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Standing Committee on Access to Information, Privacy and Ethics

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• (1100)

[English]

The Chair (John Brassard (Barrie South—Innisfil, CPC)): Good morning, everyone. I call the meeting to order.

[Translation]

Welcome to meeting number 11 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

Pursuant to Standing Order 108(3) and the motion adopted by the committee on Wednesday, September 17, 2025, the committee is resuming its study of the Conflict of Interest Act.

[English]

I would like to welcome our first witness for the first hour today. As an individual, Mr. Michael Wernick is here. He is the Jarislowsky chair in public sector management at the University of Ottawa.

Mr. Wernick, do you have an opening statement? The clerk just advised that you may or may not want to say something to committee to start. If you do, I invite you to address the committee for up to five minutes, sir.

Go ahead.

Michael Wernick (Jarislowsky Chair in Public Sector Management, University of Ottawa, As an Individual): Thank you, Mr. Chair. No, I have no long opening statement. You invited me, and I think the best thing would be to get into the questions and answers. I just extend a word of congratulations to the new members of the committee and the new members of Parliament.

The Chair: Thank you, Mr. Wernick. That will give us more time for questioning, if the committee desires.

Mr. Barrett, I'm going to start with you for six minutes, sir. Go ahead, please.

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): Mr. Wernick, when you were clerk of the Privy Council, you oversaw compliance with the Conflict of Interest Act. Would you say that the existing divestiture provisions, including the use of blind trusts, actually prevent conflicts of interest, or in practice do they or can they fall short?

Michael Wernick: I think this is probably one of the central questions the committee will want to come to a view on. If you'd just permit me, I saw the conflict of interest regime as one tool in a broader tool box about democratic governance, and there are a number of tools designed to detect and deter inappropriate points of

leverage on our decision-makers and keep the trust of Canadians. Very briefly, the Lobbying Act, the rules around campaign donations, the foreign agent registry, security clearances and Criminal Code provisions are all helped by a beneficial ownership registry, a lobbyist registry and transparency around government contracting and contribution agreements.

Parliament created the commissioner model, and it provided for a range of remedies at the discretion of the commissioner. One of them is a trust arrangement. I think it's up to you to judge whether it falls short or not. I would keep it in the tool box.

Michael Barrett: Would you say it's effective for people who report to the Prime Minister to be the ones ensuring that the prime minister they report to is not in violation of the act?

Michael Wernick: It's ultimately up to the commissioner to make rulings on that.

Michael Barrett: Do you mean to make rulings on whether or not the people who report to the Prime Minister should, for example, administer a blind trust?

Michael Wernick: Correct me if I'm wrong, but if the arrangements that any prime minister or minister or office-holder make are discussed with the commissioner, then the commissioner can exercise an opinion on whether they're adequate or not, can request changes and has remedies available to him or her.

Michael Barrett: Based on your experience, do you think that works?

Michael Wernick: I think it's going to be tricky when people come into Parliament with an extensive background in the private sector. They come into Parliament, as you know, from many different backgrounds. I think one of the other purposes is to ensure broad and inclusive participation in public office.

I would be very careful considering mandatory divestitures, because they may end up as a deterrent to people with a private sector background coming into politics. My view is that we need more people with private sector backgrounds in politics, not fewer.

• (1105)

Michael Barrett: I guess the issue is that it's a question of public confidence, of Canadians being able to trust that the system that's in place is adequately ensuring that there is no conflict of interest.

In the case of an individual entering office, being elected, serving as Prime Minister, having significant investments and having those investments go into the blind trust, when the Ethics Commissioner tells us that there is not really a lot of churn of those investments, they know what's in there. The conflict of interest screen, then, is administered by direct reports to the Prime Minister, and the perception can be, and is, that there is a conflict and that a prime minister is continuing to take decisions that further their own financial interest. There is no reporting to the public on when a conflict of interest screen has been triggered or if it has ever been triggered.

The higher imperative, I would say, or the leading imperative, is that we ensure that Canadians have confidence in public office holders in public institutions, and they don't seem to have that.

Would you care to reflect on your time as clerk of the Privy Council? You served a prime minister who was found to have broken the act that we're studying and who was twice found guilty of breaking that law in 10 different instances. That's based on the regime as it currently exists. You must have some suggestions on improvements, so that we can avoid a situation where we find a prime minister who is repeatedly breaking this law.

Michael Wernick: I think we should discuss this further, because the law is built on language that includes “perceived conflict of interest”. I think that's always going to be a challenge, because perceived conflict of interest can be very subjective, and somebody is going to have to exercise judgment about what a “perceived” conflict is and what the appropriate remedies are.

Certainly, you can change the act to add other provisions, more sanctions and so on, but I think the problematic part of enforcing the act is that somebody has to exercise judgment and discretion about perceived conflicts of interest.

Michael Barrett: In the case of Mr. Trudeau, though, it wasn't a perception. It was that he actually broke the law, and it would seem that—

Michael Wernick: I'm sorry, but you're conflating “broke the law” with an infraction on a perceived conflict of interest. There are many ways you could break the law—

Michael Barrett: Is the Conflict of Interest Act not a law?

Michael Wernick: Yes, of course, but there are different remedies—

Michael Barrett: He broke it.

Michael Wernick: Sure, but there are different remedies and sanctions available to you, and I think the committee might want to review the array and the ladder of sanctions available.

The Chair: Thank you, Mr. Wernick.

Thank you, Mr. Barrett.

[*Translation*]

Ms. Lapointe, you have the floor for six minutes.

Linda Lapointe (Rivière-des-Mille-Îles, Lib.): Thank you very much, Mr. Chair.

Mr. Wernick, thank you for being with us and for accepting our invitation to appear. I'd also like to thank you for the work you did as Clerk of the Privy Council.

You just said that there was an advantage to having people from the private sector. I believe that's what you just said to Mr. Barrett.

Is that correct?

[*English*]

The Chair: Mr. Wernick, are you hearing us, sir?

[*Translation*]

Michael Wernick: Yes, but that question was for Mr. Barrett.

Linda Lapointe: No, I was talking about what you said to Mr. Barrett.

Michael Wernick: Okay.

One of the objectives is to incite and encourage people from all workplaces to enter public life, be it partisan politics or the public service. Great care must be taken not to put up barriers in that regard.

There's a practical side to it. You never know which party leader is likely to become prime minister. In elections, there are 15 parties and you never know for how long. Prime ministers and ministers are in office for a few months, often for a year or two.

If we want to encourage people to enter partisan politics, we mustn't introduce a rule that is too strict, where a person must absolutely abandon all of their economic and financial gains. It's not all black and white. Instead of trusting them, in the long term, we're going to lose people with experience working in the private sector. We're going to go back to the days when most members were lawyers.

• (1110)

Linda Lapointe: In fact, at one time, all members were lawyers or people who worked in the field of law, at both the provincial and federal levels. I agree with you that we need people from a variety of backgrounds to foster high-quality debate in the House.

Witnesses have shared their suggestions with us at previous committee meetings.

There was talk of a blind trust being set up. We were told that an individual has to sell all their assets when a trust of this kind is set up, to avoid any perceived conflict of interest. I'm sure that does nothing to encourage people to get into politics.

Setting up a blind trust also raises a concern about capital gains. When someone sells their assets, they have to pay a lot of tax on significant capital gains. That's what we've heard. I don't see that as an advantage.

I'd like to hear your comments on that.

Michael Wernick: Take the example of a lawyer who is a partner in a large law firm.

It's pretty easy for a lawyer to arrange their affairs, leave the partnership inactive and return to their job as a lawyer later.

I think someone who has worked most of their career in the private sector would have a portfolio of investments, stocks and so on. They might have one.

We could adopt a rule to diversify their assets, but I think that's a barrier for someone who's likely to have a very short career in politics.

If we do that, we'll gradually go back to having people with professional backgrounds in the public sector, such as lawyers or political advisers, who will have a rather short-lived career in partisan politics.

Linda Lapointe: Thank you. Your comments are interesting.

From what I understand, you'd prefer to see people with experience in various fields in the House of Commons.

Earlier, you touched on the fact that the Conflict of Interest Act should provide for various types of sanctions based on the offence. I assume it would be based on the offence committed.

What are your thoughts on that?

Michael Wernick: I think we can look at a ladder of sanctions, because some offences are worse than others. Other laws leave discretion to judges or courts to impose appropriate and proportionate penalties.

I absolutely agree with changing the ladder of fines to have higher fines in certain cases. Some connections might be made. For example, an offence could result in the loss of security clearance, which is quite severe for someone in the public sector, because one can't work without that clearance.

The Canada Elections Act has a fairly strict regime. People can be barred from running as a candidate for a period of seven years. I can see a fairly serious violation of the Conflict of Interest Act leading directly to a sanction that would prevent someone from running as a candidate in an election. I think that's pretty serious.

We mustn't forget the Criminal Code. All the penalties in the Criminal Code can be considered. The commissioner can refer cases to the police and the Crown prosecutor.

• (1115)

The Chair: Thank you, Mr. Wernick.

Linda Lapointe: Thank you.

The Chair: Thank you, Ms. Lapointe.

Mr. Thériault, you have the floor for six minutes.

Luc Thériault (Montcalm, BQ): Thank you, Mr. Chair.

Mr. Wernick, thank you for being with us.

At the outset, you emphasized that people in the private sector shouldn't be discouraged from running for a position in politics. Political life is very demanding, and it involves sacrifices. One has to make a choice.

