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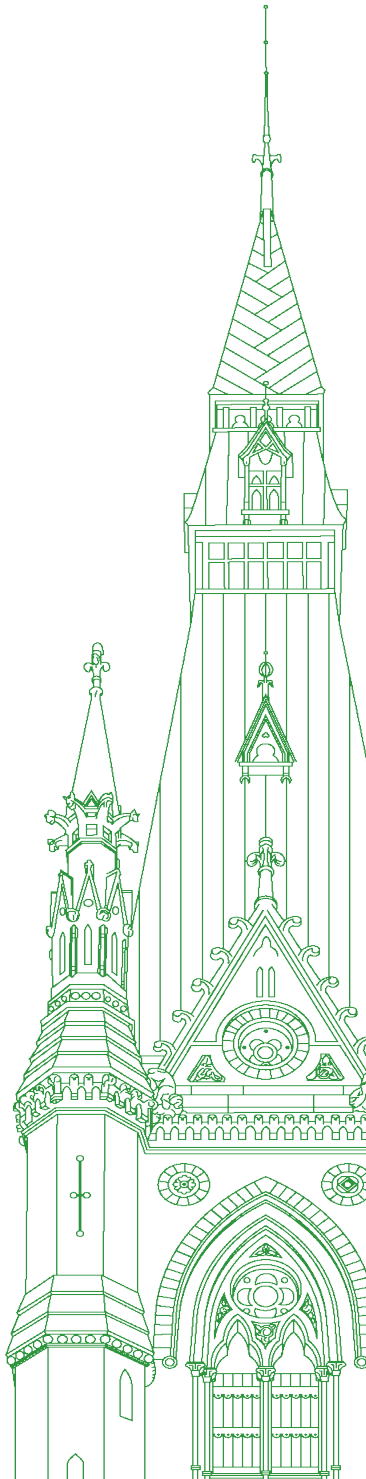

Chair: John Brassard

Standing Committee on Access to Information, Privacy and Ethics

Wednesday, October 8, 2025

● (1635)

[*English*]

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

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

[*Translation*]

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

[*English*]

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person. I don't think we have anybody on Zoom. We will in the second hour.

I'm going to remind everybody again about the earpieces. Make sure they're away from the microphones when you have the floor.

I'd like to welcome our witness for the first hour today. From Thurlow Law, we have W. Scott Thurlow, who is the founder.

Mr. Thurlow, welcome to the committee. You have up to five minutes for an opening statement, which will be followed by questions. Go ahead, sir.

W. Scott Thurlow (Founder, Thurlow Law): Thank you very much, Mr. Chair.

My name is Scott Thurlow, and it is my pleasure to be here to share my views as the committee reviews the Conflict of Interest Act.

At the outset, let me remind committee members that the Conflict of Interest Act is designed as a disclosure act. It places an obligation on officials to disclose their assets for conspicuous public scrutiny. The act also places specific limitations on gifts and benefits and creates post-employment rules.

My experience with the act is not academic; it's practical. I have had the responsibility of representing many of your colleagues as they prepared documents to submit to the commissioner's office. As everyone on this committee is hopefully aware, those disclosure requirements are not modest. They are also publicly disclosed. In rare cases, I have engaged directly with the commissioner's office as it investigated potential violations of the act and the codes it administers.

I have some practical, real-world examples of changes that can be made to the act and corresponding codes and guidelines.

First, a conflict of interest rule should not compromise the democratic process. I would suggest a very modest edit to the current act that would ensure that participating in an electoral event—provincial, municipal or territorial—is exempted from creating a conflict of interest. Running for office should be defined as the public interest. The House's Board of Internal Economy rules already limit the use of parliamentary resources in elections.

There is a decision from a former commissioner that stands for the proposition that campaigning on someone's behalf to seek support is attempting to influence an individual's decision. Of course it is. That's also a constitutionally protected activity. It should not come under the scrutiny of the commissioner's office. Your constituents care about your positions on an array of issues at the heart of other elections, and there should be nothing to prevent you from telling them what you do or do not believe in.

Second, do we really need as many different codes as we have? Subtly, there are many different interpretations that distinguish the various codes from one another. This lends itself to confusion, which is perpetuated by a duelling banjos of rules for parliamentarians interpreted by different officers of Parliament. Having a consistent set of rules will help build a more consistent culture around what a conflict of interest is or is not. I have a personal pet peeve about a separate set of conflict of interest rules created by the lobbying commissioner, but that is a study of a different act for a different day.

Speaking of which, third, I think all post-employment limitations should be placed in one act. You may know that post-employment obligations are found in the Lobbying Act. I also don't like those limitations because they treat all designated public office holders as one giant class, which they are not. Certain aspects of those rules came to be after an order in council, which might not have been as legal as we would like. Please ask me about that.

Fourth, I think there should be clarity on the ability of members to advocate on behalf of their constituents. There is a statutory limitation on “improperly” using one's office to advance a private interest. That is not necessarily the case for individuals who become parliamentary secretaries or ministers. I would refer to you the commissioner's own guidance, which precludes you from “using your position to influence a decision to further private interests”. Advocating on behalf of a constituent's private interest should never be seen as creating a conflict.

The technical language of that document needs to reflect the statutory term “improperly influence”. It should never be improper to advance the interests of your constituents. Personally, if I were in that position, I would wear that so-called conflict as a badge of honour.

It is possible to be both a member of Parliament and a minister and have a genuine tension between your roles. Just ask a transport minister who has a farm in their riding during a rail strike. That's not a conflict of interest; that's a conflict of ideas. That's what Parliament is for.

Finally, I would conclude with a warning to stay away from assigning too much importance to the concept of an apparent conflict of interest. Certainly, this is at the heart of the test enshrined in the Supreme Court of Canada precedent on conflict of interest. The appearance of a conflict is not the same as the existence of one. This is something public officials should be cognizant of, but it shouldn't paralyze them from doing their jobs.

I can tell you from experience that a human being—a politician—waffles on the right decision because they are worried it might look bad because of some link that is so tenuous that the most hackneyed Hollywood screenwriters couldn't come up with it. People agonize over these decisions.

The committee can make recommendations on the thoughtful application of that appearance of a conflict test. Wiser men and women than me have noted that beauty is in the eye of the beholder, and the same is true about what may or may not appear to be a conflict.

I would welcome your questions, in particular about other aspects of the act and codes that may not have been as colourfully explored by previous witnesses.

The Chair: Thank you, Mr. Thurlow.

We're going to start with our first round.

Mr. Barrett, you'll start us off for six minutes. Go ahead.

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): Thanks very much.

Should designated public office holders be permitted to own assets that rest in tax havens?

● (1640)

W. Scott Thurlow: I will read into your question whether designated public office holders, reporting public office holders or public office holders are able to have assets that are controlled by a blind trust. The answer is resoundingly yes.

Michael Barrett: No, the question is specifically about the assets—in this case, if they're in a blind trust—being in a tax haven. If the investment is made in a tax haven, is it appropriate for a parliamentary secretary, a minister or a Prime Minister to hold their assets there?

