not at liberty to discuss it.

The obligation to recuse oneself belongs to the public office holder. Section 21 of the act makes that very clear. We recommend that people, when in doubt, should consult with us. In fact, I gave an information session recently to 250 people in which I made clear the point that one should consult, first, because we are more specialized and, second, because we also are more objective when it comes to telling or recommending a course of action to them. However, at the end of the day, the person is accountable for his or her decision to recuse or not to recuse himself or herself.

I hope this answers your question. We did seek all relevant documents, including cabinet documents, and we have received them.

Mr. Peter Julian: However, you're unable to confirm that there were two cabinet discussions around this issue. Mr. Shugart did testify to that effect.

Mr. Mario Dion: Not at this stage, no.

Mr. Peter Julian: Thank you.

This is the public domain, so we're not revealing any confidences. The former finance minister admitted just this summer—again, before all of the committees were shut down by the Prime Minister—that he had not read the conflict of interest rules.

Do you suggest that all cabinet ministers, in fact, all members of Parliament, should pay strict attention to conflict of interest rules and should actually be reading those rules and regulations so that they understand their responsibilities?

Mr. Mario Dion: There is no doubt in my mind that anybody appointed to a senior public office should take the time to review the short Conflict of Interest Act. We're talking about 60-some sections. We're not talking about reading the Income Tax Act or the Criminal Code of Canada. It's entirely feasible. It's not plain language, but it's actually understandable. We also have, on our website, interpretation bulletins on several of the obligations under the act.

So, by all means, there is no question in my mind. In fact, my advice has been, before being the Ethics Commissioner—because I was a senior public office holder for something like 25 years before that—to read it once a year. Don't only read it upon becoming a public office holder, but once a year. It gives you some assurance that you actually remember the various obligations that you have under these instruments.

Mr. Peter Julian: Yes, that's good advice to all members of cabinet, I think, moving forward.

We had testimony before this committee on July 28 by the Kielburger brothers. They clarified that payments for auxiliary events, where donors and potential donors get to sit and meet with some of the talent, were part of the WE Day charities.

I'm interested in knowing whether that information.... This isn't the public office holder communicating with you, but were you aware of WE's approach and these auxiliary event payments? Is that something that your office would be aware of that might involve public office holders or their families?

• (1740)

Mr. Mario Dion: We are now aware, and it will of course be reviewed in our report.

Mr. Peter Julian: But you weren't aware previously, so that was new information, was it?

Mr. Mario Dion: Again, what is brought to our attention and what is not brought to our attention is, I'm afraid, a matter of confidence between ourselves and the Prime Minister, the minister, or anybody else with whom the office deals.

The Chair: This will be a last question, Mr. Julian.

Mr. Peter Julian: Finally, what advice do you have for the Prime Minister and the government regarding these issues around conflict of interest, which have happened in repetition? You've certainly been able numerous times to judge the issue around conflict of interest. What would be your suggestion, moving forward, for the government to avoid having these problems occur yet again?

Mr. Mario Dion: We've already discussed the fact that one should read periodically the Conflict of Interest Act. It's not a well-known fact, but under section 23 of the act I have the authority to provide the Prime Minister with confidential advice as to what should be done either in a specific case or in general.

There is, then, a tool whereby I can make my views known to the Prime Minister, but again it's confidential.

The Chair: Okay, thank you both.

We'll go on to Mr. Poilievre, who will be followed by Mr. Baker, in two five-minute rounds, unless someone wants to split their time.

Mr. Poilievre.

Hon. Pierre Poilievre: To clarify with you, Mr. Commissioner, I understood your earlier testimony to be that the government has handed you over the same 5,000 pages of documents that it handed over to the committee.

Was that your testimony?

Mr. Mario Dion: No. My testimony was that we didn't try to compare what we received with what the committee had received. I'm thus in no position to compare, but we seem to have received slightly more pages.

Hon. Pierre Poilievre: More pages.

Mr. Mario Dion: Yes.

