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# **Standing Committee on Procedure and House Affairs**

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**EVIDENCE**

**Thursday, February 26, 2015**

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**Chair**

**Mr. Joe Preston**



## Standing Committee on Procedure and House Affairs

Thursday, February 26, 2015

• (1140)

[English]

**The Chair (Mr. Joe Preston (Elgin—Middlesex—London, CPC)):** I'll call the meeting to order. We are here today with Monsieur Dufresne.

Welcome. I'm happy to have you with us. I think the procedure and House affairs committee may become a bit of a second home for you. If you look back, you'll see that our law clerk visits us often. We're happy to have you for your first visit. I understand that you have an opening statement. Then we'll have some questions from members. We'll try not to be too tough on you.

Please go ahead.

[Translation]

**Mr. Philippe Dufresne (Law Clerk and Parliamentary Counsel, House of Commons):** Thank you, Mr. Chair, vice-chairs and honourable members of the committee.

It is a great honour and privilege for me to appear before you today to discuss my qualifications and competencies to perform the important duties of the Law Clerk and Parliamentary Counsel of the House of Commons.

Let me first introduce myself. I was born and raised in Montreal, Quebec. I studied there at the Collège Jean-de-Brébeuf and then McGill University, where I completed degrees in civil and common law before becoming a member of the Quebec and Massachusetts bars. Following my articling at the Montreal law offices of McCarthy Tétraut, I joined the Canadian Human Rights Commission's legal team in 2000 to work on pay equity, harassment and discrimination cases involving various federally regulated organizations.

Throughout my legal career, I have developed an expertise in human rights, public and constitutional law, including the law of parliamentary privilege.

[English]

I was lead counsel for the commission in the landmark Supreme Court of Canada case of the House of Commons v. Vaid, which clarified the scope and application of privilege. I also had the opportunity to make submissions before the Federal Court and the Federal Court of Appeal in the matter of Pankiw v. the Canadian Human Rights Commission, dealing with the application of parliamentary privilege to the sending of householders by members. Last, I represented the commission in a case raising privilege and

human rights issues with respect to the closed captioning of the House of Commons debates.

In addition to the Vaid case, I have appeared before the Supreme Court of Canada on 14 separate occasions in cases raising issues such as the separation of powers, the impartiality of tribunals, the accommodation of persons with disabilities, freedom of expression, employment law, and more recently, the balancing of national security and human rights.

Through the years, my legal and management responsibilities at the commission steadily increased, culminating in my last position as senior general counsel and director general responsible for all of the commission's legal and operational activities pursuant to the Canadian Human Rights Act, the Employment Equity Act, and the Access to Information and Privacy Acts.

In this capacity, I was a member of the commission's senior management team and led a branch of 91 employees, including lawyers, mediators, investigators, auditors, and support staff, with a budget of \$9 million. As the commission's principal legal adviser, I appeared before parliamentary committees to provide the commission's position on various human rights issues.

I've always put a high premium on public service and on giving back to my community and my profession. As such, I've served in various capacities of the Canadian Bar Association over the last 10 years, including as president of the constitutional law section of the Quebec branch and as a member of the editorial board of the Canadian Corporate Counsel's *CCA Magazine* and the Public Sector Lawyers Forum. I've also served on the board of Big Brothers Big Sisters of Ottawa.

I believe in the importance of education and mentoring. As such, I've been a part-time professor in law faculties and continue to serve as a judge in annual mooting competitions for law students across the country.

Like many of you, my interest in parliamentary democracy has permeated both my professional life and my personal life in subtle yet formidable ways. As a student, I participated in programs such as the Forum for Young Canadians. As a young adult, I met my wife Natalie while we both worked as tour guides on Parliament Hill. As a lawyer, I participated in some of the most pivotal cases on parliamentary privilege.

[Translation]

I have a deep respect for the House of Commons and am very proud to say to my young children, Béatrice and Léa-Hadrien, that I am working with an incredible group of dedicated colleagues to support this fundamental institution in our country. I believe that my combination of legal, senior management and volunteer experience has given me the necessary qualifications and competencies to perform the duties of Law Clerk and Parliamentary Counsel of the House of Commons.