In our review of the Conflict of Interest Act, should we be focused on one central point, namely not discouraging people from running for office?

Instead, shouldn't we consider, for example, that the highest office requires the highest level of exemplary behaviour, which implies the highest level of transparency?

First and foremost, our role here is not to be a staffing agency, but to try to recruit people as much as possible.

The fact remains that running for office is always a personal decision that involves sacrifices. If people with assets don't wish to comply with a more restrictive law, they won't get into politics, period.

Do you see that as a real problem? Do you think that should be the committee's main concern?

Michael Wernick: Yes, I do. That's one way of looking at it.

One of the objectives of this act and the other acts I mentioned is to keep our democracy in good health.

Therefore, we can provide for a stricter regime in an act, but it will have an impact on our democratic life. There will be a cost associated with it.

Luc Thériault: Okay.

Do you think democratic life boils down to only some individuals and the competence of certain individuals?

In any case, I, for one, doubt that.

Michael Wernick: No.

Luc Thériault: Mr. Wernick, earlier I talked about the highest degree of exemplary behaviour. It is said that one principle—because we have to have principles—is that ethics is more demanding than the law. It is also said that just because something is legal doesn't mean it's moral.

Do you think tax avoidance is moral?

Michael Wernick: I don't understand the question.

Luc Thériault: It's a simple question. Do you think tax avoidance is moral?

Michael Wernick: We're not talking about tax avoidance right now.

Luc Thériault: Yes, we are talking about tax avoidance because I'm asking you the question.

I'm trying to measure how exemplary you are, sir. Just because it's legal doesn't mean it's moral. We have to review the Conflict of Interest Act, and we're going to review it based on a principle.

Do you think tax avoidance is moral?

Michael Wernick: The barriers set out in the Conflict of Interest Act are quite high. There's the whole issue of a perceived conflict of interest. Those are pretty strict barriers.

Luc Thériault: What barrier would be strict enough?

Michael Wernick: The Conflict of Interest Act.

Luc Thériault: Therefore, just because it's legal doesn't mean it's moral.

In that regard, a witness who appeared before the committee last week told us that, to restore people's faith, the issue of tax avoidance must first and foremost be resolved. Canada loses \$15 billion to \$30 billion a year as a result of this scheme. The article referred to at that meeting said that the current Prime Minister was a champion for tax avoidance. This article was published in September.

Without ruling out that change to the act, doesn't this call for a new way to restore people's faith by ensuring that the legislation makes it possible to better manage a situation where someone who champions tax avoidance decides to initiate projects that, at least on the surface, indirectly favour a company called Brookfield?

Do you think that's more important for democracy than ensuring that a person running for office is transparent?

• (1120)

Michael Wernick: Frankly, I don't see the connection with the Conflict of Interest Act. There is a way to deal with conflicts of interest when it comes to people who have decision-making authority.

Luc Thériault: There is something called the conflict of interest screen. I don't know if you ever used that measure.

We can come back to this later, because the chair is signalling that I'm out of time.

Thank you.

The Chair: You have 50 seconds left, Mr. Thériault.

Luc Thériault: Thank you, Mr. Chair.

Mr. Wernick, you were the Clerk of the Privy Council from 2016 to 2019.

How many times did you have to advise the Prime Minister that he should recuse himself from a decision?

Michael Wernick: I don't know. It happened from time to time before the mid-term discussion at a cabinet committee meeting. I don't recall.

Luc Thériault: Did the Prime Minister ever have to leave the meeting room during your tenure? If so, how many times did it happen?

Michael Wernick: I don't know. That was 10 years ago.

Luc Thériault: You don't remember.

Michael Wernick: No, I don't.

Luc Thériault: It's pretty important, though. The Prime Minister leaves a room because he can't make the decision. It seems to me a person ought to remember that.

Michael Wernick: No, I don't. I'm sorry.

The Chair: Thank you, Mr. Thériault.

[*English*]

We're going to go on to our second round now.

Go ahead, Mr. Cooper, for five minutes.

Michael Cooper (St. Albert—Sturgeon River, CPC): Thank you, Mr. Chair.

Mr. Wernick, I want to ask you a few questions about the Prime Minister's ethics screen. Would you agree, in terms of seeing that it is triggered, that it requires an exercise in judgment that is subjective by those who are responsible for administering the screen?

Michael Wernick: I'm not sure I understand your question. The onus is on a public office holder to provide information to the commissioner. It happens all the time.

Michael Cooper: No, I'm asking you.... You spoke earlier about perceived conflicts of interest, and you specifically said that it requires an exercise in judgment on a subjective matter. Now, we have the Prime Minister's ethics screen, which states that Mr. Carney may participate in discussions and make decisions affecting 103 companies on matters that affect the companies' interest as a member of a broad class of persons, unless those interests are disproportionate to other members of the class. I would note that this language of having a disproportionate interest doesn't come from the Conflict of Interest Act. It's a subjective question. It's a subjective test, isn't it?

Michael Wernick: Yes, and I'm totally comfortable that it's a job that Parliament assigns to the commissioner.

Michael Cooper: Parliament did not assign that language. That was something that—

Michael Wernick: No, but they—

Michael Cooper: —was incorporated into the screen, and I would note that this language.... Have you seen this language in an ethics screen before, that specific language of a disproportionality test?

Michael Wernick: I think Parliament has given the commissioner the mandate to make these judgments about the appropriate arrangement.

Michael Cooper: I understand that we have an ethics screen in place. I understand the process that led to the ethics screen. I just asked you a very straightforward question. It should be obvious that, yes, it is a subjective test. Yes, it is a subjective standard. I find it really astounding that you can't even answer that, and it really raises a question in my mind as to whether you're coming here in good faith to answer questions.

Michael Wernick: I'm here in good faith, Mr. Cooper.

Michael Cooper: Now, I will ask you this, and I hope you'll agree with this. When we're talking about the Prime Minister's ethics screen, it's extensive. It's unprecedented. It concerns 103 different companies, 103 different conflicts of interest, 103 ethics screens. Is that right?

Michael Wernick: I'm sorry, but what's the question?

Michael Cooper: It's pretty extensive, isn't it? It's unprecedented.

Michael Wernick: Yes, it's the most extensive private sector record since Paul Martin's.

Michael Cooper: Well, thank you for providing, for the first time, a straightforward answer to a straightforward question.

Given the fact that it is an extensive ethics screen—unprecedented, as you've conceded—Canadians have serious concerns about, frankly, the lack of transparency around it to see that it is triggered when it ought to be triggered.

You served as the clerk of the Privy Council. As clerk of the Privy Council, you were pretty busy on a day-to-day basis, were you not?

• (1125)

Michael Wernick: Yes.

Michael Cooper: Can you explain to me how it is that this is being left to the Clerk of the Privy Council and the Prime Minister's chief of staff to administer? How can Canadians have confidence that the screen is being triggered appropriately? Would you agree that there is a legitimate basis for some concern in that regard?

Michael Wernick: Well, if the committee wants to recommend disclosure of all the instances when the screen was invoked, go for it.

Michael Cooper: Well, that's one of the problems that we have: Right now, we have no idea when the screen is invoked or not. One witness came and said that, really, all we have is hope and trust. Do you think hope and trust are sufficient?

Michael Wernick: No. I have faith in the commissioner.

Michael Cooper: Your answer is that you're satisfied that hope and trust are sufficient, because that's what we have with this ethics screen.

Michael Wernick: No. Those are your words, Mr. Cooper. I think Parliament has given the job to the commissioner to make judgments about the appropriate screens and sanctions.

Michael Cooper: Well, I certainly don't have a whole lot of trust and confidence that it is being triggered appropriately.

Would you support amending the Conflict of Interest Act to provide for an enforceable general antiavoidance measure, so that anyone who circumvents the act by circumventing a technical loophole would be held accountable?

Michael Wernick: That's a question for lawyers, and it would have to be linked to whatever the sanctions are for an infraction. That's used in other laws, and I don't see any problem in considering it for this law either.

The Chair: Thank you, Mr. Cooper, and thank you, Mr. Wernick.

Mr. Saini, you have five minutes, sir. Go ahead, please.

Gurbux Saini (Fleetwood—Port Kells, Lib.): Thank you, Mr. Wernick, for appearing before the committee.

Do you think it's correct that Mr. Poilievre, as the Leader of the Opposition, still does not have his security clearance? Is it ethical for a party leader to reject getting the security clearance?

Michael Wernick: I don't want to get drawn into partisan cross-fire, but I have said publicly that I do think all leaders of parties recognized in the House of Commons should go through security clearances. It's largely to do with foreign interference, but in the context that we're talking about today, going through a security clearance will reveal potential points of leverage on someone. It will reveal credit, financial and personal conduct issues, business contacts, relationships, encounters with the criminal justice system and so on. In effect, one of the most practical ways to deal with perceived points of pressure on decision-makers is ensuring they've had a security clearance.

Gurbux Saini: In your testimony, you also mentioned that there can be situations in which, if a minister or a prime minister is in a conflict, they're a criminal. I understand that one senator was charged criminally because he wasn't acting in the right interest. Can you shed some light on that?

Michael Wernick: There's a whole section of offences in the Criminal Code—if I recall, it's section 121—about influence-peddling, bribery, fraud and misconduct by public office holders and officials. There are sanctions put on people trying to bribe politicians and on politicians who accept bribes, just to use one example.