Hon. Pierre Poilievre: I would like to ask on behalf of the committee that you perform that comparison and report back to us so that we might ascertain whether or not we have received all the documents we should receive. Would you commit to doing that?

Mr. Mario Dion: Maybe we didn't ask for the same documents. Maybe we asked for a much wider set of documents. That could explain the discrepancy.

Hon. Pierre Poilievre: Would you be willing to report back to us on a comparison between what we've received and what you've received?

Mr. Mario Dion: What I'll do is discuss it with my staff to determine the workload associated with doing so, because I would not want this to detract from our finalizing reports as soon as possible.

Hon. Pierre Poilievre: You're saying that you had no redactions or exclusions in the package that you received?

Mr. Mario Dion: That's what I said. That's right.

Hon. Pierre Poilievre: That is very strange.

Mr. Mario Dion: Except for material that did not pertain... Sometimes you have a document in which 90% is about the subject at hand—

Hon. Pierre Poilievre: Right. I understand.

Mr. Mario Dion: —but apart from that, no. That's what I've been told by my team.

Hon. Pierre Poilievre: Okay, that is very interesting.

Have you ever encountered a situation in which the government has applied cabinet confidence as a rationale for excluding evidence, preventing you from properly executing your investigatory function?

Mr. Mario Dion: I've already mentioned, Mr. Chair, what we call the “Trudeau II Report”—the SNC-Lavalin report, as it's called by some.

That was the only instance in which we sought but did not obtain—decided not to insist but did not obtain—the full gamut of documents we were seeking from the government.

Hon. Pierre Poilievre: Did that prevent you from full discharging your investigatory duties?

Mr. Mario Dion: It did not prevent me from reaching the conclusion we reached in the report. That's why I decided to proceed in the absence of the additional documents.

Hon. Pierre Poilievre: But it does say the following in your report:

Because of my inability to access all Cabinet confidences related to the matter, I must, however, report that I was unable to fully discharge the investigatory duties conferred upon me by the Act.

Is that accurate?

• (1745)

Mr. Mario Dion: Yes. It reflects the well-known maxim that you don't know what you don't know.

Hon. Pierre Poilievre: Right.

Mr. Mario Dion: But I decided pragmatically that we had to come to a conclusion, so I did, back last year.

Hon. Pierre Poilievre: Yes. So even without all the information that the government deprived you of, you were able to conclude that the Prime Minister had violated the law, and so you just went ahead with your conclusion. I understand that, but it is clear that the government's unwillingness to provide you with all of this evidence rendered you, in your words, “unable to fully discharge the investigatory duties conferred” upon you by the act.

Mr. Mario Dion: That's what I wrote in the report, and I stand by that, of course—

Hon. Pierre Poilievre: Right.

Mr. Mario Dion: —but I did make the decision not to go back to the Clerk, as you mentioned earlier.

Hon. Pierre Poilievre: I understand, but still it is clear the government's use of “cabinet confidences” as an excuse prevented you from doing your duty and completing the full scope of those duties under the Conflict of Interest Act.

Were you able to see any evidence to confirm the information they were withholding was in fact cabinet confidentiality?

Mr. Mario Dion: No, because I didn't see the information.

Hon. Pierre Poilievre: Right. So you have to—

Mr. Mario Dion: That's the egg and the chicken problem. You don't know what there is, therefore you cannot really assess anything.

Hon. Pierre Poilievre: So you can't be sure the information the government claims was a cabinet secret was in fact cabinet secrets.

Mr. Mario Dion: That's right.

Hon. Pierre Poilievre: So now the government is telling us, once again, that they can't give us evidence because it's all cabinet secrets. We had the Clerk of the Privy Council tell us today that he can't confirm that these so-called secrets ever reached the cabinet table.

Do you have any way of telling us how we can unravel the mystery of whether these are in fact cabinet secrets they are depriving us of?

The Chair: Last question, Pierre.

Mr. Mario Dion: I'm afraid I don't have any secrets to offer on this one.