[English]

Throughout my career, I've been guided by the values of balance, impartiality, fairness, excellence, and respect for the democratic and legislative processes. Those are the values that I propose to bring to my role as Law Clerk and Parliamentary Counsel.

[Translation]

In closing, I would like to thank the team in the Law Clerk's Office and, in particular, the Deputy Law Clerk, Richard Denis, for the warm welcome and the great support they have given me since my arrival on February 9.

[English]

I'll be happy to answer your questions.

**The Chair:** Thank you very much.

If I could just say a couple of things off the top, you're right: Monsieur Denis has done an excellent job of helping this committee and another one I've been working on. We thank him also.

Also, I was at the Forum for Young Canadians last night. It's always a bit refreshing to see the leaders of tomorrow. You can see where some of our forum members go to, right?

We'll go to questions from members.

Mr. Lukiwski, you'll go first, for seven minutes, please.

**Mr. Tom Lukiwski (Regina—Lumsden—Lake Centre, CPC):** Welcome, Monsieur Dufresne. Thank you so much for being here.

I must say at the outset I notice with some appreciation your youthful enthusiasm and pleasant demeanour. I hope your interaction with parliamentarians over the next few years doesn't beat that out of you.

**Voices:** Oh, oh!

**The Chair:** We are in public today, Mr. Lukiwski.

**Mr. Tom Lukiwski:** I was choosing my words carefully. If we were in camera, it might have been slightly different.

You have an impressive resumé, an impressive background, and I say that quite sincerely. As a matter of fact, there are a couple of points in your CV, at least the highlights of your CV, that are certainly familiar to me, particularly the Pankiw privilege case and the householders. Of course, Jim Pankiw is a former parliamentarian from Saskatoon, Saskatchewan. I am eminently familiar with the case. It was interesting to hear you say that you were quite involved with that.

This question I have for you is more one of curiosity for me. I'm always interested in the motivation behind people who join an organization, particularly one such as this. Were you approached or did you actively seek this position out?

**Mr. Philippe Dufresne:** I had seen the poster for the position. I was familiar with the law clerk's office through my dealings with the office in litigation. I had always been impressed by the counsel and I always found that the issues involving the House of Commons legally were fascinating. So it was a combination of seeing this poster and then some contacts with some of my colleagues in the community bringing that position to my attention that led me to be consulted and to participate in this process to the headhunting and the normal course.

• (1145)

**Mr. Tom Lukiwski:** I assume also that when you first considered putting your name forward for presentation for this position you had done extensive research. Obviously you have made many presentations before Parliament before, so you had some familiarity. But did you have any opportunities to speak, for example, with some of the previous law clerks to try to get their perspective on the job itself?

**Mr. Philippe Dufresne:** I did not have that opportunity so I based my understanding and my interest on what I knew of the office, what I had seen the office do in terms of legal participation. As the process progressed further, I was able to speak with people from within the government to get a sense of what the office was responsible for and the challenges that were coming forward. I felt that provided me with enough information. I wasn't sure in terms of the confidentiality issues and so on about that. So I decided to wait until that was completed.

**Mr. Tom Lukiwski:** You've been on the job since February 9.

**Mr. Philippe Dufresne:** I have.

**Mr. Tom Lukiwski:** Can you share with the committee any perspectives that you have, any thoughts that you may have on your approach to this position? Would they differ radically or even slightly from some of those of your predecessors?

**Mr. Philippe Dufresne:** I'm not in a position at this stage to compare my approach to that of my predecessors. What I can say is what I said in my remarks. The approach I will propose to bring to the position is similar to the one I brought to the commission. It's one of balance. It's one of impartiality. It's one of respect for the purpose of the institution and for the role of the members. At the commission we were involved in sometimes visible cases, visible issues—the Pankiw case is one, as is the Vaid case. The approach that I always took was what is legally required but also what's in the public interest and how we make sure that what we put forward is sound in law but also makes sense for Canadians, makes sense vis-à-vis the mission and the mandate of whatever institution is involved.