W. Scott Thurlow: The first thing I would ask you is what you define as a tax haven. The colloquial term for that means taxes can be deferred to a later date when the asset is dispossessed and the gain is actually realized. Another way of looking at it is a jurisdiction that has a lower rate of tax based on income or whatever the threshold test in that jurisdiction is for generating income.

Individual citizens and individual corporations should organize their affairs in ways that seek to minimize their own taxes, if that is consistent with the laws of the jurisdiction in which they are operating—

Michael Barrett: What about the people for whom this act is constructed?

W. Scott Thurlow: I don't see the issue. I don't like the term “tax haven”. I think there is a pejorative aspect to it. I think it's organizing one's affairs in a way that minimizes tax.

Michael Barrett: It certainly minimizes their payment of taxes here in Canada to support all of the things that taxes are designed to pay for.

When a government sets policy that sees Canadians who might not have the means to afford those types of investment strategies, as you've described them...it hurts Canada. These people are supposed to be serving in the best interests of Canada, which speaks to this broader question of blind trusts and whether we can simply assume that everyone is operating in the best interests of Canada.

We heard from the commissioner that, in his experience, assets that go into a blind trust come out looking the same. The trustees don't really trade; they don't really sell them. The decisions that decision-makers are making can be made knowing what the impact is on specific investments.

The challenge this creates for Canadians, who have a cratering confidence in public institutions and public office holders, is that they believe, when they look at the act or when it's explained to them.... We've heard many times someone say, “I've divested all my assets.” Well, it's been characterized in the act in a very cute way: You can divest assets into a blind trust, where they're likely going stay in the same form as when you put them in, as opposed to them not being sold.

You came out of the gate and said that you think blind trusts are great. Do you think they do service to improving Canadians' confidence in elected officials, that they're acting in the best interests of the country and not in the best interests of themselves? For example, someone could hold office while also holding their assets somewhere else so they don't have to pay tax here in Canada to pay for all the things Canadians rely on, like public health care, transportation, border security, our national police force and so on.

W. Scott Thurlow: The first thing I would do is take you back to your question about tax havens and say that it's a good thing the last budget talked about the global minium tax, which would do a lot to equalize that on a country-by-country basis.

Second, I would question the underlying assumption your question is based on. I use what I call the “soccer field and ringette arena” test. When I talk to the people I spend time with while we watch our children play sports, they don't bring this up as an issue of concern. They have more fundamental concerns. Far be it from me to tell you what your constituents are telling you—they have your ear at the door, absolutely—but if you have a specific example of a particular trade that you think is going to create a conflict of interest, it behooves you to make that statement public and put it forward.

● (1645)

Michael Barrett: What I'd say with my remaining time, which I have heard at soccer fields and hockey rinks, is that people are concerned that the Prime Minister, who seeks to pass laws on them that would see them remit their taxes while they're struggling, is holding investments in offshore tax havens and not paying his fair share. That does bother them.

The Chair: Thank you, Mr. Barrett. That was right on time, at six minutes.

We're going to keep it tight because we have lots of questions and another panel to follow.

[*Translation*]

Ms. Lapointe, you may go ahead. You have six minutes.

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

Mr. Thurlow, welcome to the committee.

I have some short questions for you. You said earlier that you didn't like the idea of including the appearance of a conflict of interest in the act.

Can you talk more about that and tell us why you don't like the idea?

[*English*]

W. Scott Thurlow: This test is based on what I'm going to call the “reasonable persons” test. It's up to an individual who has awareness of the facts to make a determination, in place of the individual who would otherwise be making the decision. When I was in law school, I wrote a tongue-in-cheek essay about Sam the reasonable man and Samantha the reasonable woman, who would be officers of the court and stand in the place of the individual who was offered the opportunity to give the reasonable person test. The issue with an appearance of a conflict of interest is that you never necessarily know all the variables that are going on behind the scenes when a decision is being made.

We've heard previously that there's the potential for someone to benefit because their trust isn't really that blind, and nobody ever trades any assets. That's not the point. The point is that when you are faced with a decision as a public office holder, there should not be an overt, direct tension in front of you that would cause stress between your official duties and your personal interests or those of somebody you know, somebody who's related to you or someone who would improperly benefit from that.

I think it's very difficult to tell public office holders that they will not be able to make a decision because of something that's held outside of their legal control. Legal control is a very important point here, because if you are free to make your decision on behalf of the country or a sector of the economy, you can stand on that decision and say, “Here are the reasons that I made it, and I'm going to disclose that on the public record.” Then you are not going to know whether or not that is going to benefit you.

There's been an allegation from previous witnesses, an allusion, that, yes, they actually do know, but it's a very bright line. Once you are a public office holder and your materials are in a blind trust, you have crossed that line and you are no longer making a decision that can legally benefit you.

[*Translation*]

Linda Lapointe: We've also heard the commissioner say that he would like to see that change. Do you have any comments on that?

[*English*]

W. Scott Thurlow: Far be it from me to disagree with someone who used to be a Federal Court judge, the competition commissioner and the chair of the CRTC. His experience is a little different from mine, but I can prove a conflict of interest. I can draw a straight line when someone gives investment advice to their sister. That's provable. The appearance is not quite as provable. It's not something that evidence is going to bear out very easily.

The other thing I would tell you is that in the interactions with the commissioner's office, many members have said, “Oh my goodness, what do you think? Is this a conflict?” They give really good, sage advice to public office holders who have divined that situation and think there might be an issue, and I think that's sufficient. However, if Parliament, which is supreme, wants to make the determination to implement a test, that's up to Parliament. I just don't think it's needed.

[*Translation*]

Linda Lapointe: We also heard from a Democracy Watch representative, and he talked about 12 recommendations for improving the Conflict of Interest Act.

Are there any you could get behind?

● (1650)

[*English*]

W. Scott Thurlow: I don't agree with everything Mr. Conacher says. He and I have different world views, but the one suggestion he has that I think will improve transparency is to give individuals and the public the ability to file a complaint with the commissioner. I think that would improve public confidence in the system, but it has to be more than just writing an angry letter saying, “Will you investigate this MP I didn't vote for?” There has to be a modicum of evidence. There has to be some threshold for why that investigation should happen.

The other thing with those types of powers is for the commissioner to have the ability to say no and give the reasons they're not going to pursue that test. That rationale being in the public domain is going to increase confidence in the system, because someone will be able to make a request and then understand why that request was denied. Then, if they're friends with Mr. Conacher, he can help them sue the government, which he has done on a regular basis, sometimes quite successfully and for the improvement of the laws of Canada. There are some examples that I am happy to talk about. Because of the work Democracy Watch has done, we have better laws in certain areas.

Any decision would be reviewable by a judge based on the reasonableness standard and on whether or not that decision is consistent with the decision-making rules we have.

Linda Lapointe: Thank you very much.

I have 30 seconds left.

[*Translation*]

On Monday, we met with the Commissioner of Lobbying, and she talked about the post-employment restrictions set out in the Lobbying Act.

Do you think those rules are well understood? Do people understand what they are allowed to do and when?

[*English*]

The Chair: I need a very quick answer, if you don't mind.