Hon. Pierre Poilievre: So we'll just have to take the Prime Minister's servant, whom the Prime Minister can fire and whom he hires, at his—

Mr. Peter Fragiskatos: A point of order, Mr. Chair.

The Chair: What's your point of order? Mr. Poilievre is out of time, but what's your point of order?

Mr. Peter Fragiskatos: I would advise my colleague that he should read the Magna Carta that is on his bookshelf. If he does, he'll understand the basic principles of democracy.

The Chair: I think that's stretching the point of order, so we'll go on to—

Mr. Peter Fragiskatos: He'll understand that the Clerk is independent, and that he should stop besmirching his reputation.

The Chair: We'll go on to Mr.—

Hon. Pierre Poilievre: A point of order, Mr. Chair.

The Chair: What's your point of order?

Hon. Pierre Poilievre: You interrupted me before I was done my time, and you're not allowing me to finish.

The Chair: You were over your time. This is a five-minute round, not a six.

Hon. Pierre Poilievre: Yes, but I wasn't finished five minutes.

The Chair: Yes, you were, on both my clock and the clerk's.

Mr. Baker and—

Hon. Pierre Poilievre: It's a broken clock.

The Chair: —and Mr. Fraser are splitting their time.

Mr. Baker.

Mr. Yvan Baker (Etobicoke Centre, Lib.): I'm going to yield to Mr. Fraser first.

The Chair: Okay.

Mr. Fraser first, and then Mr. Baker.

Mr. Sean Fraser: Thank you, and thank you to Mr. Dion for joining us as a witness today.

During Mr. Shugart's testimony earlier in this meeting, he explained the process that was employed to make certain redactions. I'll remind committee members that the reason we've asked each of you to come here is to discuss redactions of cabinet confidences.

If I can summarize, Mr. Shugart explained that they established a process and a set of rules that would be employed, and the responsible deputy ministers had their staff then execute the redactions according to those rules.

In your testimony, you explained that your rules apply to senior officials within government, and Monsieur Fortin, during one of his questions today, raised the issue of what would happen if a civil servant did things the wrong way. What if they made a redaction they shouldn't have, for example?

This has been the current that has been underpinning the last number of meetings that we've had on this particular issue. The allegation that no one has made explicitly, but that seems to be hanging over everyone's head, is that some civil servant would have been directed by the government to redact this or that, and that it would have been inappropriate, given what the committee had asked it to do.

If Mr. Shugart's testimony today is true—and I believe it to be true, as I believe him to be a man of integrity, and, more importantly, that the person who holds that position must be beyond reproach—that there was no consultation with ministers or the Prime Minister, and in fact the deputy ministers charged the civil servants beneath them to execute these redactions in accordance with the rules, do you think there could be an ethical violation?

• (1750)

Mr. Mario Dion: Yes, I follow your question. I listened to the Clerk. I also believe that it was done in the manner he's described, but it's always possible, in spite of the directions, that somebody doesn't follow the directions. However, I don't know that; I'm just stating a fact.

Mr. Sean Fraser: Certainly, and I'm not asking you to suggest whether someone did break the rules. I'm asking if, in fact, the Clerk's testimony is true, that there were no ministerial interventions to direct such redactions to take place.... Even if there were a mistake made, would that constitute any kind of a violation of conflict of interest or ethical requirements on the part of those who are subject to the rules?

Mr. Mario Dion: No, it wouldn't, because the act deals strictly with a conflict between a private interest and a public interest. It didn't apply.

Mr. Sean Fraser: Thank you. I appreciate that.

Very quickly, before I hand it over to my colleague, I note that you mentioned moments ago that full disclosure had been made, with the exception of the disclosure of documents that did not pertain to what had been asked for, and that this satisfied you that you had the information to do your work.

On the issue of those particular redactions that do not pertain, I used to run into this issue in my career before politics, when we would deal with disclosure in litigation. There was no real difference, to my mind, between things that were not relevant but were included in an otherwise relevant document and other documents that just had no reference whatsoever.