The criminal law is its own world, with very high standards for burden of proof. You're innocent until proven guilty. It has well-established rules of procedure and evidence, which are at a higher bar than the one Parliament has given to the various commissioners and officers of Parliament. Parliament has allowed commissioners to stray into things that are not criminal offences but may be important, so that's why you have the Lobbying Act, the ethics code and the Conflict of Interest Act. The standards for evidence and procedure are quite different from in a criminal court.

Gurbux Saini: Some parts of the world call themselves democracies, but to vote you have to be a landlord or have certain assets. In Canada, every Canadian—their background doesn't matter—whether they're from a private background or they're doctors or lawyers, they're all entitled to vote. I don't think it should be the intent of ethics laws to prevent people who are successful in their lives as businessmen...for them to be excluded. I would like to hear your view on this.

• (1130)

Michael Wernick: You might want to consider looking at preambular language to the law to make the intent clear, to the courts and others, that the intent of Parliament is to encourage the widest possible participation of Canadians in public life, and this applies both to partisan politics and to the public service. However, that has to be balanced with the issues that raises. Therefore, a conflict of interest act and a foreign interference act are important counterweights to that.

Gurbux Saini: You served in that position as the Privy Council clerk. How do you think Canadian ethics law compares with the rest of the world, especially the western world, which we compare ourselves with from time to time?

Michael Wernick: I would commend to the committee a couple of papers that were done by the OECD, or the Organisation for Economic Co-operation and Development in Paris. They have 38 member countries and a public governance secretariat.

They have done comparative reports on conflict of interest legislation. I sent a link to the committee clerk earlier this morning. What they say is that we're not the very best, especially on some issues of enforcement, but we're respectfully in the top quartile or so of the 38 member countries. Different countries take different approaches to what's included, what's deemed and what the sanctions are. Britain is a good example. Australia is a good example. The provincial regimes in Canada are good examples. I would recommend that the committee try to find somebody from the OECD public governance secretariat to talk to.

The Chair: Thank you, Mr. Saini.

The link that Mr. Wernick referenced has been received by the committee and will be distributed at some point today.

[*Translation*]

Mr. Thériault, you have the floor for five minutes.

Luc Thériault: Thank you, Mr. Chair.

Mr. Wernick, the definition of “private interest” in section 2 of the Conflict of Interest Act does not include “an interest in a decision or matter that is of general application”.

Earlier, I asked you how many times you had to advise the Prime Minister to leave the room. Duff Conacher of Democracy Watch said that this exclusion means that the act does not apply to 99% of the decisions and actions of the most powerful people in the government. They only have to recuse themselves 1% of the time.

Given the fact that the world is changing and that we should at least cover a perceived conflict of interest, do you think we should expand this notion of private interest to a general interest provision?

Michael Wernick: I don't agree with that at all.

I think a lot of the cabinet discussions on new policies and new legislation have fairly broad implications.

Take, for example, the new free trade agreement with Mr. Trump that will affect all sectors, all industries and all regions of Canada. The budget will have a fairly broad impact.

On the contrary, I recommend targeting very personal cases, where it's possible to identify a personal relationship between the decision-maker and someone outside the government.

Luc Thériault: In the context of your examples, I understand what you're saying.

However, we can't rule out the fact that a decision of general application can indirectly grow someone's assets. Even if a law is not based on a single scenario, there is always an extraordinary scenario. An individual became Prime Minister when he was the head

of Brookfield. That firm controls the assets of 900 companies, with \$1 trillion in total assets. The first thing he does when he comes to power is say that we need to rebuild the Canadian economy. He then launches major projects in the five areas in which this firm has an interest.

Doesn't this case constitute a perceived conflict of interest?

I'm not talking about a minister; I'm talking about the Prime Minister. He himself will sanction his ministers and exercise his responsibilities to contain a perceived conflict of interest. Here we're talking about the Prime Minister, the person who has the opportunity to direct all economic policies. He decides to go full steam ahead on projects that may see the light of day in eight years. You were also talking about Mr. Trump, but he'll be dead and buried by then.

To restore people's faith, don't you think it's important to recognize that these general interest decisions, which may be useful or good for certain sectors of the economy, will also favour the firm in question?

Furthermore, just because assets are in a blind trust does not mean a person doesn't know by how much they stand to grow. They know they're going to grow, and that's a perceived conflict of interest.

• (1135)

Michael Wernick: Now we're talking about a perceived conflict of interest, which is highly subjective.

Legislation should target real conflicts of interest related to private interests. I have no problem with your recommendation to add specific provisions concerning the Prime Minister's Office so that another office can make certain decisions.

You're right that the Prime Minister has a particular role and power. The challenge, as I mentioned, lies in the practicality element. We don't know who the Prime Minister will be after the budget announcement or next year.

That also raises another issue. We mustn't discourage people from entering a party leadership race or getting into politics. There's a downside to all of that.

Luc Thériault: Are you for or against expanding the scope of the Conflict of Interest Act to include the appearance of a conflict of interest, as the Conflict of Interest and Ethics Commissioner is proposing?

Michael Wernick: That could be a targeted solution in the Prime Minister's case. However, it shouldn't be done for everyone who's subject to the act, because that includes hundreds of people.

Luc Thériault: You acknowledge that we're in an unusual situation, then. It's unheard of. This isn't about personalizing something, but trying to have an act and regulations that make it possible to restore people's trust and reintroduce ethics into politics.

It's about avoiding situations where people use the appearance of a conflict of interest to play politics. The idea is to have clear and distinctive rules, particularly for the highest office in the government.

The Chair: Thank you, Mr. Thériault.

Mr. Hardy, you have the floor for five minutes.

Gabriel Hardy (Montmorency—Charlevoix, CPC): Thank you, Mr. Chair.

Thank you for being here, Mr. Wernick.

I'm new to politics. I started this year. I'm very pleased to be at the Standing Committee on Access to Information, Privacy and Ethics, because I believe that the work being done here can help restore public confidence in institutions.

I'm also very pleased to hear you say that everyone should participate in politics.

Do you agree with me that we're going to lose players if we're too strict? That's what you seemed to be saying earlier.

Do you also agree that we may attract the wrong people to politics if we're too lax?

Michael Wernick: Yes, I agree. It's up to you, the legislators, to find a balance.

Gabriel Hardy: I understand, but the laws already exist. My point is that the government doesn't want to attract bad actors, but it doesn't want to lose good ones either.

We're currently talking about a Prime Minister who holds an enormous amount of assets. He was required to set up a conflict of interest screen. However, it should be noted that 98% of businesses in Canada and 99% of businesses in Quebec are small or medium-sized businesses, or SMEs. I would say that entrepreneurs who own SMEs, like me, have a lot to contribute to political life.

In the very exceptional case that we're discussing, given the statistics I've just shared, do you agree with me that special attention should be given to individuals who are part of that 1% and who run for political office, to ensure that the system can properly accommodate them?

• (1140)

Michael Wernick: No, I don't. With all due respect, I think that people from SMEs can also put pressure on decision-makers. Those people may also be interested in government procurement, contributions and the small details of regulations.

I don't think it's really possible to make that distinction in practice.

Gabriel Hardy: I'm going to go back to what you said earlier, that careers in politics are short.

You said that a person who enters politics never knows if they'll still be there in a year, in four years, in two years or in six months. Despite your many years here in Parliament, you seem to be saying that people in politics know very well that they're there only momentarily.

Is that what you said?

Michael Wernick: Yes, and it's up to the voters to decide the length of a career.

Gabriel Hardy: From a human standpoint, I think it would be normal for someone who has been in business all their life and who enters politics with the best of intentions to always be aware that they'll very quickly go back to what they were doing before, even if that person wants to stay in politics for a long time.

Isn't that right?

Michael Wernick: I don't know the numbers, but there's a distribution of people. It depends on the pace of the elections. We may have an election soon.

Some members stay in politics for a long time, sometimes 10 or 15 years.

That said, people in the political science field tell me that there really are currently barriers to incentivizing and encouraging people to enter politics.

Gabriel Hardy: You said at the outset that, in any case, politics is very temporary. I think it's normal for a person to plan their career afterward, or at least think about it.

Having said that, you were the Clerk of the Privy Council, which is actually the most senior public servant in the country. We agree that this person is indeed appointed by the Prime Minister.

Right?

Michael Wernick: Yes, as is the case for all deputy ministers and all Governor in Council appointees.

Gabriel Hardy: We agree that a person appointed by the Prime Minister, someone the Prime Minister trusts, will be responsible, as in this case, for the conflict of interest screen for the 103 files related to potential conflicts of interest.

We're told that an entire team is working on it. That means the Prime Minister appoints someone he trusts, someone he's close to, and he entrusts them with the responsibility of managing his assets, knowing full well, as we've said, that he has to think about what he's going to do in one, two or four years.

Are we in a situation where the public might have doubts about that structure?

Could we possibly require that a third person, someone outside that relationship, be responsible for ensuring that the public is never cheated and that the current Prime Minister doesn't think about his post-politics career path while acting in office with public money?

Michael Wernick: I think that third person is the Commissioner.

Gabriel Hardy: You're talking about the Conflict of Interest and Ethics Commissioner. Before talking about the Commissioner, perhaps you could help me understand the mechanism that's in place a bit better.

My understanding is that the chief of staff—

The Chair: Mr. Hardy, I'm sorry to interrupt, but your time is up.

You'll be able to ask more questions later, since there's another round of five-minute questions left.