W. Scott Thurlow: I don't think they're really well understood, and I'm happy to go into that later.

The Chair: Thank you, Mr. Thurlow.

[*Translation*]

Thank you, Ms. Lapointe.

Mr. Thériault, the floor is yours. You have six minutes.

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

Welcome to the witness.

Something may be legal, but that doesn't make it moral. In that sense, ethics is more stringent than the law or the act. Would you agree?

W. Scott Thurlow: Thank you for your question. I wish I could answer in French, but I can't, because I need to get a bit technical. Nevertheless, I'd like to show my daughters that I can speak a bit of French.

[*English*]

Yes, I agree 100% with you. I think Dr. Turnbull said the same thing in her testimony, which is that you can't legislate ethics. Ethics stand above what the legislation is.

Rules—and I mentioned this in my testimony—will often form the cultural underpinning for developing the moral compass that will guide individuals as they make those decisions. There are a lot of things that go into establishing the individual ethics and morality of individual humans. Some people have a very different prism through which they look at these things. Some of them are very matter of fact. Some of them are far more deliberate.

[*Translation*]

Luc Thériault: Are you saying that, rather than amending the act or introducing the appearance of a conflict of interest in the act, the solution is to introduce the concept elsewhere, along with controls? Do you see the appearance of a conflict of interest as an important concept in ethical governance?

Currently, you seem to be taking an entirely legalistic view and ruling out the concept of the appearance of a conflict of interest. In that sense, the unprecedented situation we are in right now is very problematic. I'd like to hear your thoughts on that, but please be brief, because I have another question.

[*English*]

W. Scott Thurlow: I think you've just proven that there's always a tension between what we can write down in law and what the driving ethic behind laws might be. To put it into the law means that at some step in the future, you'll have to be able to prove it. If you're going to use that aspect of the law, you'll have to be able to adduce evidence to suggest that something has happened.

However, I agree with you that when you talk about these things in fora particularly like this one, you are participating in the conversation that will shape and drive that discussion. History is replete with examples where society has changed its mind because of discussions just like this one, had in a full, frank and fair manner.

Today, I think creating a test on the appearance of a conflict is going to create more problems than it solves. That might not be the case in 20 years.

● (1655)

[*Translation*]

Luc Thériault: The goal is to ensure public trust in democratic institutions.

Do you think that those who hold the highest office must be beyond reproach?

You seem to be saying yes. What, then, do you make of the unprecedented situation we are in right now? We have a prime minister with ties to a far-reaching trillion-dollar investment fund that controls 900 companies. Doesn't that open him up to the appearance of a conflict of interest?

Since you like things to be clear, I'm going to give you a very clear example. The Prime Minister announced a number of projects that are going to be fast-tracked through a process set out in a bill passed under a gag order. One of those projects involves building small modular reactors in Ontario. It marks the first time ever that the technology will be deployed for civilian use. It opens up a completely new market for the three companies in the world that provide such products. One of those companies belongs to Brookfield, which the Prime Minister must not give an advantage to.

Under the Conflict of Interest Act, the Prime Minister's so-called conflict of interest screen should clearly preclude him from being involved in the selection of one of those three companies. He wasn't asked to recuse himself, however, because the decision benefited the sector as a whole, despite having few players. Since the matter is of general application, it's not considered a conflict of interest. Strictly from the appearance of a conflict of interest standpoint, it's very clear that the Prime Minister should have to answer questions about the matter, but the screen does not allow for that type of oversight. He is not a mere minister; he is the prime minister, the person who decides on the economic direction of the country.

What do we do if it's not amending the act? How do we put in place mechanisms that reflect the ethical standards you claim to share with me?

The Chair: You have 45 seconds to answer.

[*English*]

W. Scott Thurlow: I'll say two things super quickly.

That's a two-way street. There are government decisions whereby, based on the portfolio the Prime Minister had, the investments he had would be disadvantaged. There's the government's work on the electric vehicle mandate, for example. Suspending that mandate would not help his shares in Tesla.

The second thing I would say is that you are, yourself, doing the exact work we need to do to advance that. As a parliamentarian, you're pointing it out, and you're putting it into the public domain. You're allowing for individual Canadians to examine the arguments you're putting forward and to make their decision on them. They will have the opportunity to make a choice in the next election.

The Chair: Thank you, Mr. Thurlow.

Thank you, Monsieur Thériault.

That completes our first round. We're going to our second round now.

Mr. Cooper, you have five minutes.

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

Would you support amending the Conflict of Interest Act to provide for an enforceable, general anti-avoidance measure so that anyone who circumvents the act by exploiting a technical loophole or who concocts a scheme to get around the act in its application entirely could be held accountable?

W. Scott Thurlow: GAARs are in place in many other statutes in Canada, starting with the most important one, which is the Income Tax Act of Canada. Those types of rules have been used effectively to do exactly what you are looking to do, which is avoid the ability for individuals to design legal mechanisms to avoid taxation.

Now, avoiding taxation and delaying taxation are two very different things. In this particular case, if someone is creating a construct that would allow them to advance a private interest, I think this goes back to the question from Mr. Thériault. It's an ethical question, not a legal one. It would be interesting to see what that rule looked like. I would certainly be happy to comment on a rule once it's been designed, but a general anti-avoidance rule in this area undermines the whole purpose of the act. Anyone who's willing to design that kind of tool to avoid the application of the act is going to find another way around it.

Michael Cooper: I would cite one example. It's one we faced last fall, when Mark Carney, before he became Canada's most conflicted Prime Minister, was appointed as, for all intents and purposes, Justin Trudeau's economic adviser.

As the former prime minister's adviser, Mr. Carney should have been subject to the Conflict of Interest Act. However, Mr. Carney and Mr. Trudeau effectively cooked up a scheme whereby Mark Carney was not technically in the PMO, but was instead supposedly housed in the Liberal Party as the so-called chair of the Liberal Party's task force on economic growth, which turned out to be nothing more than a one-man task force. Mr. Carney could therefore avoid accountability, skirt the law by getting around the Conflict of Interest Act and hide his multitude of conflicts of interest from Canadians.

It was a complete and utter sham. Everyone knew that Mr. Carney was advising Justin Trudeau. Justin Trudeau even bragged about the fact that his economic adviser was none other than Mark Carney, yet Mr. Carney was circumventing the Conflict of Interest Act.

Do you not see a problem with that scenario?

● (1700)

W. Scott Thurlow: The Conflict of Interest Act applies to people who are actually in office. If that was an actual office paid for by the Crown, we'd be talking about something very different.

Michael Cooper: I'm sorry to interrupt. It would apply to an aide to the Prime Minister. It would apply to a ministerial aide. It would apply to a ministerial adviser.

W. Scott Thurlow: They're employees.

Michael Cooper: Mark Carney was effectively in that role, yet he was able to avoid the Conflict of Interest Act, hence the need for some sort of mechanism to address it, in my view.

W. Scott Thurlow: Okay. The act applies to public office holders, and the various codes apply to the individuals who are governed by the code.