**Mr. Tom Lukiwski:** I thank you for that.

Frankly, Chair, and Monsieur Dufresne, I don't really have much more than that other than to say welcome. You're certainly a welcome addition to Parliament. I'm looking forward to working with you over the course of the upcoming months and hopefully years. If you have any other comments at the end of questions, I'd certainly welcome them. Beyond that, I think you're eminently qualified and I think that your motivations for taking this position, as you mentioned your vast interest in public service, is laudable. So thank you for that. Thank you for your service to Canada.

I'll cede the rest of my time. I don't know if any of my colleagues have any questions. If not, I'll certainly pass it over probably to Mr. Scott for some questions.

**The Chair:** That's where I'm heading, then.

Mr. Scott, take seven minutes, please.

**Mr. Craig Scott (Toronto—Danforth, NDP):** Thank you.

Welcome, Mr. Dufresne, to the position.

I concur entirely with what Tom said about how impressive your career has been in an area of great personal interest to me, given my own background as a law professor working in broadly defined human rights fields. It's all the more gratifying to see that you have direct and intensive experience with parliamentary privilege issues. To me, it's all the better that you've had to think about those issues in the context of interacting with the general law of the land, especially human rights law.

So welcome. Frankly, I think we're all delighted that you've been appointed.

I indicated to you earlier that the question I am going to put is a generic one. It has nothing to do, as my comments would suggest, with your own appointment. Your appointment—and this is not uncommon with respect to parliamentary officers generally—is an order-in-council appointment, so it's effectively an executive appointment, and yet you're the law clerk to the legislative branch.

Do you see any problems with respect to how you carry out your job, or with respect to perceptions that need to be overcome, because of the appointment procedure? That's the simple question.

**Mr. Philippe Dufresne:** I think that in the case of appointment procedures for some other officers of Parliament, or indeed for judges, some of those appointments are made by the executive branch. What I would look forward to is how my conduct in fulfilling the duties of this position and serving the House and its interests.... This, I would say, is the mandate and is what will guide me. Similarly, an individual once appointed, say, to the bench becomes part of the judicial branch despite the fact that they were appointed by the executive branch, and they fulfill their duties accordingly.

Certainly I view the role of law clerk as being to act as a servant of this institution, the House of Commons, serving the members both with respect to legal advice and legislative advice and representing the institution in litigation. In some of the cases I was involved in, you had the law clerk's office in litigation and you had the Attorney General not always with the same position. I see that as continuing, and it is certainly how I would see the mandate, in light of the separation of powers.

• (1150)

**Mr. Craig Scott:** Great. Thank you.

I think it's a good analogy you make with how judges are appointed in our system as well. Thank you for responding in a way that puts everything in context.

Regarding the Vaid case, could you briefly describe the issue and the result? I think Tom and a few others may be familiar with it, but it's a very important case. Basically, what was it about and what did it decide?

**Mr. Philippe Dufresne:** The Vaid case was a very important case for parliamentary privilege law and also for human rights law. It raised a number of issues. The main one came from the fact that the chauffeur of the then Speaker filed a complaint alleging that there had been discrimination against him in the context of his employment.

The House of Commons and the Speaker took the position that irrespective of the merits of that complaint, which they said was not substantiated, there was a bigger question of whether parliamentary privilege means that challenges of this nature involving employment should not be going to Canadian human rights commissions or courts because they fall under the internal affairs of the House. That was the major legal argument on privilege.

At the Canadian Human Rights Commission we took the view, which ultimately the Supreme Court accepted, that privilege did not apply to the management of every single employee. It could apply to some positions key to the legislative process, but not to the Speaker's chauffeur. The courts set out the test for privilege: that under the Parliament of Canada Act it had to have existed in the U.K. in 1867 or be established via the necessity test, i.e., as necessary for the conduct of parliamentary affairs.