In your view, does the obligation to disclose change at all because an irrelevant portion is contained in a document that may have some relevant material, or is it similar to that of the millions upon millions of documents that are within the custody of the Government of Canada, which the government just chose not to produce because they're not relevant?

Mr. Mario Dion: As I stated in my opening remarks, my preference is that we get everything that's covered by what we've asked for, and that's what I believe we received. In fact, I would prefer that no redaction be made, because we can be the judge of what is irrelevant to what we've asked for. The more information we get, the better it is for us.

Mr. Sean Fraser: Sir, I'm asking not necessarily what's more or better, but whether it's in accordance with the rules.

Mr. Mario Dion: The rule is: I ask you; you give me. It's akin to a court of competent jurisdiction, so in cases of doubt, provide it. That would be my advice.

The Chair: That's—

Mr. Sean Fraser: I've not saved much time for my colleague here, so I'll let him take over.

The Chair: Okay. Your colleague has about 25 seconds to make his question and get an answer.

Mr. Baker, do you have a very quick one?

Mr. Yvan Baker: Yes.

Is there any indication, Mr. Dion, that anything has been done by anyone in the public service—in the executive branch or by anyone else—that has prevented you from fully performing your work effectively in this case?

Mr. Mario Dion: No, there is nothing of that nature.

Mr. Yvan Baker: Thank you very much.

The Chair: Thank you.

Thank you, all. You did it right within time.

Mr. Fortin, you have two and a half minutes, followed by Mr. Julian for two and a half minutes.

Mr. Fortin.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Mr. Chair.

Mr. Dion, you have a certain security level that enables you to access all the documents without redactions.

Am I right to think that the law clerk has the same security level as the Ethics Commissioner?

Mr. Mario Dion: I don't know the law clerk's security level, sorry. My level is “top secret”. He can compare it with mine.

Mr. Rhéal Fortin: Okay.

Can you tell me whether the law clerk may have received all the documents without redactions, possibly with notes from the Clerk of the Privy Council suggesting what material could be redacted?

Mr. Mario Dion: I think that the clerk tried to make a distinction. There's indeed a distinction between the executive branch and

the legislative branch. You're obviously part of the legislative branch.

I'm an officer of the House of Commons. However, I have the power to require documents to be produced. I did so, and this time I received them.

Mr. Rhéal Fortin: In your opinion, shouldn't the law clerk have received the same thing that you received?

Mr. Mario Dion: I don't have an opinion on that, Mr. Fortin. I'm not qualified to provide one.

Mr. Rhéal Fortin: Okay.

From an ethical standpoint, I imagine that part of your mandate involves ensuring that the government provides proper reports that meet the applicable standards when Parliament makes a request.

Parliament is asking that unredacted documents be given to the law clerk. From an ethical standpoint, should the government not have responded to that request?

● (1755)

Mr. Mario Dion: My title contains the word “ethics”. However, that's about all that includes any reference to ethics in the act. The rest focuses almost exclusively on conflict of interest, a conflict between a public interest and a private interest. That's all.

I have no authority to provide opinions on ethical matters other than conflict of interest.

I'm being honest with you.

Mr. Rhéal Fortin: Yes, I know.

You seem so competent and personable.

I would have appreciated it if you were able to answer all my questions. Obviously, this wasn't the case. I want to repeat what I said earlier. I almost want to apologize for asking you, on behalf of the entire committee, to appear today. I think that, unfortunately, you can provide only limited responses, Mr. Dion.

That isn't your fault, and I understand this.

Thank you.

Mr. Mario Dion: Thank you.

[*English*]

The Chair: Thank you. You're right on time, Rhéal.

Mr. Julian, you have two and a half minutes.

[*Translation*]

Mr. Peter Julian: Thank you, Mr. Chair.

Thank you, Mr. Dion.

You spoke earlier about the unredacted documents that you received.