Michael Cooper: The whole point is to address those who are taking advantage of a loophole. Here you have the CEO of a $1-trillion investment firm advising the former prime minister, someone who has all sorts of conflicts of interest and was able to get around the act. Had he been in the PMO doing exactly the same thing he was doing outside of the PMO, he would have been subject to the act.

W. Scott Thurlow: I'll say two things in reply.

The first thing I'll say is you're quite right to make these concerns known if you think they are important to you and your constituents. I think the things that happened in September 2024 had a pretty good litmus test subsequently. You say this was common knowledge and everybody knew it. If it was common knowledge and everybody knew it, I guess that factored into some decisions that people made at a later date.

The second thing I would say is there's a difference between going around something and having it not apply to you at all. It would not be a good idea to have an act apply to people who are not in the public service. You may call it a circumvention, but the threshold is whether or not they are in the public service.

I am not privileged to any information that may have been shared between the two individuals you mentioned, but certainly there are other people in that office—

The Chair: You have 10 seconds, Mr. Thurlow.

W. Scott Thurlow: —who understood what those arrangements were. I'll go back to the comment made by Mr. Thériault. It's about what the moral compass for those individuals is.

The Chair: Thank you, Mr. Cooper.

Ms. Church, you have five minutes. Please go ahead.

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

Mr. Thurlow, thank you for appearing today, and thank you for your advice to not place a great weight on apparent conflicts of interest. It's so important in the world we're in right now that we are able to see that for what it is and cut through baseless allegations and cut through the weaponization of misinformation and the peddling or even creation of conspiracy theories for an ill purpose. I think we have to be very careful of that as parliamentarians.

Let me just pull you back to the topic of this review and the act, and maybe back to where my colleagues left off on post-employment limitations. She was questioning you about whether the rules are well understood. I would ask you to pick up there. Also, you mentioned that you thought the rules applying to designated public office holders are currently unconstitutional. Can you tell me more about that?

● (1705)

W. Scott Thurlow: I'll start with that one. I'm not sure if it was advertent, but it happened. By way of an order in council, the Crown made all parliamentarians—senators and members of Parliament—designated public office holders. In so doing, they limited the rights of parliamentarians post-employment.

That's not the way this is supposed to work. Parliament limits the Crown, not the other way around. The application of the law to the Crown comes from a rule called the Magna Carta. I wasn't around when it was started, but that was the first document advanced to say that the commons—Parliament—is supreme.

Can Parliament fix this? Absolutely, Parliament can fix this. If you make the amendment, as parliamentarians, to bind parliamentarians, that's perfectly fine. A future Parliament could review that change, but having it done by the Crown didn't sit right with me.

Are the rules well understood? I learn on a regular basis how little the rules are understood. It's not because they're not conspicuous. They are very conspicuous. The lobbying commissioner does a great job, actually, of educating designated public office holders about what their obligations are. They're very good at that, but again, there are rules for reporting public office holders and there are rules for other public.... There are so many different rules for post-employment.

The other thing I would point out is that the designated public office holder class is extremely broad, and it includes someone who works in a minister's office and puts them at the same level as the Prime Minister. That's ridiculous. There's absolutely no good reason that we have that scale. We have many different sliding scales that we should apply. This punishes young people more than it punishes ministers and prime ministers. This should be re-examined, and we should take a closer look at it.

That's another act, but my position would be that all of the post-employment rules should be in one place and not scattered among various officers of Parliament.

Leslie Church: We've heard some witnesses say that they find violations of the act get a mere slap on the wrist. What do you think about that view?

W. Scott Thurlow: Until they get to the door, and they're knocking on the door.... I have seen many an ad, and some in my social media feed, that point out who has violated the conflict of interest rules and who has not. You can't have it both ways. It can't be a slap on the wrist and simultaneously be something used to the political advantage of someone going after the office.

I've heard that this is something people aren't taking seriously; they don't really worry about it. I don't think that's true. The parliamentarians I talk to are very vigilant about how they make their submissions to the conflict of interest officer. You can see, very conspicuously, on the website who has done it, who has not and who has been given an AMP. I don't think that's a slap on the wrist. I think that's an invitation to their opponents in the next election to point to it.

Leslie Church: You bring a wealth of experience to this, having advised parliamentarians and having worked with the ethics commissioner and lobbying commissioner. What do you think of the view that these offices should be brought under a single office?

W. Scott Thurlow: I'm very selfish, and I would not want that, because they do very different things.

One of them gets very much into the nitty-gritty of the individual backgrounds of all of the people in senior public offices. They offer advice about very specific things.

The lobbying commissioner is responsible for a registry of the people communicating with the government, when they are communicating with the government and how they are communicating with the government. They're not regulators. They're not designed to be regulators. They were never designed to be regulators. They are there to encourage public disclosure and allow for people to know who's talking to whom.

I think they're very different jobs.

The Chair: Thank you, Mr. Thurlow and Ms. Church.

[*Translation*]

We now go to Mr. Thériault for five minutes.

Luc Thériault: There may be some disagreement on whether to introduce the appearance of a conflict of interest into the act.

However, as far as a conflict of interest goes, here's how "private interest" is currently defined in section 2 of the act:

> does not include an interest in a decision or matter (a) that is of general application; (b) that affects a public office holder as one of a broad class of persons….

One witness told us that, according to that definition, the Prime Minister would not have to recuse himself from 99% of decisions or actions. Generally, even the Conflict of Interest and Ethics Commissioner gave me the same answer, when I was asking about raising the standards for a politician whose situation is nothing like the situation of a politician contemplated during the review of the act in 2013. I'm sure you would agree the two situations are nothing alike.

I'd like to hear your view on the subject. Is a broader definition needed?

I have other examples to give you. Again, the purpose of all this is to ensure that the public has trust in democratic institutions.

● (1710)

[*English*]

W. Scott Thurlow: At a very high level, I agree with you. I think the rule of general application is one where it is very easy for people of means who are sitting in Parliament to get an even greater benefit.

I will make up an example. Let's say someone who has a $1-billion wealth fund votes on a capital gains tax that would apply to everyone, and that change drew the tax liability down. That would be a very material advantage, but it applies to everyone.

The problem with the position you're advancing is that, if we don't have a general application rule, will parliamentarians ever be able to vote on anything? Where do we draw the line with something in front of Parliament that is important for the country to keep going? We could get into the CUSMA or the USMCA, depending on what you call it. There are so many other things that an individual's past performance or past experience is going to have an impact on. It's very difficult to narrow the rule of general application. I would invite you to make a suggestion and say, "Here is the proposal that I would make."

[*Translation*]

Luc Thériault: An example that was raised earlier is when Parliament passed global minimum tax legislation, resulting in multinationals having to pay at least 15% in tax.

During the G7 meeting in June, the Prime Minister announced that U.S. companies or subsidiaries would not have to pay the tax. He decided that.

Seven months earlier, Prime Minister Mark Carney, who was running Brookfield at the time, moved his company and its tax residence to New York.

Even though the decision to exempt companies operating in Canada but based in the U.S. is of general application, it seems to be tailor-made for Brookfield. While Canadian taxpayers may benefit as well, there's no denying the fact that, even if it's not part of his blind trust, the decision is going to make him wealthier. He knows full well that it's going to make him wealthier.