Gabriel Hardy: Okay.

[*English*]

The Chair: Ms. Church, are you up?

You have five minutes. Go ahead, please.

Leslie Church (Toronto—St. Paul's, Lib.): Thank you, Mr. Chair.

Hello, Mr. Wernick. Thank you for appearing before the committee today.

My first question for you really goes to your experience as a very long-serving and distinguished member of the public service.

The committee has been diving into this issue here for a number of weeks. I think one of the questions that have come up fairly frequently, particularly from my friends across the way, has been around the question of the impartiality or non-partisan ethics of the public service, particularly when a conflict of interest screen is in place and managed either in whole or in part by a deputy head, a deputy minister or the Clerk of the Privy Council.

My question for you would be this: Just as a starting point, what sort of guidance, training, or ethical code or oaths are you privy to as a senior member of the public service that would guide how you would look at a situation in which you were responsible for being part of managing a screen, for example?

• (1145)

Michael Wernick: I'm not going to be exhaustive, but you have all of the training that goes into all the jobs you had before you were promoted to that level and all the cases that you would have dealt with.

There is a guidebook, which you're familiar with, called "Open and Accountable Government". That was first made transparent by Prime Minister Harper and has been made transparent by prime ministers since. There's a fairly detailed infrastructure of training for senior officials and deputy ministers in specific issues. In most big departments, you have a legal services shop, and you have people you can lean on for advice on specific issues.

In the Privy Council Office, which is sort of the secretariat for the cabinet and its committees, there are people in the legal shop and in the cabinet operation shop who are very well trained and familiar with the case law, the practices and the examples that have come up. You do end up leaning on them for advice.

I can assure Canadians that it is a responsibility that's taken very seriously. It is part of the role of the secretary to the cabinet, an office that has existed for centuries. I'm not sure that there's any other way to do it.

Leslie Church: Practically speaking, how would a clerk or a deputy minister give effect to a conflict of interest screen? What procedures have you either implemented or seen implemented around you to make those screens effective?

Michael Wernick: Overwhelmingly, the business of cabinet comes in as proposals from ministers, so you have to start in the ministers' offices of people who are making pitches to cabinet through cabinet documents and papers. They should be attuned to flagging and identifying any potential conflict issues if the minister has screens. Then, on the receptor side, at the Privy Council Office and in its various teams, there might be 200 or 300 items that come in a year. If you know what the screens are, you can simply look for them. If it's a shipbuilding case and you own Canada Steamship Lines, it's pretty obvious. It's those sorts of things.

I think it does get into the area of how clear it is, as opposed to a perceived conflict in which there might be some second- or third-order effect, but you have people who are trained and expert in these issues and have accumulated experience in exercising this function. Sometimes you would recommend, okay, I think the minister here should go and talk to the commissioner.

Leslie Church: There's a notice of screen, presumably, that is circulated at times as well, to inform people in and around the department about a screen?

Michael Wernick: My recollection is that people are aware of what the specific screening items are, and they're able to create kind of a radar system for them. I don't know how it's implemented these days.

Leslie Church: Let me ask you something on a different note.

You mentioned that there are many tools in the tool kit here. Is there any merit, in your mind, to bringing the Conflict of Interest Code for Members of the House of Commons to the same standards as those of a public office holder under the act?

Michael Wernick: I think that's a judgment you'll have to make. You certainly have an influence. You're one Canadian in a million who actually gets to write laws, so you do have an enormous amount of power. I actually think it probably is the Lobbying Act that needs to be upgraded, because there's a lot of lobbying of MPs and senators that's not caught.

Leslie Church: Thank you very much.

The Chair: Thank you, Ms. Church.

Mr. Barrett, go ahead, please, for five minutes.

Michael Barrett: To follow up on that line of questioning, if there's a potential conflict that's flagged, what's the evaluation process? What does that look like?

Michael Wernick: I'm not sure about the details. I think what happens is that items that come in are referred to specific secretariats—it might be economic, social, foreign policy, indigenous affairs or whatever—and you have an assistant secretary, sort of an ADM-level person—sorry for the jargon—and they will be looking at items coming in. Most items arrive after several rounds of interdepartmental meetings and people from the sponsoring department coming to PCO, so you don't get very many cabinet items that arrive without prior notice, and there is some time for people to take a look at the screens and see if something needs to be actioned.

• (1150)

Michael Barrett: Who recommends the decision that something not...? Let me rephrase it. Who makes the recommendation, and to whom would they make the recommendation, that the screen be invoked, so that something that was going to go before cabinet is not presented without the affected public office holder being absented from the room?

Michael Wernick: I can't tell you for sure how it's actioned now. I left several years ago. Most cabinet business is done at committees, chaired by other ministers. My recollection—and I stand to be corrected by people from the Privy Council Office—is that it would have been the assistant secretary, who's basically the secretary to each cabinet committee, and in the case of full cabinet it's the clerk.

Michael Barrett: At the end of my last round, we talked about the effectiveness of having the chief of staff or having the Clerk of the Privy Council, who both serve at the pleasure of the Prime Minister, responsible for ensuring that the act isn't violated. They're the ones who are advising or protecting against this happening.

In the case of Mr. Trudeau, it didn't work, and in the case of Mr. Carney, he has 103 potential conflicts that are flagged. We're left with the same system, and it's left in the hands of these individuals. They both can be long-serving and well regarded, but the problem is who their boss is and what their function is to prevent the conflict. In this case, the risk of a decision being made by the Prime Minister that could further his own financial interests goes to the heart of the erosion of confidence that Canadians have in their public institutions. Do you recognize that there is a weakness in this system?

Michael Wernick: The story you could tell of the last Parliament is that all of those issues were detected and made public and became a subject of parliamentary discussion or investigations by the commissioner. At some level, the system is drawing out those issues.

I don't think you can describe potential issues of perceived conflict in the future in a way that can really be legislated with a lot of clarity. There's just too much subjectivity.

Michael Barrett: You mentioned that there's a process in place that prevents the items from ending up on the agenda or flags them for cabinet committees, so the record-keeping and the note-taking exist.

Should the law require public reporting of when the screen is invoked? It wouldn't require a great lift of those involved to report it, if that were what the law required.

Michael Wernick: Yes. First of all, the remedy is rarely to take the item off the agenda; it's recusal. If there's a minister in the room who may have a perceived conflict, they'll step out for that item. For the Prime Minister—

Michael Barrett: Pardon the interruption. I have a very short time.

Is there a practicality issue when the minister in question is the first minister and these are massive issues that are being considered?

Michael Wernick: Yes. As I said in answer to a previous question, I have no objection or problem with you writing specific rules

for the Prime Minister's office, given that the Prime Minister plays a particular role in cabinet. I have no problem with your suggestion, but what I would suggest is that those invocations of the screen be disclosed to the commissioner. The commissioner can come to a view on what they want to do about it.

The Chair: Thank you, Mr. Wernick.

[*Translation*]

Mr. Sari, you have the floor for five minutes.

Abdelhaq Sari (Bourassa, Lib.): Thank you very much, Mr. Chair.

I'd like to thank Mr. Wernick for being here virtually.

Mr. Wernick, let me say that your experience as clerk of the privy council and a senior official of the Government of Canada places you among the most credible observers of public governance and ethics. I also thank you for expressing your opinion. I look forward to reading the OECD report on that.

You mentioned that we're already in the top quartile. That's good, but we aren't the best. One of our goals, especially when it comes to ethics, is to be among the best.

You know that the public's trust in institutions depends on the perception of integrity and transparency in the management of government affairs. You yourself have led teams at the highest level of the public service, where those principles are translated into concrete practices.

My first question could enlighten us in our work. Do you agree with me that it would be appropriate to harmonize the Conflict of Interest Code for Members of the House of Commons with the Conflict of Interest and Post-Employment Code for Public Office Holders, which is provided for under the Conflict of Interest Act?

• (1155)

Michael Wernick: I honestly don't know.

We just discussed the distinction between the categories of decision-makers: the Prime Minister, ministers and public servants. I think it's important to maintain a degree of proportionality. Yes, the government can harmonize the codes, but by noting the distinctions between categories of decision-makers, for example.

It would be more appropriate to ask lawyers what the specific wording of that would be.

Abdelhaq Sari: What do you think are the key elements to ensuring that a screening mechanism is effective when it comes to managing conflicts of interest?

Michael Wernick: I think it's important to enhance or strengthen the Commissioner's role in terms of their powers and penalties. That said, the principle of proportionality has to be taken into account. If the goal is a very strict regime that imposes penalties for criminal offences, it would be best to drop the notion of the appearance of a conflict of interest and target conflicts of interest objectively.

When it comes to Canadians' trust, I recommend that committee members take advantage of caucus meetings and those of other committees to suggest to their colleagues that other means of protection could be enhanced or strengthened when pressure is put on decision-makers.

A foreign agent registry needs to be put in place, and the Access to Information Act needs to include political advisers.

As I mentioned, the registry of lobbyists needs to include the contacts of all members of Parliament and senators. I find it really sad that the last government didn't modernize the Canada Elections Act. As members of Parliament, you can ask your leader to back-track and pass the legislation that will strengthen the powers of the Commissioner of Canada Elections.

As I said earlier, the Conflict of Interest Act is very important. It can be improved. It's important not to forget that it's one of the tools we have to defend our democracy.

Abdelhaq Sari: I'll come back to the issue of trust again. The goal is to gain the trust of the public, of Canadians. As you know, people's trust generally depends on their perception. It can sometimes be stronger or weaker.