Another issue was, accepting that the Canadian Human Rights Act applied, where those complaints should go. Should they go to the commission or should they go, under PESRA, to the Public Service Labour Relations Board? In PESRA, the Parliamentary Employment and Staff Relations Act, there is a section that said that no other act applies.

Ultimately the Supreme Court of Canada said, not on the grounds of parliamentary privilege but of PESRA language, that those complaints ought to go to PSLRB and not to the Canadian Human Rights Commission. At the end of the day, I think this is one of those decisions about which all parties were happy. The House I think appreciated the recognition of privilege and the constitutional nature of it and also appreciated that such cases would go to PSLRB, which is what the House had argued. The Canadian Human Rights Commission was satisfied that the human rights principles would be available.

It was a very important case in that it reiterated and clarified the test for privilege that would apply to all cases.

**Mr. Craig Scott:** It did indeed, and one of its more general principles was, literally, the statement that legislative bodies created by the Constitution Act, 1867, which many of us think of as the BNA Act, are not shielded, like enclaves, from the ordinary law of the land. There are more steps necessary before privilege kicks in, and the necessity test that you articulated about it having to somehow be necessary for the dignity and the efficiency of the assembly or its members.... And so that's where I wanted to go.

I just wanted to ask this. The Vaid case didn't necessarily raise it. A slight tension, I would call it, with respect to the law clerk's roles over the years has to do with the clerk having a slightly bifurcated responsibility, one towards the assembly as a whole, the House as a whole, including some direct lines with the Speaker, yet at the same time, the law clerk is also to be the law clerk for each individual member.

So the question is, is this something that you've given any thought to and is there any sort of general position or approach you have to the question of relationship between privilege of the House and privilege of its members, or your relationship to the House as a whole and members and where they may conflict?

• (1155)

**Mr. Philippe Dufresne:** Right.

Well, it's a point on which I've been reflecting and my colleagues in the law clerk's office have been reflecting. It's an area that we've identified as one that we could continue to reflect on because, indeed, the law clerk's office is responsible for providing advice and legal representation to the House as an institution but also to members.

I think this is one of those areas where it may be challenging from a purely legal standpoint. Where you have a lawyer dealing with one client, if there's any tension between another client, then you could often say, "Well, I'm going to say no to this client, and I'm going to say yes to this one."

I think that parliamentary privilege recognizes that the institution needs to have certain privileges, but the members as well have privileges, and that they need some autonomy sometimes perhaps even vis-à-vis the institution. This is something that we will look at, and again, I would bring this approach of balance and reconciliation.

Similarly in the human rights context, oftentimes we would have some tension between human rights and national security. My approach was always to say, "Let's not make it an either-or; we want both of those things", and so I think in this case it would be a similar approach that I would try to put forth.

**Mr. Craig Scott:** I just have one more question.

**The Chair:** Go ahead. I'm being really good today.

**Mr. Tom Lukiwski:** The time I have left you can have.

**Mr. Craig Scott:** Okay, thanks.

This last question would be one of general legal philosophy. It's the kind of question that Senate committees often ask judges in the U.S. Do you have a particular philosophy of how you view your role in this context as a legal adviser where, let's be frank about it, you have to be faithful to the law, but you'll be operating in a context

that's very new to you, and also it can be quite politicized in areas where the received law can be very unclear, too?

The Speaker is constantly, ever since I've arrived, having to work between what looked to be precedents and where precedents constantly seem to run out. Do you have a sense of how you interpret and advise on the law in light of the question of precedents and black letter law not necessarily in and of themselves dealing with the issues and from where does one draw the rest of the solution when you're advising? How would you explain your role?

**Mr. Philippe Dufresne:** Well, in my career I've found that often the very challenging legal issues, and certainly the ones that tended to go all the way to the Supreme Court, which is where most of my advocacy was, were questions where there's no clear legal answer. There may not be one single legal answer. Indeed, administrative law, which is another field that I was involved in, recognizes that and says that oftentimes you'll apply a test of reasonableness because you accept that there's more than one answer. And so you look at who gets to have the last word.