[*English*]

W. Scott Thurlow: Can you think of any independent—

[*Translation*]

Luc Thériault: As far as I'm concerned, what I'm describing should prompt us to find a solution to this unprecedented situation, because, while it may be the first, it may not be the last.

Ethically speaking, doesn't that worry you?

[*English*]

W. Scott Thurlow: No, it doesn't, because when the Prime Minister made that decision and talked about that at the OECD, we were in the process of talking to Americans about our ongoing trade relationship with them.

[*Translation*]

Luc Thériault: That's your political interpretation of what happened. I'm not looking at the situation with his reasons in mind.

Here's what I know: In his position, he will have to make these kinds of decisions in specific situations, and a conflict of interest screen overseen by someone who works for him—his chief of staff—is not good enough.

Do you agree?

[*English*]

W. Scott Thurlow: Mr. Conacher—

The Chair: I'm sorry, Mr. Thurlow. Give us a very quick response to Mr. Thériault.

● (1715)

W. Scott Thurlow: Mr. Conacher made the same accusation about people who are beholden to the Prime Minister. I would just say look at the last couple of parliaments. We had all kinds of people who were "beholden" to prime ministers who stood up to them, some in very famous situations. I don't share your concern.

[*Translation*]

The Chair: Thank you, Mr. Thériault.

[*English*]

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

Shuvaloy Majumdar (Calgary Heritage, CPC): Thank you.

The Ethics Commissioner has said that transparency is the cornerstone of the act. I would imagine you would agree. In an August 8 piece, you remarked, "A successful business person usually has a long memory." I would have to agree. It's part of the job.

As the Prime Minister set up his blind trust, he would probably remember what went into it. Is that right?

W. Scott Thurlow: Sure.

Shuvaloy Majumdar: As to the full details of the portfolio—the mix, the long-term funds, the major priorities wherever he might be most leveraged—he would have a pretty serious sense of that. Is that right?

W. Scott Thurlow: One would presume so. I actually phoned some people and said they should emulate the investment decisions. They are pretty good investments. It's a very significant portfolio.

Shuvaloy Majumdar: They should emulate the decisions because they know that he's on the inside of the take on these decisions. Is that right?

W. Scott Thurlow: I would say that is an allegation. I wouldn't repeat it.

Shuvaloy Majumdar: You did here.

Let me ask a second question.

Ninty-nine per cent of the decisions the Prime Minister makes aren't subject to conflict of interest laws. He refuses to discuss and disclose the assets of the fund that he established in the investment world prior to becoming Prime Minister, and he could cash in on nearly 100 conflicts of interest. That means he could profit from almost 100 potential conflicts.

Any gains in that fund would translate directly into personal profits for the Prime Minister. Is that right?

W. Scott Thurlow: I am more inclined to believe Dr. Turnbull, who said it is much more likely that he's leaving money on the table by leaving the private sector he was in. That is the hook that's important here. We're trying to encourage the best and the brightest to become parliamentarians and put their names forward to be part of this decision-making body. We want to encourage them to seek public office and give their wealth of experience to Canadians.

Shuvaloy Majumdar: I—

W. Scott Thurlow: I don't think allegations like the ones you're making are fair when we have a legal mechanism in place allowing the trustee who is responsible for those assets to take actions independent of the Prime Minister's decisions.

Shuvaloy Majumdar: I don't see public service as something that comes down from the mount. I see it as something you serve from the bottom up. We might have a very philosophically different idea of what it means to be a public servant. In order to serve, you have to be clean. You have to be ethics-compliant. You have to be completely open and transparent. That is the principle of the act that the Ethics Commissioner has described.

Let me ask this: In that spirit of transparency, to make sure that as public servants public office holders are serving their people, does the public have any way of knowing how the Prime Minister's decisions are impartial?

W. Scott Thurlow: This is a philosophical question about the difference between trust and efficacy. Both of these things can be true at the same time. The public, based on the debates in Parliament and based on the things we are saying here at this committee, can make that decision. They can based it on the things we are all saying and the evidence we are proposing to be put before them.

I don't—

Shuvaloy Majumdar: In that spirit, sir, if I may in the time I have with you, Canadians don't get to know when his so-called ethics screen is triggered. They don't know. We don't know if the decisions he's making are actually benefiting the country or his private fund and his private interests. They can't tell the difference between when he's acting for himself and when he's serving the country. There is a lack of transparency there and an inability to understand and discern whether the decisions Mark Carney is making for the country with the investment people he's talking to are going to profit him or come to the benefit of the country. That cloud of darkness creates massive issues, and this is backed up by the conversation I had with Mr. Conacher in the last committee session.

Do you not see a problem with this?

W. Scott Thurlow: If you have any actual examples where you think that tension exists, I suggest you put them on the table. I don't believe Canadians see it through the same prism that you do, but it's entirely within your rights to adduce that evidence here and allow for people to be informed by it.

● (1720)

Shuvaloy Majumdar: With the meetings the Prime Minister had in New York and Washington, we already know there are conflicts with the funds he has invested in and the money managers he met in the United States.

I don't know if he's acting in the interests of the country or himself, and because of the failure to have transparency around how he governs his decisions, on behalf of the 100,000-plus Canadians I represent from Calgary Heritage, I'd say there are some serious problems.

W. Scott Thurlow: I have no evidence that he still holds those funds. That's the whole purpose of the blind trust.

The Chair: Thank you, Mr. Thurlow and Mr. Majumdar.

[*Translation*]

Mr. Sari, you will be splitting your time with Mr. Saini.

You have five minutes. Go ahead.

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

Mr. Thurlow, thank you for being with us today and providing such interesting and informative answers.

Before I get to my question, I would like to explain a particular point of view.

Before I got into politics in 2017, I had a lot of reservations. I was in a very different field, another world, and I wondered whether I should get into politics. I'd say everyone is reluctant for a number of reasons. Political life has constraints, and it's not easy.

That said, I'd like to hear what you think of a potentially more restrictive regime, one where public office holders would be required to sell their assets. Do you think it could deter skilled people in good careers wanting to avoid any conflict of interest from getting into politics? Could it be detrimental to such people?

[*English*]

W. Scott Thurlow: I think this is entirely consistent with the questions that Mr. Majumdar was asking. It's not about coming down from the mountain to serve the great public; it's about there being a disincentive to doing so, whether it's up or down. It could be as simple as a member who's part of a union and would no longer have access to pension benefits because they came to the House of Commons and would be stepping away from the work they're doing.

We don't want to see people being forced to make decisions of divestiture even with the tax exemptions that the conflict of interest commissioner talked about, which I found very interesting. That's a good point and a good way of looking at it. However, ultimately, these people will sometimes have more than just a business interest; sometimes it's an emotional tie.

[*Translation*]

Abdelhaq Sari: I'd like to ask a more constructive question to see what we could improve, since no system, law or code is perfect. What do you think about the fact that the Conflict of Interest Act and the conflict of interest code for members of the House of Commons were harmonized to make them much more similar and convenient?