Do you feel that the perception or the appearance of a conflict of interest can damage public trust as much as a real conflict of interest can?

How should institutions, the government, opposition parties, the House of Commons and decision-makers best manage this issue of perception?

The Chair: Please give a brief answer, Mr. Wernick. There isn't much time left.

[*English*]

Go ahead, please.

Michael Wernick: I think to establish confidence, it's not the absence of cases coming up that would make them confident. They would always be wondering what else is happening. Because the deciders and the people putting pressure on them are human beings, there are going to be cases. There are going to be cases of conflict of interest and perceived conflict of interest. The fact that cases are detected and sanctioned is what Canadians should be looking for.

• (1200)

The Chair: Thank you, Mr. Wernick.

[*Translation*]

Thank you, Mr. Sari.

[*English*]

That concludes our first hour for today.

Mr. Wernick, I want to thank you on behalf of the committee for appearing today.

We'll suspend briefly. I understand that Mr. Cooper is already on-line, so this shouldn't take too long.

• (1200)

(Pause)

• (1200)

The Chair: Welcome back for our second hour.

Our next witness is Mr. Sam Cooper, a journalist with The Bureau news.

Mr. Cooper, welcome to the committee. I know that you've had your sound tested, but I want to make sure you're prepared for the French interpretation. Some questions will be asked in French. I was at your recent appearance at the justice meeting. I was in the back row, and I know that you speak very quickly. I would just remind you to please make sure that you speak clearly in order for the interpretation to work.

I understand also, Mr. Cooper, that you don't have an opening statement and would just like to go to questions. We'll start with that, then, if you're okay. If you do want to say something to the committee, I would invite you to do that now. If not, I will go to Mr. Barrett for six minutes.

• (1205)

Samuel Cooper (Journalist, The Bureau, As an Individual): That works for me. Thank you.

The Chair: Thank you, Mr. Cooper.

Mr. Barrett, go ahead, please.

Michael Barrett: Your reporting notes that Brookfield maintained over \$3 billion in politically sensitive investments connected to China and its state-linked real estate and energy companies. Can you explain how Prime Minister Carney's role in Brookfield ties to the regime in China?

Samuel Cooper: Sure. I'll go off the memory of my own reporting.

Thinking of that story, which I wrote in the lead-up to the federal election, I researched Brookfield's investments in China, and on the real estate file I noted that, after 2015, Brookfield had made very substantial China-based real estate investments. Due to my knowledge of Beijing's United Front networks, I noted that one of the key Hong Kong investors who was connected to the projects that Brookfield was investing in was part of the Chinese People's Political Consultative Conference. That was important to me because the Central Intelligence Agency notes that people on that high-level Chinese Communist entity are involved in Beijing's global United Front networks. That's how the Chinese Communist Party brings influential people together.

Therefore, I noted in my reporting that for Brookfield to get access to that same type of investment project on a major real estate deal in China, together with a very elite Hong Kong real estate tycoon.... Certainly, in my learned opinion, it would take a special kind of access to get that kind of deal. Then, tracking forward through when Prime Minister Carney joined Brookfield, in the surrounding years, I noted that the real estate market in China had plummeted. At some point, Brookfield needed to secure a sort of “re-injection” of capital, let's say, and it emerged that the Bank of China—as others have reported—was involved in bridging some capital to reinfuse that deal into China's troubled real estate market.

Stepping back from that, I noted that, with people in Mr. Carney's position in Brookfield and with Mr. Carney also travelling to China to meet with senior Communist Party officials around the time of the Bank of China assisting Brookfield with their real estate investment.... It would certainly, in my mind, raise questions around access and influence.

Michael Barrett: Prime Minister Carney was the chair at Brookfield during that time, and then he entered public office. You talked about his ties, his relationships, with the regime in China. Is there any evidence to suggest that those ties have been maintained since he entered elected office?

Samuel Cooper: In my research focusing on Brookfield, which is the nature.... Already, in previous testimony, I heard Brookfield's and Mr. Carney's 103 potential investment vulnerabilities come up. My work is based on open-source investigations. I noted that Mr. Carney, in the timeline back to his days with the Bank of England, had worked on establishing a special relationship between the Bank of England and the Bank of China, which is of course controlled by the Chinese Communist Party, in terms of global monetary systems. I felt that was important, as a researcher.

Through the years, when Mr. Carney joined Brookfield, prior to entering politics, he repeatedly travelled to Beijing and met with senior officials, including President Xi Jinping. I noted that, for business people of Mr. Carney's stature at that time to appear with Xi Jinping.... Again, as China's economy was in need of foreign investment and while investments in China were becoming more dangerous in the view of some western capitalists, it would have been important, I think, to have Mr. Carney in those meetings. You could say, fairly, that it was as beneficial to Xi Jinping as it was beneficial to Mark Carney, the business person, in his time at Brookfield.

When Mr. Carney entered the race to become the Liberal nominee for prime minister, I did note that, as The Globe and Mail broke the story, Mr. Carney met with an entity called the Jiangsu Chamber of Commerce in Toronto. I was very aware already of that commerce department having overt ties to the United Front Work Department. Indeed, politically connected Canadians are honorary chairs with that entity.

I do think there's much reporting that hasn't come out on exactly what the Jiangsu Chamber of Commerce is and on Mr. Carney's meeting, which he denied at first, as you know. He denied elements of The Globe and Mail's reporting, so there's controversy around what really happened in that meeting.

• (1210)

Michael Barrett: Unfortunately, I'm out of time.

I appreciate your answers.

The Chair: Thank you, Mr. Barrett.

[*Translation*]

Mr. Sari, you have the floor for six minutes.

Abdelhaq Sari: Thank you very much, Mr. Chair.

Let me begin by thanking Mr. Cooper for joining us virtually. I also thank him for the work he has done for many years as an investigative journalist.

In any democracy, journalists obviously play an essential role of asking questions, which can be tough questions. They also serve to encourage public debate and contribute to the transparency of our institutions. Those contributions deserve to be recognized. Thank you for that, Mr. Cooper.

Our committee has a certain responsibility of its own that complements the media's responsibility. It's responsible for examining issues from a legislative perspective, a perspective based on verified facts. Of course, it relies on existing rules and our country's institutional framework.

Our role differs from that of a journalist, then, but it's just as important. Our job is to diligently put things into perspective and listen to what people have to say, as we're doing today. Our role is also to ensure a balance between vigilance and trust in our institutions.

Today, I think it's useful to distinguish between documented findings and much broader interpretations that are sometimes found in the public sphere.

You're a journalist, and journalists, by nature, explore avenues, raise possibilities and stimulate the collective thinking of Canadians. However, our task here is to go beyond perceptions to better understand how ethics-related mechanisms, first of all, and transparency-related mechanisms actually work and to determine how we can strengthen them.

Mr. Cooper, you know that Canada has strong instruments. It implemented a Conflict of Interest and Ethics Commissioner, a Commissioner of Lobbying, disclosure and accountability obligations and a legislative framework that continues to evolve. Those tools aren't perfect. No system is, anyway, whether within the OECD or elsewhere. A witness said earlier that Canada was in the top quartile. We aren't the best, and that isn't perfect. However, that still reflects a continuing commitment to public integrity and trust.

I believe that our committee can play a constructive role, not by looking for culprits or controversies, but by ensuring that the rules remain clear, relevant to current realities and understood by everyone. In that sense, your testimony, Mr. Cooper, is helpful. It reminds us of the importance of transparency and dialogue between the media, civil society and public institutions. The best service we can deliver to Canadians and Canadian democracy is to listen to you. Our goals are to listen to all voices with respect, look at the facts thoroughly and work together to build public trust. I've said it before, and I'll say it again.

That said, it's important to remember that journalistic work, as commendable and important as it is, doesn't always benefit from the same verification standards as parliamentary or judicial inquiries. When based on anonymous sources or partial corroboration, some statements can give an impression of truth, a perception, without providing complete proof.

When it comes to your work, Mr. Cooper, a number of observers have noted—it wasn't me who noted this, since I'm not an expert in the field—that some of the conclusions are based more on interpretive assumptions than on evidence that we, as legislators, would prefer to be irrefutable.

That in no way detracts from the value of your commitment, but it underscores the need for us, as parliamentarians, to put those analyses back into their proper context, which is a context of media debate. The research is commendable, but impact can sometimes take precedence over factual rigour. That's true for all media, not just yours.

I think it's also important to guard against the temptation to draw simplistic and political conclusions from piecemeal reporting. Our responsibility here isn't to react to the headlines of the day, but to build a sustainable policy based on verified facts and a comprehensive understanding of the legal framework.

• (1215)

Mr. Cooper, you've written extensively on the issues of interference and transparency.

In the public sphere, how do you feel can we better reconcile journalistic freedom—which I defend with all my heart and soul—and the need not to undermine Canadians' trust in our institutions?

[English]

Samuel Cooper: The question brings to my mind the central issue for this hearing—very simply whether the impartiality of the Ethics Commissioner and the Clerk of the Privy Council is sufficient to provide Canadians with the confidence that the ethics screens in place for our prime ministers and cabinet ministers will work.

Some of you will know that I started as a reporter in British Columbia. My work led to the Cullen commission into money laundering. Justice Cullen credited my investigations, savvy reporting and questioning with leading to that commission. One of his top three recommendations was that the British Columbia government had effectively demonstrated that it needed an independent, anti-money laundering commissioner who did not report to the premier or serve at the pleasure of the premier's cabinet, because there was

simply a loss of trust that B.C. would be able to police its own money-laundering institutions.