I think, faced with those types of uncertainties, I would look first to Parliament's intent. If we're looking at laws, if we're looking at statutes, what was the intent behind this legislation? What did the lawmakers want? What's the purpose of the statute?

If there's still some clarity at that point, then you look at the purpose of the whole scheme, and as between interpretations, which ones do you put forward? Which one serves the purpose, the mission, of the institution, in this case the House of Commons, the members, and privilege?

There will be some areas where you have to say that there is no law, that there is no legal answer, and then it becomes a policy question or a political question. I think in some cases it's appropriate to say that the law leaves options open, and it's for policy-makers to choose between options that are available to them. The law will not always say that there's only one answer.

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

Mr. Lamoureux, please, for seven minutes, or thereabouts, apparently.

**Mr. Kevin Lamoureux (Winnipeg North, Lib.):** Thank you. I don't even know if I'll go the full seven minutes, Mr. Chair, but I appreciate the gesture.

First and foremost, Mr. Dufresne, allow me to make it unanimous in terms of congratulations to you in filling this very important and vital role for an important institution. It's great to see you here this morning, albeit I understand that you've already been at the job for a couple of weeks now, and it's the third week in. I'm sure you will excel in it.

I've been looking over your bio. It's quite impressive.

There was an aspect that interested me when you made reference to the fact that throughout your career you've dealt with constitutional law. I'm often afforded the opportunity to comment on a number of pieces of legislation that come before the House, where there's always a bit of a contradiction. Sometimes we'll get a minister who will bring forward legislation and say that before it arrives they've already had some sort of assessment done on the legislation and it appears to meet the Constitution. Then we'll hear others say that it is not going to pass the Constitution and that it will be struck down and so forth. For the layperson, including myself to a certain degree, I think it sends a confusing message.

I'm interested in your take on legislation, constitutionality, how it comes through, and so forth.

● (1200)

**Mr. Philippe Dufresne:** I've had the privilege of being involved in cases where the constitutionality of legislation was an issue, particularly the Canadian Human Rights Act in the context of freedom of expression and also the separation of powers. Indeed, in the Pankiw case, there were questions as well about freedom of expression and whether applying the Canadian Human Rights Act to the sending of householders would infringe on freedom of expression.

The dilemma you point to is a situation where you have some views that are expressed by legislators or the executive branch about a bill being constitutional, then disagreements as to whether that's right, and ultimately and potentially, legal challenges. I think that's a reality in our system. We have the charter and then we have the Constitution generally, which provides that if legislation is inconsistent with those fundamental principles, it may be challenged and it may be quashed, as the case may be, by courts.

You will often have that situation where, until you have a decision of the court, you won't know for sure what the outcome is. Certainly, in those cases on constitutionality and the charter, a big part of that is often the justification of any infringement. It's up to the crown to bring forward that evidence in front of the courts to say that there was an important objective, and the measure is linked to that objective, and it's also proportional in that it's the least intrusive way that we could find.

It's difficult to know with 100% certainty how the court will assess that evidence and how they will come to a decision, so what you describe is, I think, a consequence of a system where ultimately those questions can be and are adjudicated by courts after they've been adopted.

**Mr. Kevin Lamoureux:** You'll provide reports and so forth, and you'll be consulted by members. Here is a bit of a hypothetical situation, so don't feel that you have to answer. Let's say that something came across your desk and you looked at it and said that upon reflection.... There are always different variances on how constitutional something is. There are debatable discussions and so forth.

There's a huge grey area, no doubt, but when you have a situation where it would appear to be fairly clear in your mind, how would you express something of that nature? Outside of saying, "No, this is bad legislation", because you want to play that role of neutrality, how would you see yourself addressing something where your inside

assessment is pretty strong in terms of how it wouldn't meet the Constitution?

**Mr. Philippe Dufresne:** I think a big part of the law clerk's mandate is to support members in drafting private members' bills. We have great, talented legislative drafters in my office.