[*English*]

W. Scott Thurlow: As I said earlier, I think we should do everything in our power to have one set of rules so that there isn't the opportunity for misinterpretation among the various officers, and that includes the Senate side. There are good reasons they're divorced, but there are competing interpretations coming to the fore.

The Chair: You have two minutes and 20 seconds, Mr. Saini. Go ahead.

Gurbux Saini (Fleetwood—Port Kells, Lib.): We heard that public office holders should be forced to sell their assets to avoid conflicts. Would that not preclude lots of people who have good strength in running the country and in finance...if that was the case?

W. Scott Thurlow: I would not suggest that people have to divest their assets. Your home, for most Canadians, is your biggest asset. That's how you get tied to your constituency. You don't want people selling their homes. I think that is a disincentive to the public service.

If I could, I'll just focus this on trust in public office holders. I, as a Canadian, trust the people who are given the opportunities and privileges to do the moral and ethical thing, to use Mr. Thériault's words. That's what our system is based on. Our entire system of laws is about the individuals we invest that trust into. I understand that cynicism is sometimes used for political gain. That is 100% fair ball. If that is how you want to go after your opponents, you absolutely can. I choose not to do that. I invest trust in these people because they have stepped forward to swear or sign an oath, depending on who they are. If they sign an oath as a minister to be loyal to the Crown, that oath is what we should be placing our faith in.

● (1725)

Gurbux Saini: Are there any changes to our ethical legal framework that you believe should be implemented, whether they be in the act or the code?

W. Scott Thurlow: The emphasis has to be placed on what is an improper use of authority. As I said, parliamentary secretaries and ministers have the interests of their constituents in mind, which they themselves aren't necessarily always able to defend. I think that's inappropriate. Parliamentarians should be able to do that work. That language, which currently exists on the commissioner's website, needs to be strengthened.

I have been very consistent in saying that the laws we have are ones that create trust among the citizenry. I think we have to invest trust in individuals. I'm not in a position to criticize the people who are part of that matrix right now. As a Canadian, I invest that trust in them.

The Chair: Thank you, Mr. Thurlow, for your testimony today in front of the committee.

That concludes our first hour.

We're going to reset and make sure the witness online is ready to go. We'll suspend for a few minutes. We'll be back soon.

● (1725)

(Pause)

● (1730)

The Chair: Welcome to the second hour.

We have two individuals appearing. First, we have Mr. Gregory J. Levine, who is a lawyer, ethics consultant and social scientist. Welcome, Mr. Levine. We also have Mr. Guy Giorno, who is appearing as an individual. Mr. Giorno is a lawyer.

We'll start with you, Mr. Levine, if you're okay to address the committee for five minutes. Go ahead, sir.

Gregory J. Levine (Lawyer, Ethics Consultant and Social Scientist, As an Individual): Thank you for the opportunity to share some thoughts about the Conflict of Interest Act.

As mentioned, I'm a semi-retired lawyer interested in administrative, municipal and ethics law. I've been interested in government ethics law for over 30 years. I've worked in various capacities, including as a general counsel to a provincial ombudsperson and a municipal integrity commissioner for several municipalities. I've also appeared on policy panels for one federal and two municipal commissions of inquiry regarding ethics matters. I've written a certain amount of stuff on this topic.

I've also had, and I mention this tangentially, a very extended period, over the last many years, as a caregiver. There are many elements of care, of course—compassion, love, dedication. One aspect I'd like to mention is respect. Interestingly, the idea of respect permeates much of ethical discussion and practice. Professor Greene indicated in his presentation to this committee that the ethic of mutual respect is foundational to democracy. Through respect, we hear the concerns of others, listen to their arguments, understand their interests and arrive at equitable and fair solutions.

Government ethics have established rules that help and guide us in respecting our polity and need for fair, unbiased and publicly responsible decision-making. The Conflict of Interest Act is one such set of rules. I can't articulate all that this act does, but I would like to mention a few issues, some very broadly, for the rest of my few minutes.

Conceptually, the act changes traditional approaches to conflict of interest in that it treats conflict itself as a problem. The common law view was that conflicts should be disclosed and that the person with a conflict would not participate in decisions respecting matters that could further his or her private interests. Public duty was seen to clash with private interests, but conflict of interest was a precondition, a state of interestedness, that if not disclosed and not subject to withdrawal from participation, could lead to corruption or biased decision-making. Conflict of interest is not corruption, and they should not be seen as the same. One is a possible precondition to the other.

Private interests are important. Traditionally, the common law, and then the first regulation of conflicts, focused on monetary and pecuniary interests. This is not because financial interests, however described, are the most important interests, but because they are the most easily quantifiable in ostensibly objective terms. Emotional or psychological and relational interests, though, are powerful and important and can affect decision-making.

I have several other points, but I'm just going to mention appearances. Appearances can be important too. Apparent conflict of interest is different from reasonable apprehension of bias. I've used, in my little description here, a definition from the B.C. Members' Conflict of Interest Act. It says an apparent conflict occurs “if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by the member's private interest.” There has to be an objective interest at stake, not merely a sense that there must be some interest.

There are numerous rules. I know the issue of divestment comes up, so I expect it will, and similarly the conflict screens, so I'll just leave it at that.

● (1735)

The Chair: Thank you, Mr. Levine.

You're short of time. I like that. It gives more opportunity for questions. It's perfect.

Mr. Giorno, you have five minutes to address the committee. Go ahead.

Guy Giorno (Lawyer, As an Individual): Thank you and good evening.

As the chair said, my name is Guy Giorno. I'm a partner in Canada's largest law firm, Fasken, where I lead the political law practice, which covers lobbying, legal compliance, conflict of interest, accountability and transparency laws, campaign finance, parliamentary investigations and more. I'm an adjunct professor at Carleton University, teaching the course “Ethics in Political Management”. I also currently serve as the appointed integrity commissioner of 20 municipalities in Ontario. As a part-time integrity commissioner, I am no longer active in partisan politics.

I used to chair the Law of Lobbying and Ethics Committee of the Canadian Bar Association. I was twice elected to the board of the Council on Governmental Ethics Laws, which is the pre-eminent organization of North American government ethics administrators.

I appear this evening in a personal capacity. These opinions don't reflect the views of my law firm, its clients, any municipality, the university or any other individual or entity except me.

This evening, I offer two recommendations. First, most of the Conflict of Interest Act is toothless. Most of its rules—in fact, all of its important rules—aren't backed by penalties, and that has to change. Second, several key provisions of a document called “Open and Accountable Government”, which is just a policy statement, not a law, should be moved into the Conflict of Interest Act.

As you'll be aware, the act replaced the code of conduct that, in its most recognizable form, dates back to former prime minister Chrétien and, before him, former prime minister Mulroney. The code, through successive prime ministers, was merely a guideline.

The advantage of a law over a guideline is that a law has teeth. Break the law and one can be charged, convicted, fined or imprisoned. That's not what happened. For the most part, the act is no more enforceable than the code it replaced.