[Translation]

Abdelhaq Sari: Before we go any further—

[English]

Samuel Cooper: I'm sorry, but I say that the same issue here relates to the Ethics Commissioner in Ottawa. I think there's enough reporting that Canadians have very valid questions.

[Translation]

The Chair: I'm sorry to interrupt you, Mr. Sari, but I gave you seven minutes to speak and ask Mr. Cooper your question.

Abdelhaq Sari: I just want a final yes-or-no answer.

The Chair: No, that's it. You may have a chance to come back to it later.

Mr. Thériault, you have the floor for six minutes. You can even have seven minutes, if you want.

Luc Thériault: Thank you, Mr. Chair.

Mr. Cooper, welcome.

Did you hear the testimony from the previous meeting?

[English]

Samuel Cooper: Yes, I did.

[Translation]

Luc Thériault: The former clerk of the Privy Council told us that he had reservations about the issue of the appearance of conflict of interest because he feels it is subjective.

However, when the Conflict of Interest and Ethics Commissioner decides to conduct an investigation, it is because there is the appearance of a conflict of interest. He must then determine whether or not there is a conflict of interest. It's an important concept.

Mr. Wernick suggests that elected officials be warned proactively. When politicians read the act, they should guard against not only being in a conflict of interest, but also the appearance of a conflict of interest.

When Mr. Wernick resigned in 2019, he said, "It is essential that Canadians continue to see their world leading public service as non-partisan and there to provide excellent services to Canadians and the governments they elect."

I agree with that and with the fact that appearances are important in maintaining public trust. Where he and I differ is on the fact that, in order to maintain public trust, appearances are also important in terms of the appearance of conflict of interest.

What do you think of the proposal to amend the act to broaden its scope to the appearance of conflict of interest?

• (1220)

[English]

Samuel Cooper: I believe, very simply, that Canada's democracy demands that legislation be brought in. One, there should be an independent arm to administer ethics screens, and two, it should be brought in for the perception of conflict. As the prior member's questioning pointed towards, the public, just like journalists, can make observations that successful business persons may have had a long history of engagement with foreign governments or foreign businesses. When said business persons take a seat of power in Ottawa, Canadians reasonably believe that they are human, like anyone else, and relationships can, and in fact do, extend from business into politics.

I think it's important that the perception of conflict, which reasonable, well-read people can perceive, does extend to the ethics regime.

[Translation]

Luc Thériault: There's perception, but there's also the appearance of conflict of interest. In other words, there may be a perception, but the person who will decide whether the perception is legitimate or compelling is the Conflict of Interest and Ethics Commissioner. The Commissioner will have to determine whether there is an apparent conflict of interest and whether he will investigate it.

There's a difference between the two concepts. We can't just try to anticipate or stay ahead of perceptions.

Do you agree with that?

[English]

Samuel Cooper: I agree.

[Translation]

Luc Thériault: Okay.

With regard to the Prime Minister's declaration of interest, we've heard a lot about the fact that the current Conflict of Interest and Ethics Commissioner first advised him to put all his assets in a blind trust. Several witnesses who appeared before the committee questioned how blind the trust actually is.

Since the conflict of interest screening mechanism is not enshrined in the Conflict of Interest Act, the Commissioner entered into an agreement with the Prime Minister. He suggested that he use a conflict of interest screen, which would be managed by his chief of staff and the Clerk of the Privy Council.

On the one hand, how far will a situation like that help restore public trust in the political establishment?

On the other hand, shouldn't such a screen simply be managed by an independent commissioner rather than by employees of the Prime Minister?

[English]

Samuel Cooper: I agree absolutely that it should be an independent commissioner of ethics who does not serve at the pleasure of and is not appointed by the Prime Minister.

I would go further on the ethics screen. I would say that at this point, Canadians have lost some confidence in integrity and trans-

parency in Ottawa. The simple solution here is full divestiture of prior investments.

Some will say that's not practical, but in my opinion what is not practical is that the Clerk of the Privy Council, with their many different functions, would be the one responsible for day-to-day knowledge of whether there's a clear conflict or a second- or third-order conflict.

The world is becoming more complex, not less. The world is becoming more hostile in terms of outside powers that are not friendly to Canada seeking influence in Ottawa.

I would agree with the member that it needs to be independent and that fewer legal regulations need to be put in. The current system is not enough.

• (1225)

[Translation]

Luc Thériault: When I put the question to the current Commissioner, he told me that, in the event of a conflict of interest, he would be judge and jury. That's plausible.

That said, if there were an independent commissioner who was accountable, that person could follow up with the Prime Minister's Office. The commissioner would have the necessary independence to make an impartial judgment in the event of a problem.

What do you think?

[English]

Samuel Cooper: If that was the question, I believe that's a perfect system. Use what's in place and then have that extra independent judge at a special distance.

The Chair: Thank you.

We are going from one Mr. Cooper to another.

Mr. Cooper, you have five minutes. Go ahead, sir.

Michael Cooper: Thank you, Mr. Chair.

Mr. Cooper, I want to ask you some questions about Brookfield, given your investigative journalism on Brookfield.

Brookfield has significant investments in Beijing's state-linked enterprises—more than three billion dollars' worth of investments. Am I correct?

Samuel Cooper: That's correct.

Michael Cooper: During his tenure as chair of Brookfield, Mark Carney played a significant role in expanding Brookfield's footprint in the PRC. Is that correct?

Samuel Cooper: I'm recalling my research.

His work on, I believe, green power businesses with connections to China was an expansion, yes.

Michael Cooper: In 2019, was he involved in the refinancing of Shanghai commercial real estate that is worth billions?

Samuel Cooper: That investment continued into his time taking over an executive role with Brookfield, yes.

Michael Cooper: Would it be fair to characterize Brookfield's investments in the PRC as politically sensitive?

Samuel Cooper: In my view, as an expert on China's United Front system, as I said before, the nature of that real estate investment and the other parties involved would, I believe, very much touch on the Chinese Communist Party's control.

Michael Cooper: Would it be accurate to say that the Beijing-based Communist regime has a significant amount of leverage over Brookfield with respect to its investments, and that if Brookfield wants to make a return on its investments, it would be very much in Brookfield's interests to maintain a good relationship with the Beijing-based Communist regime? I think that would be fair, wouldn't it?

Samuel Cooper: At a basic level, I do think it's fair that international business persons, even of the Michael Bloomberg type, have been recognized to take into consideration the Communist Party's wishes, yes.

Michael Cooper: We have a Prime Minister who has significant financial interests tied to Brookfield, worth millions, and we have Brookfield, in turn, being deeply intertwined with a Communist regime based in Beijing.

On a broad level, shouldn't that concern Canadians vis-à-vis the Prime Minister's fulfilling his duty to put Canada's interests first, when his private financial interests in Brookfield are deep, which in turn is deeply intertwined with the PRC?

Samuel Cooper: In fairness, I think a business analyst would say it's almost impossible for international business persons to not be doing business with Chinese state entities in some ways, but I do also think it's fair to say that if a company has a very strong balance towards businesses in China, such as the real estate investment or the green investments I've talked about, Canadians should be aware of that, definitely.

Michael Cooper: Mark Carney, as recently as October 2024, while he was advising then prime minister Justin Trudeau as his economic adviser, went over to Beijing, met with—in secret meetings among others—the deputy governor of Beijing's central bank and, two weeks later, secured a quarter-billion-dollar loan for Brookfield.

Not anyone can just do that, can they, unless they have significant ties with the regime at the highest levels?

• (1230)

Samuel Cooper: There's no question. I noted the timeline of that visit to China and the deal securing funding from the Bank of China. That's not to say there's a definite tie there, but the timing is interesting and, I think, relevant.

Michael Cooper: I just want to ask you about Brookfield's real estate investments.

You referenced an individual who is connected to the Chinese People's Political Consultative Conference, which the CIA has

identified as a United Front entity. That individual is Vincent Lo. Is that correct?

Samuel Cooper: That's correct.

Michael Cooper: Vincent Lo served as Brookfield's primary real estate partner—or one of their primary partners—in the region. Is that right?

Samuel Cooper: To my recollection, he was a key partner on that development.

Michael Cooper: Lo would have played that role during the time that Carney was chair at Brookfield, involved in real estate in the PRC, right?

Samuel Cooper: If the structure of the deal continues, which I believe it does, that would be the case.

The Chair: Thank you, Mr. Cooper.

Ms. Church is next, for five minutes.

Go ahead, please.

Leslie Church: Thank you, Mr. Chair.

Welcome, Mr. Cooper.

Mr. Cooper, I wanted to ask you a question that I asked the earlier witness today. That is, as you are no doubt aware, there is a code for members of Parliament—an ethics code—in addition to the Conflict of Interest Act that applies to public office holders.

I was just wondering whether or not you thought that both members and public office holders should be brought within the same standards, whether there is a usefulness to that.

Samuel Cooper: I think there's a usefulness, and I was impressed with Mr. Wernick's answer with respect to the training, professionalism and legal consultations that occur with impartiality. The structure is there, and it should be applied as broadly as possible.

Leslie Church: I imagine you would see that.... We've been talking a fair amount about Brookfield, as an example, today, and there are members from across the political spectrum who've invested in Brookfield as an entity. Perhaps that's one of the reasons the code should be expanded to include the same coverage as the act itself.