I see these things coming up in discussions with the relevant MP who is looking to present a private member's bill and in talking about the format of the bill and how you achieve it. In terms of flagging any legal issues, I think that exchange and discussion could take place in that forum and hopefully would assist in the drafting process.

● (1205)

**Mr. Kevin Lamoureux:** I've actually been a parliamentarian for many years but a member of Parliament for only four years. One of the things that I learned, more so here than in the Manitoba legislature, is about privilege. I always thought the most significant privilege an elected official had was the ability to communicate, to say what he or she really wants to say inside the chamber, but not outside the chamber. You can always risk saying it outside the chamber, but there's a privilege that's there. When we come to Ottawa, we find out that there are all sorts of other privileges that MPs have.

I'm wondering if you could provide your perspective on what you think are the most important privileges that an individual member of Parliament has.

**Mr. Philippe Dufresne:** I would hesitate to provide a hierarchy of the privileges. I think that they're all fundamentally important. You may have a situation where one is needed more than another. Sometimes, perhaps, the word "privilege" is not the right word, because it sounds like something that you get that puts you in a better position, and so on. Fundamentally, it's about allowing members and the institution to do their job and to fulfill the critical role in our parliamentary democracy. Certainly, the freedom of speech in the chamber is of fundamental importance, because it allows debate and the freedom to express your view, as is control over the proceedings and the access to the members, and so on....

Again, I would hesitate to put one above the other, because they all have been in existence for many years and under the necessity test, and by definition, I would see them as important.

**Mr. Kevin Lamoureux:** Again, congratulations on your appointment and I wish you the very best in the years ahead.

Thank you, Mr. Chair.

**The Chair:** Thank you.

I'll go to Mr. Lukiwski.

**Mr. Tom Lukiwski:** Thank you, again. I'll try to be brief on this.

I don't want to put you in unfair or awkward position. You're undoubtedly aware that over the past few months there have been some situations in Parliament where there have been allegations of harassment, some between members, some between members and staff. We're in a unique situation here, obviously, and I don't think we need to brief you on exactly the uniqueness that you have. I don't think it would be appropriate, number one, and I'm not going to put you in an unfair position by asking you to offer an opinion on some of the things that you have heard about, unless you care to offer one.

I would ask you, do you think that your work on harassment issues, generally, would give you a perspective that would be able to assist us as we grapple with these questions here in Parliament? As an example, Mr. Preston is the chair of a subcommittee that has been established to deal with any harassment in the workplace. I know that's a difficult subcommittee. Even though I'm not on it, I empathize with the people who are.

If you could, sir, perhaps you could give us a few comments on the perspective that you have gained over the years in your dealings on harassment and what that might be able to lend itself to assisting us with harassment issues here in Parliament.

**Mr. Philippe Dufresne:** I know that the law clerk's office has already been supporting the work on this important issue and my colleague, Mr. Denis, has been providing his expertise and the office's expertise and that will continue. Certainly, I have a background in human rights law, including harassment issues, so to the extent that I am involved on reviewing those matters, that will be of assistance. With what I have seen so far, I'm very confident that you have been receiving good support on those issues. It is a challenging situation and it is a unique workplace. I think that the challenge is to look at how to incorporate the principles of ensuring workplaces and environments free of harassment in a manner that is workable, given the particular environment that you are in. Certainly we will continue to support the work of this committee and the subcommittee however we can in this important work.

**The Chair:** Thanks for your try.

Mr. Christopherson.

**Mr. David Christopherson (Hamilton Centre, NDP):** I have just one area I wanted to talk about.

You are an officer of Parliament, correct?

• (1210)

**Mr. Philippe Dufresne:** Yes.

**Mr. David Christopherson:** Of course, we have separation between the executive and Parliament. The last thing I am is a learned lawyer—trust me—so my questions are very much based on experience.

Could you give me some of your thoughts on why it is and why it's important that you are seen as an officer of Parliament, as opposed to an extension of the executive and the bureaucracy, which they are constitutionally mandated to be responsible for?