There are 55 separate rules in the Conflict of Interest Act. Only 15 of them—the most minor 15—carry penalties. The 55 rules can be divided into 31 prohibitions—things you shall not do—and 24 duties—things you must do. Almost all of the important rules are among the 31 prohibitions and none carries a penalty. Nine of the duties, the most important nine duties, also carry no penalty. You can't be fined for breaching them and you can't go to jail. In total, there are 40 out of 55 rules with no penalties.

Examples include section 33, which says that a former public office holder shall not take improper advantage of a previous public office; sections 8 and 9, which say that officials shall not use their positions or influence to further their private interests or those of their relatives or friends; and section 21 on mandatory recusal from any decision, discussion, debate or vote where the official would be in a conflict of interest.

For those who break these rules, and 36 more of them, nobody gets charged or fined or goes to jail. The worst that can happen is somebody can get written up or named in a report. In theory, an official can be dismissed from office, but by my count, in 18 and a half years that has never happened.

Fines only apply to making financial disclosures to the commissioner. Miss a financial disclosure and you could be fined up to $500. The commissioner is recommending a sixfold increase in the maximum fine for these minor infractions, from $500 to $3,000. In my respectful submission, that one-off change is unhelpful.

You can make the penalties for minor infractions 6,000 times bigger, but as long as officials can get away with breaking the 40 most important rules, fiddling with the minor rules actually makes things worse. It's worse because it sends a message that the big rules aren't taken seriously and get to be ignored.

My second point is about adding things into the act.

I mentioned the old code of conduct. Most of the old code ended up in the act, but a small portion of it found its way into a document, which under Mr. Harper was called “Accountable Government” and under Mr. Trudeau and now Mr. Carney is called “Open and Accountable Government”. There, the content was combined with other expectations. All of it is not a law, just a bunch of guidelines.

Two significant later editions made their way into these guidelines. Mr. Harper added a section to prevent government business from being commingled with partisan fundraising. It is called “Annex B Fundraising and Dealing with Lobbyists: Best Practices for Ministers and Parliamentary Secretaries”. Mr. Trudeau added the very important “Annex I Code of Conduct for Ministerial Exempt Staff”.

In my view, those two annexes, annex B and annex I, are so important that they need to be put somewhere with teeth, which they don't have now. I would port them into the code of conduct, along with any other provisions of the document “Open and Accountable Government” that belong in a law, not just a policy statement.

Thank you, Chair.

● (1740)

The Chair: Thank you, Mr. Giorno.

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

Michael Barrett: Mr. Giorno, would you agree that banning ministers from holding assets in tax haven jurisdictions is a simple but effective way to strengthen Canadians' trust that ministers and the Prime Minister aren't hiding conflicts of interest offshore?

Guy Giorno: I'm not sure how simple it is, but there are some things that can be done.

It's easy to legislate that people who are public office holders—and we're talking about only 3,000 people or fewer—should be residents of Canada, so they can't take advantage of residing somewhere else. They can't be operating a company, or at least a reporting public office holder is not permitted by law to operate a company or business. They shouldn't be running businesses that are operating in tax havens. Beyond that, with a definition, that should be workable.

I'll note that it's very important to ensure that our reporting public office holders have investments in places where there is transparency and disclosure. One of the attributes of a tax haven is that there is no transparency and no disclosure. It actually frustrates the work of the act and the commissioner enforcing the act.

Michael Barrett: If senior staff for these public office holders have to publicly disclose their finances, should that same transparency apply to party leaders and leadership candidates who seek to govern the country?

Let me add a bit of a precision here when I talk about party leaders. In elections in recent years, earning a seat on the debate stage, for example, has been confined to people who are reasonably expected to be in a party holding official status and that has seats in the House of Commons. For the sake of this conversation, let's not just say anyone who is defined as being in a party, but as being in a party that might hold seats in the House of Commons—the leader of a party who might reasonably be expected to elect members to the House.

Guy Giorno: That's a legitimate policy suggestion. I don't actually have a view on that. I note that it raises a question of who will regulate it, whether it will be the regulator of our elections—the Chief Electoral Officer—or the regulator of this act, but it's certainly open for discussion to expand the scope of the people who are made to disclose, for sure.

Michael Barrett: The act defines divestment to include keeping assets in a blind trust. It's a loophole. I don't think for a second that when Canadians hear someone say, “Well, I divested my assets”, questions of conflicts of interest and questions of transparency have all been answered. Isn't it time that we require the Prime Minister and party leaders to fully sell controlled assets within 30 days of taking office? We're being specific here. We're not talking about their home, but controlled assets.

● (1745)

Guy Giorno: That, again, is a policy proposal. It's certainly worthy of discussion. I'll simply note the following things.

The member is right. Divestment is being defined to include what is not divestment, which is a challenge.

The second thing is that the commissioner has told us that the assets in these blind trusts are not mixing or churning the way one would expect them to, which creates the problem that people then know what's in their blind trust, when the whole purpose of the trust is that they're not supposed to.

I'll add that I agree with the commissioner that if there is to be mandatory, real divestment, not blind trusts, a solution would be to compensate public office holders so they're made whole. The taxes on capital gains go to the Crown anyway, so the Crown can easily forego those for the sake of making the Conflict of Interest Act work, if that's what Parliament decides is necessary.

Michael Barrett: There are currently costs that go with the management of blind trusts as well. Who pays to manage the trust?

Guy Giorno: It's the Crown.

Michael Barrett: You talked about the act being “toothless”. If we were to give it real teeth by allowing meaningful fines.... You did speak to what you thought were material or immaterial amounts, and you referenced jail time, saying that no one is getting arrested or paying fines. Would $10,000 fines for serious, ethical breaches—instead of just limiting penalties to paperwork errors—serve as sufficient deterrence for the people who would hold these offices?

Guy Giorno: I think making something an offence and allowing for prosecution and conviction by the courts, with real fines or imprisonment, is the way to do it, but I'll add, in response to the question, that this may mean some things go out of the law.

The problem with making this an act and not having penalties is that you're actually giving the illusion that it means something. Most of the time when Parliament enacts something, it adds penalties. We have laws that govern marine transportation, railways, airports, customs and all that. Generally, when Parliament legislates, those who break the rules are subject to either administrative monetary penalties or, most often, prosecution and real penalties. The problem with this act is that it's kind of illusory. It looks like it means something because it's in an act, but it's not there.

The answer to the question is that I think there should be real penalties, including the possibility of jail time, but that may mean some rules have to be stripped out of the act if they are the kinds of rules that ought not to be amenable to those harsher consequences.

Michael Barrett: Thank you.

The Chair: Thank you, Mr. Barrett and Mr. Giorno.

[*Translation*]

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

Abdelhaq Sari: Thank you, Mr. Chair.

Thank you to the witnesses for being here.

Mr. Giorno, earlier Mr. Thurlow stated that the concept of an apparent conflict of interest should not be enshrined in the act.

Do you agree with him?

[*English*]

Guy Giorno: I don't agree that the appearance of conflict should be ignored. I'll tie it back to what I said a second ago. Whether it is something that should subject somebody to imprisonment or a harsh penalty is a different story.