I want to know what process was used to obtain these documents, especially since the documents are cabinet confidences. Did you send a letter to the Clerk of the Privy Council? What steps did you take?

Mr. Mario Dion: Each time we start an examination, we first determine who we think may have information pertaining to what we're trying to review. We make a list of people and organizations and we write a very clear letter to them. The letter makes it very clear that we want to see everything that relates directly or indirectly to the topic.

In my opening remarks, I said that I couldn't tell you whom we asked for what material until the release of the report. You'll see the list of witnesses and an indication of the sources that we consulted. However, until the report is released, the act unfortunately prohibits me from telling you to whom we sent a letter.

Mr. Peter Julian: Can you share what was requested with the committee?

Mr. Mario Dion: Perhaps we can send you the form letter requested. This will give you an idea of the general parameters without specifying to whom the letter was addressed.

Mr. Peter Julian: Okay.

You said earlier, in response to Mr. Poilievre's question, that we may not have asked for the same documents. That's quite true. We have a motion, which probably wasn't adhered to. Mr. Shugart's presentation suggests that the executive branch didn't care to strictly adhere to what we were asking for. That said, your form letter is the letter that requests cabinet confidences. This will give us a way to compare what we asked for and what you asked for.

Can you send it to us?

Mr. Mario Dion: I'll seek advice on whether providing the form letter would violate the provisions of the act. If not, I'll send the letter to the clerk so that she can pass it on to the committee members.

Mr. Peter Julian: This would help us further develop our questions and determine whether you received what you asked for.

How many pages did you receive in the end?

Mr. Mario Dion: I don't know.

All I know is that we received over 5,000 pages.

Mr. Peter Julian: Okay.

[English]

The Chair: That's your last question, Mr. Julian.

Mr. Dion, I believe you're going to send that form letter to the clerk.

Mr. Mario Dion: I will if I have legal advice to the effect that doing so would not violate the Conflict of Interest Act provision, of course.

The Chair: We understand that.

In your initial remarks, you said, "Therefore, for the purposes of the office's ongoing examinations, I respectfully ask, Mr. Chair, that you recommend that the House waive the privilege associated with witness testimony before the Standing Committee on Finance

in the context of its study on WE Charity and the Canada Student Service Grant."

I'm kind of in the position of "I don't know what I don't know" that you mentioned earlier. I know how that happens, but I have a question for you myself, and this is what I don't know:

It is public testimony. Can you not use that public testimony?

• (1800)

Mr. Mario Dion: The advice that we've shared with the Speaker is that this is covered by parliamentary privilege, and unless the privilege is waived, we cannot use this testimony. We cannot use the transcripts of those who testify before your committee, as well as some other committees.

The Chair: Even when it's public? That's news to me. In any event, if that's what it is, that's what it is.

For committee members, we'll have to think about this. Here's how we would waive the privilege on committee evidence. First, as a committee, we would have to adopt a report to recommend to the House that it waive its privileges regarding the specific evidence. Second, we would have the report tabled in the House. Third, there would have to be a motion to concur in the report. Somebody would move a motion to concur, and if we concur it in the House, then it would be done and available.

It's a little bit of a complicated process, but that's how we would have to do it. The committee will have to give that some thought. I always thought public evidence was public evidence. I've certainly learned something new today.

With that, we're out of time.

I want to sincerely thank you, Mr. Dion, for coming forward and providing what answers you could within your responsibilities to Parliament. On behalf of the committee, thank you for the work that you do as Conflict of Interest and Ethics Commissioner. Maybe we don't always seek your advice often enough, but when we seek it, we're a little wiser as MPs—I can tell you that.

Mr. Mario Dion: Thank you very much.

The Chair: Members of the committee, on Thursday the Governor and Deputy Governor of the Bank of Canada will appear before the committee between 3:30 and 5:00 p.m. I think everyone knows that the Bank of Canada tabled its report on monetary policy on October 28. That should be good information for you. Hopefully, following that, we can have a steering committee meeting.

With that, thank you all.

The meeting is adjourned.

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