Samuel Cooper: As far as I understand the framework you're laying out, yes, it should be applied broadly to parliamentarians and staff.

Leslie Church: Mr. Wernick, in his appearance today, also talked a little about how the conflict of interest regime, along with other regimes—like the security regime, for example—can actually uncover areas of leverage that foreign agents or foreign governments might have on a public office holder.

Would you agree with his assessment?

Samuel Cooper: I do agree with him that the structure is there, and the professional training in staff is there. Where I would step back a little is that I also agree with Duff Conacher's testimony in the sense that I'm not sure the application of those rules has been up to the standard that some Canadians would want to see.

Leslie Church: We've been talking a bit about the perceptions of conflict of interest. What guardrails would you suggest to ensure the...let's call it veracity of an apparent conflict of interest.

Beauty is in the eye of the beholder. One of the problems we have as legislators is how we define this. How would you suggest that we put some guardrails around what constitutes an apparent conflict of interest?

Samuel Cooper: That's a question that may go beyond my knowledge, but I do agree with the prior member's position that the structure in place, where the commissioner would recognize a potential conflict.... Let's just say that, if there's a lot of meat on the bone, they could pass it on to a next-level independent commissioner. That seems to make sense to me.

Leslie Church: Do you have a view as to at what point a relationship with a private entity would become subject to conflict of interest concerns? For example, if a public office holder no longer worked for a private entity, would that generate a conflict of interest concern in your mind?

• (1235)

Samuel Cooper: I've heard prior studies and testimony where a number of years from the exit, from a relationship, to being able to re-engage so that it wouldn't trigger a perceived conflict is useful, but I'd like to say that I could be out of my depth in terms of the minutia of the regulations you're trying to get to the bottom of right now.

Leslie Church: Are you saying that any relationship that a person would have brought to public office, which may include having worked for an employer in the past, could engage the Conflict of Interest Act in your mind?

Samuel Cooper: It certainly could, and the closer that prior relationship is to one being in office—in terms of the window of time—I would think, it naturally increases the potential perception of conflict.

Leslie Church: What if somebody had no role in either working with or managing an entity, with no financial interest, would that engage the Conflict of Interest Act?

Samuel Cooper: I'm not sure. I don't think I can meaningfully answer that example.

Leslie Church: In reality, you're not really sure as to what the boundaries of the Conflict of Interest Act are today, or what they should be. You have no views on those matters.

Samuel Cooper: I don't have views on the minutia. My strong views are on the need for an independent layer at the end of the day.

Leslie Church: The Ethics Commissioner's office is not independent enough for you.

Samuel Cooper: In my understanding, I lean towards Duff Conacher's testimony that it's not independent enough, no.

Leslie Church: Why is that?

The Chair: Thank you, Ms. Church.

Thank you, Mr. Cooper.

[*Translation*]

Mr. Thériault, you have the floor for five minutes.

Luc Thériault: Thank you, Mr. Chair.

Mr. Cooper, you mentioned Brookfield's relationship with the Chinese political regime and Mr. Carney's relationship with China.

Earlier, I couldn't help but think about everything we did in the last Parliament to try to counter foreign interference, particularly from China, in Canadian democratic and political life. I was thinking, among other things, of the bill we just introduced to block bloodstained goods produced by child slave labour. I was wondering if those relationships were an example of a potential conflict of interest of general application.

Based on your studies, analyses and research, do you think the government, through the Prime Minister, would be tempted to support such a bill, or would it be tempted to vote against it, given that it might want to protect the interests of Brookfield and preserve its relationship with China?

That is a conflict of interest. It may not have a direct impact on a fortune in a blind trust, but it is a real conflict of interest of general application.

People claim that it doesn't exist and that conflicts of interest of general application don't really matter. However, what we're talking about here is a person's power to make decisions that can result in a return on their investments.

I'd like to hear your comments on that.

[*English*]

Samuel Cooper: I think that is a question that gets to the heart of the decisions before you with the conflict act, the current ethics regime and even the global trade issues that Ottawa is confronted with.

I think it's helpful to raise the example of what is happening in the government of Kier Starmer right now. There's a controversy reported on every day by British media with regard to an alleged case of Chinese interference, of insiders getting information on critics of China and allegedly providing it through the Ministry of State Security to high levels of the Chinese Communist Party.

I noted that powerful American lawmakers were so disconcerted with reports coming out of Britain that they sent a letter to the British ambassador, warning that it appeared that Britain's government had stepped away from or potentially politically intervened in a prosecution around the timing of China's seeking to construct what's called a “mega-embassy” in Britain, which raises certain concerns.

To your question, honourable member, yes, if you're looking at global trade and the potential of slave-produced goods from Xinjiang coming into Canada, this is a very pertinent issue. I reported a letter sent from then senator Marco Rubio and others to the then minister of trade, Mary Ng, in which the U.S. lawmakers expressed concern that it seemed that goods were being transshipped through Canada into the United States using subterfuge. The question, again, is whether Canada was holding up its end of its deal with the United States and Mexico to bar trade in slave-produced goods.

Indeed, I think the question you raise is whether there is a conflict with regard to how a whole government might take action on a bill, whether we're talking about a bill such as the one put forward by MP Michael Chong or whether some people in the British Parliament, in wanting to keep trade between Britain and Beijing running at full steam, might have intervened in a prosecution about espionage inside Westminster. That's a very important question.

• (1240)

The Chair: Thank you, Mr. Cooper.

[Translation]

Thank you, Mr. Thériault.

Mr. Hardy, you have the floor for five minutes.

Gabriel Hardy: Thank you for being with us, Mr. Cooper.

We're talking about the concept of perception as opposed to the concept of public opinion. I want to make sure I understand.

I feel that an important point for a journalist is to ensure that the public is aware that journalism is not a matter of perception, but rather of bringing facts to light.

As a journalist, when you do your research, what process do you use to ensure that you express facts, not opinions?

[English]

Samuel Cooper: It depends on the journalist, and it depends on the training. I can speak to my own experience.

I was trained at the University of Toronto with an undergraduate degree in history, philosophy and English. I took that level of learning, and I applied it to a journalism program at a school in British Columbia where you learn the same skills that an honourable member, a lawyer or a regulator might apply to hearing different perspectives and potential facts from different sources, bringing them into one's capacity to sift those facts. In gathering the facts and then reporting them.... Look, there is opinion in reporting. There is assessment. At the best level of journalism, there is getting all sides and then using an expert level of understanding of the issue as best the journalist can to put forward a story in good faith to try to help the widest range of citizens to understand the issue.

[Translation]

Gabriel Hardy: Thank you.

That's exactly what you do. You bring facts to light and conduct in-depth investigations that are completely independent of any political influence. Obviously, there's always an opinion in news reports. However, it is important to report the facts so that we here can judge them.

You said you've been following a lot of the work of this committee. We heard from the Conflict of Interest and Ethics Commissioner, the Information Commissioner of Canada and the Commissioner of Lobbying. They all told us that their offices were underfunded and that they did not have enough resources to enforce the regulations. In the case of access to information requests, it was often complicated to get the information, and requests were ignored.

We have provided institutions with safeguards, but they ignore them or they don't have enough power to really regulate situations and restore public trust in our institutions.

Do you see that as a problem in Canada's federal policy?

• (1245)

[English]

Samuel Cooper: I do believe—if I can speak a bit broadly—that Canada, at a provincial level.... As I've said, from what I've observed in British Columbia and in Ottawa, I believe the same issues present themselves: that Canada is underfunded when it comes to regulatory oversight, especially when it becomes politically sensitive.

Again, let me compare British Columbia.... Commissioner Austin Cullen of the Cullen anti-money laundering commission recommended that British Columbia institute an independent officer of the legislature to crack down on money laundering. I would note that this recommendation hasn't been followed in British Columbia, so not only is there no funding behind that most important recommendation on a very important issue for Canada in B.C., but also there's no position in place. I think the same can be said from what I observe in Ottawa. Funding for a commissioner is needed. There is more funding needed, and it needs to be independent.

I'd go further. I believe an independent anti-corruption agency is needed, one that could apply investigations where the RCMP may not have the capacity to look at politically sensitive cases.

[Translation]

Gabriel Hardy: Thank you. You're absolutely right.

It's well known that, in times of crisis, the first reaction we need to have is to make significant corrections. This is a case of overcorrection.

Given that our democracy is currently in crisis, do you think the public would need to see significant changes to the way our institutions operate?

I'm not talking about changing a comma or a period in an act. I'm talking about making significant changes to ensure that we restore trust in our institutions and that we put our democracy and trust back at the centre of the equation.

[English]

Samuel Cooper: This is my opinion. I've been looking into Ottawa very deeply for about seven years of reporting regarding money laundering and corruption concerns, as well as political interference concerns. It is my opinion that Canada, like the British government at this moment, is at a point of crisis where there are good questions for members of the public who might doubt that their government is adequately responding to foreign interference, as well as to potential integrity and corruption issues.

The Chair: Thank you, Mr. Cooper.

[Translation]

Thank you, Mr. Hardy.

Ms. Lapointe, you have the floor for five minutes.

I understand you're going to share your time with Mr. Saini. I will let you know when you have two and a half minutes left.

Linda Lapointe: Thank you.

Welcome, Mr. Cooper. I appreciate the opportunity to speak with you.