**Mr. Philippe Dufresne:** I think it's important for a number of reasons, certainly in the context of the separation of powers. Well, we don't have a perfect separation of powers. We have the executive that is sitting in the legislative branch. As was previously discussed, we have the executive appointing in the judicial branch. From a

standpoint of each branch of government, each branch of Parliament being able to function with the necessary autonomy, this is of fundamental importance.

Certainly in the role of a parliamentary officer, it needs to be very clear where the loyalty is and where the mandate is. That is particularly true in the context of a law clerk, who is also a lawyer providing legal advice.

It is important. You may receive legal input from a lawyer from the government, but the law clerk's office is there to provide advice to the institution and to you, as members.

For that reason, it is important that we be, and be seen to be, separate and distinct from the executive. And indeed, we are.

**Mr. David Christopherson:** This means that your relationship with me as an opposition member would be exactly the same as with government members. The fact that they are in the government caucus is not an issue for you. If you are a member of Parliament and have a seat in the chamber, then you are equal to everyone else who has a seat in the chamber, in terms of your work and advice, and whose client you represent. Is that correct?

**Mr. Philippe Dufresne:** I think that's correct. We provide legal advice to the institution and members. We provide legislative advice in the context of private members' bills. Those bills are often presented by members of the opposition. Certainly our role is to provide that advice, and to provide the same advice whether we are getting a question from a member of the governing party or a member of the opposition party. Our role is to provide the best advice we can and in a way that supports the institution, the privileges, and the members.

**Mr. David Christopherson:** Good.

Can I ask, in the experience you just went through, what involvement the opposition was given in this process? What interaction did you have, or are you aware of, in terms of the opposition parties playing a role in hiring someone who is everybody's lawyer?

**Mr. Philippe Dufresne:** I can't speak to any context that would have been outside of my presence. To my knowledge, I did not meet with members of the other parties in the context of the appointment and in the context of the process. Beyond that, I can't speak to what consultations would have taken place.

**Mr. David Christopherson:** I can tell you there are none, and this is a huge problem.

I'll end with this, Mr. Chair. This is an ongoing issue, and it's not the first time. We saw the same thing even with the Auditor General. There is a minuscule, if any, involvement by the opposition members, and this is completely wrong, in my opinion.

I just state for the record that we need to be making some dramatic changes. I can understand the government leading the process. They are the ones with access to the money in order to hire headhunters and to facilitate the process. However, to completely carve out the opposition members from any kind of meaningful role, to me, is the opposite. It should be an equal all-party process. That's the way we hired the sergeant-at-arms at Queen's Park, and it worked very well. That sergeant-at-arms was seen as everybody's sergeant-at-arms.



For the record, I believe that this is not a fulsome reflection of democracy when we are hiring officers of Parliament who are accountable to all of us. Right now the exclusive domain of hiring is in the hands of the government. The only role the rest of Parliament gets to play is to have a vote saying “yes” or “no”, “we agree with the entire process that the government has completely controlled”. That's just one of those things that bug me.

I'll end where most of my colleagues started, and that is to say, I'm thrilled with your appointment. This role, I can't imagine anyone stepping into Rob Walsh's shoes, but I think you have the best chance of anyone I've seen. I wish you all the best, and I do hope you can live up to the standard Mr. Walsh set, which was, to me, the gold standard of what we look for from a parliamentary law clerk.

Thank you.

Thank you, Mr. Chair.

●(1215)

**The Chair:** I have no one else on my list.

Mr. Dufresne, thank you very much for joining us today. It's been great to get to know you a little bit better. I have a feeling that on a couple of topics we're working on, we may get to know you even more.

**Mr. Philippe Dufresne:** Thank you. I'm looking forward to it.

**The Chair:** Thank you for coming and sharing with us today.

We'll suspend for a couple of minutes while we excuse our witness and then we'll do a little bit of committee business.

*[Proceedings continue in camera]*

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