As some of my colleagues said earlier, as part of this study of the Conflict of Interest Act, we met with the Commissioner of Lobbying, the Conflict of Interest and Ethics Commissioner, a number of lawyers and other representatives of civil society.

In the first part of today's meeting, we also had the opportunity to welcome Mr. Wernick, former clerk of the Privy Council. He came to discuss our study with us.

We will certainly have other things to look at in future studies, but we are currently looking at the tools the act makes available to us and ways we could improve the act.

You often referred to China and Great Britain, but you also talked about British Columbia. A number of witnesses have told us that we have much to learn from B.C., which is a model in this area.

You also often raised the issue of independence. I was a bit surprised to hear you say that the Conflict of Interest and Ethics Commissioner was not that independent, but we'll look into the matter.

What makes you say that the process should be made more independent?

As a journalist, what experience are you relying on to comment on Canada's Conflict of Interest Act, which we are currently studying?

• (1250)

[English]

Samuel Cooper: My insight into the ethics question comes mainly in relation to one of your prior witnesses, Duff Conacher, of Democracy Watch. I've interviewed Mr. Conacher a number of

times and reported on some of his recommendations and opinions, so very clearly, and I'll be up front, most of my technical knowledge comes from another witness, Mr. Conacher.

However, where I add my own assessment and opinion to your question as to why I believe that the current system isn't independent enough, I do agree with the members, and Mr. Wernick, who have said that there is a professional civil service, and there are legal consultations and a framework in place. My reporting, though, has shown that in practice bureaucrats are human, Ottawa is not the biggest place in the world, and it can be that humans might not take the decision to take a regulatory action against an elected member who may have appointed them or whose predecessor may have appointed them. I think that that's a question in front of the members.

[Translation]

The Chair: You have two minutes left.

Linda Lapointe: Thank you.

You were mainly inspired by Mr. Duff Conacher.

Did you listen to the testimony of all the other witnesses we heard from, including the Conflict of Interest and Ethics Commissioner, the Commissioner of Lobbying and professors and lawyers from various universities?

As I understand it, based on interviews conducted with only one person, you came here to propose amendments to the Conflict of Interest Act and to state that the Conflict of Interest and Ethics Commissioner is not independent enough to judge people's integrity and honesty.

Could you confirm that you were indeed inspired by only one person?

[English]

Samuel Cooper: That's not quite correct. In terms of the technicalities with regard to the act and recommendations for improvements, most of my knowledge would come from Mr. Conacher. I have followed reporting on the hearings. I haven't watched every day.

[Translation]

The Chair: Thank you, Mr. Cooper.

Linda Lapointe: Thank you.

The Chair: Thank you, Ms. Lapointe.

We have 10 minutes left in the meeting.

Mr. Barrett, over to you for five minutes. Afterward, Mr. Saini can have the floor for five minutes as well.

[English]

Mr. Barrett, go ahead, please, for five minutes.

Michael Barrett: Does the lack of transparency in the investments that Prime Minister Carney has present a risk to the confidence that Canadians can have in our democratic institutions?

Specifically, you look at things like the global transition funds that he set up when he was at Brookfield. Do we know what is bundled up in those investments? Of the investments that are included, who is benefiting from those investments that Brookfield made—which foreign state or adversarial state-owned enterprises or controlled enterprises, for example? What investments are domiciled in offshore tax havens?

Is that a lack of transparency? Does it present a challenge, in your view, when Parliament, the media and members of the public are trying to have clarity and certainty around the interests that a public office holder has? We hear, “We’ll just leave this all in the hands of the Ethics Commissioner,” but there is some opaqueness that the Ethics Commissioner isn’t able to cut through as well, and the commissioner certainly doesn’t have a mandate to dig into the level of detail that you have on the relationships that led to some of those investment decisions.

• (1255)

Samuel Cooper: In my reporting, the nature of the many different investments that Brookfield has with Chinese state entities, and there are some investments connecting to Middle Eastern entities... As you said, I reported on the nature of investment funds or vehicles run through lower-transparency jurisdictions in the Caribbean. I think all of those present fair questions for Canadians who follow these matters closely.

I also agree with others in this hearing or the prior hearing, and with Mr. Wernick, in that I don’t think hope and trust on the part of Canadians is a good policy, especially in light of the rising geopolitical risks that we recognize Canada is facing.

Michael Barrett: It’s been proposed by some and discussed here at this committee that in the term in the act that requires that the public office holder divest their controlled assets, the definition that allows them to simply move them into a blind trust doesn’t achieve what we now see with the fullness of time is what we need to have happen in order to maintain Canadians’ confidence.

Do you think that divesting, and by having the public office holder sell their assets and then have the funds managed and reinvested in trust, would improve the confidence that Canadians have and add another safeguard, so that Canadians know that the decisions public office holders—the cabinet and the Prime Minister—are taking are in the national interest and not in their personal interests or their own financial interests?

Samuel Cooper: I absolutely think that is a step that would give the average Canadian a greater level of confidence. It’s my own personal opinion that for a very international business person of the level of Prime Minister Carney or former prime minister Paul Martin, it’s just the nature of global investment that you will often be engaging with foreign states or very wealthy people from foreign states, so—

Michael Cooper: Just—

Samuel Cooper: —I do believe what the member suggested is a good step.

The Chair: Go ahead, Mr. Cooper. You have 30 seconds.

Michael Cooper: Just to jump in, you referenced earlier that the Prime Minister had met with individuals affiliated with the United Front at the Jiangsu Chamber of Commerce in Markham.

That wasn’t the only time that Mr. Carney met with United Front leaders during the Liberal leadership, was it? He also met with United Front leaders in Richmond East—Steveston, which was the epicentre of the disinformation campaign by Beijing against Kenny Chiu. Is that correct?

The Chair: You can give a quick response, Mr. Cooper.

Samuel Cooper: I recognize from open reporting from my colleague, Bob Mackin, in Vancouver, that video evidence did show that United Front-associated members were at that meeting with Mr. Carney.

The Chair: Thank you, Mr. Cooper.

Mr. Saini, please go ahead for five minutes.

Gurbux Saini: Thank you, Mr. Chair.

As a journalist, you often report stories with unnamed intelligence or law enforcement sources. Without transparency about who these individuals are or their motivation, how can Canadians place confidence in your conclusions or in your ability to separate fact from politics?

Samuel Cooper: It’s a great question. Canadians would have to look at my track record, which is excellent, but not perfect. No one is perfect.

I can add a bit more about why Canadians should trust me. As I said, I attended the University of Toronto, as both of my parents did. I attended journalism school—I considered going into law but chose journalism, because I believed in the power of truth. All I can put forward is a bit about my background as it exists.

• (1300)

Gurbux Saini: Mr. Cooper, I understand you’re involved in some lawsuits currently, and there’s a record of your having spoken and told lies to other committees.

How can we, after knowing all of that record, believe that your information is credible?

Samuel Cooper: I strongly disagree with your statement. Maybe you can expand on that if you would like.

Gurbux Saini: Have you settled any lawsuits, or are you involved in lawsuits currently based on your reporting?

Samuel Cooper: There are lawsuits in relation to reporting on election interference, but I can’t comment on legal matters in this forum.

Gurbux Saini: Have you settled out of court on some of those issues in the past?

Samuel Cooper: Records exist, and the member can search them if he wants. I'm not at liberty to discuss legal issues in this hearing.

Gurbux Saini: Mr. Cooper, I'm asking you personally if you have settled out-of-court settlements because of the stuff that you have printed?

Samuel Cooper: Mr. Chairman, I've presented my answer on these matters.

Gurbux Saini: I'm going to ask to share my time with Mr. Sari.

The Chair: Go ahead, sir.

You have two minutes.

[*Translation*]

Abdelhaq Sari: Thank you, Mr. Chair.

I said it earlier and I'll say it again: I commend the work of investigative journalists. I think their contribution to democracy is very important. I thank Mr. Cooper for the work he has done over the past few years.

That said, the language used is very important to me. You spoke about the need to have someone more independent than the Conflict of Interest and Ethics Commissioner and the Clerk of the Privy Council.

However, I also understood something that went a little further than the issue of independence.

Did I understand correctly that, for you, it's also a matter of impartiality?

Were you implying that the Commissioner and the clerk were not impartial?

[*English*]

Samuel Cooper: My statement was that, in my own opinion and in agreement with the witness, Mr. Conacher of Democracy Watch,

I don't believe the system of impartiality, while professional and informed by an existing framework, is strong enough.

I said it resembles what Commissioner Austin Cullen said in the British Columbia hearings into integrity and anti-money laundering. The record in British Columbia showed that the government wasn't distant enough from decisions around financial integrity, and an independent officer of the legislature was needed.

[*Translation*]

Abdelhaq Sari: It was a direct question.

The Chair: Please wrap it up briefly.

Abdelhaq Sari: Okay, Mr. Chair.

In your opinion, Mr. Cooper, are these two people, the Commissioner and the clerk, impartial or not?

[*English*]

Samuel Cooper: They are humans in an imperfect system. The pattern of the commission in British Columbia applies to the same principles in Ottawa with regard to the ethical framework and the need for fully independent officers who are not serving at the pleasure of a political body or minister.

The Chair: Thank you, Mr. Cooper.

[*Translation*]

Thank you, Mr. Sari.

[*English*]

Mr. Cooper, I want to thank you for your appearance before the committee today. I appreciate your responses to the questions.

I have no other business for the committee, so the meeting is adjourned.

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