The reality is that one of the reasons we have this act and the codes before it is that there was an understanding not just that there must be integrity in our national public institutions, but that Canadians must be able to have confidence that there is integrity. Perception is not just window dressing. Perception is substantively important to the future of our institutions because public confidence is essential to their continuation.

[*Translation*]

Abdelhaq Sari: During the last legislative session, the idea was put forward that Parliament should consider combining certain functions, notably those of the Conflict of Interest and Ethics Commissioner and the Lobbying Commissioner.

What are your thoughts on this?

[*English*]

Guy Giorno: I don't agree with it either. I think they're regulating different people. One is regulating the private sector. One is regulating public office holders.

The commissioner has already pooled responsibility for different public office holders—members of Parliament, for example, and then POHs and reporting public officers under the code. I think there is the scope to expand a public sector reach, but I don't think it's good policy to have the same regulator regulating the private sector and the public sector at the same time.

● (1750)

[*Translation*]

Abdelhaq Sari: I'd like to ask you the same question I put to Mr. Thurlow earlier.

Could a more restrictive system that would, for example, require public officials to sell their assets in order to avoid any conflict of interest—or apparent conflict of interest—deter some people from running for office? Might this have the effect of limiting the flow of talented people into politics?

[*English*]

Guy Giorno: It might be. I believe we should not structure our rules to turn people away or to encourage them. We should simply structure our rules to ensure that there is accountability, integrity and transparency in the operation of the government.

It's a legitimate concern. I wouldn't bend the rules to let more people in or keep people out. I agree that it's a significant factor.

[*Translation*]

Abdelhaq Sari: My Conservative colleagues have mentioned that it seems inappropriate that a Prime Minister's chief of staff and the Clerk of the Privy Council are not included in the ethical review mechanism under which the Prime Minister operates.

While you were chief of staff to the Prime Minister, were there any omissions in your disclosures regarding ethical issues?

[*English*]

Guy Giorno: I want to make sure I understand the question correctly. Is the member referring to screens?

[*Translation*]

Abdelhaq Sari: When you were chief of staff, did you make a declaration regarding ethical issues?

[*English*]

The Chair: Are you referring to Mr. Giorno's personal investments, or as they related to his role as—

[*Translation*]

Abdelhaq Sari: I'm just asking if he declared a conflict of interest.

[*English*]

The Chair: Did you have to declare a conflict of interest in anything?

Guy Giorno: Thank you, Chair.

No, my holdings were modest at the time. They were in RRSPs only. I declared them to the commissioner according to the law. I did not have any other active interests. I resigned from my law partnership, as required by the act. I didn't personally have them.

If it's helpful, my successor, Nigel Wright, had an extensive screen with the commissioner.

[*Translation*]

Abdelhaq Sari: I didn't ask if you had any assets. Did you make a conflict of interest declaration?

[*English*]

Guy Giorno: Yes, I did, and repeatedly. It was an annual thing.

Every time my investments changed, I had to file again. Every month, I would send my RRSP statement to the commissioner's office.

[*Translation*]

Abdelhaq Sari: So you also had investments while you were chief of staff. You had assets.

[*English*]

Guy Giorno: Yes, but RRSPs are not controlled investments, so I was allowed to keep them.

[*Translation*]

Abdelhaq Sari: Thank you very much. That's what I wanted to know.

The Chair: Thank you, Mr. Sari.

Mr. Thériault, you have six minutes.

Luc Thériault: Thank you, Mr. Chair.

Welcome, Mr. Giorno and Mr. Levine. I will address both of you, and I will try to be brief.

I am reassured by your opinion that the concept of apparent conflict of interest must be considered in the wording of the act. After all, the issue here is between “implicit appearance of conflict of interest” and “explicit appearance of conflict of interest”. Should it be explicitly written into the act or not? When there is an appearance of conflict of interest, it can sometimes lead to an investigation due to the apparent conflict of interest. There must be an appearance of conflict of interest for the Ethics Commissioner to say that he had not seen that and that he will investigate to determine whether there is a conflict of interest.

Here's what we want to accomplish. If it were explicitly stated, it could encourage the implementation of mechanisms that would provide a better framework for the appearance of conflict of interest so that people don't find themselves with an objective conflict of interest.

What do you think of that reasoning?

● (1755)

[*English*]

Guy Giorno: I don't agree with those who are worried about what can happen if apparent or perceived conflict is regulated. That's a well-established legal principle—over hundreds of years—based on what a reasonable person fully apprised of all the facts would think. Unlike at the municipal level in Ontario, at the federal level our commissioners are all lawyers and they're trained in this. This is applying a fairly standard, centuries-tested legal test to determine what a reasonable person would perceive. I think it would be, in the long run, beneficial and more helpful to address these perceived problems, as well as substantial ones.

I agree that by dealing with the perception, you can reduce the frequency of the actual.

Gregory J. Levine: May I comment?

[*Translation*]

Luc Thériault: Yes, Mr. Levine. It's your turn.

[*English*]

Gregory J. Levine: I would support putting a section about apparent conflict of interest in the act.

If it's of interest, you might look at B.C.'s statute, the Members' Conflict of Interest Act, section 2, because it has an explicit rule about apparent conflict of interest. It's one of the few statutes across the country that does, and it's had commissioners' reports on it and how it works, particularly reports by former commissioner Oliver and former commissioner Fraser in B.C.

I would suggest making use of that knowledge.

[*Translation*]

Luc Thériault: Thank you.

What do you think about the conflict of interest screens that are managed by the Prime Minister's subordinates, in this case? It wouldn't be managed by the Prime Minister; it would be run by a minister and their subordinates. What do you think of that? How could we, in this unprecedented situation with the Prime Minister, make things more transparent and manage them in a less suspicious way?

[*English*]

The Chair: Mr. Levine, that's for you.

Gregory J. Levine: I am a bit mystified by screens, actually, as I'm sure many of us are. I understand the commissioner has used them and has found authority to use them, or at least his authority has been upheld by the Federal Court of Appeal. The Supreme Court refused to hear the appeal of that, but I'm troubled by them. First, the authority on which they're based is section 29 of the Conflict of Interest Act. That is just a general statement about finding measures to help people comply.

If you want screens, you should put them explicitly in the statute so that we know what they are and how they're going to operate. It's kind of an irony, because if you believe blind trusts work, why would you need the screen? It's saying they don't work, so you have to have some other mechanism to allow people to recuse themselves or to someone else...to essentially mask the fact that there is a conflict.

[*Translation*]

Luc Thériault: Mr. Giorno, what is your opinion?

[*English*]

Guy Giorno: My view is that screens, which used to be called walls, named after a very large wall in China—now the more favoured language is screens—have been observed for decades in governments and in the private sector. Private sector accounting firms, law firms and even lobbying firms use these walls or screens to ensure there is integrity so that people who are not supposed to be seeing files don't see them. It's widely observed in governments. It is absolutely a thing, and the reason I am saying I favour this is that, as I said previously, we should be, in my view—

● (1800)

[*Translation*]

Luc Thériault: I'm sorry to interrupt. Should employees be handling that screen?

In fact, the chief of staff does the screening.

So should there be a verification and a review of those operations by another authority?

[*English*]

The Chair: I'm going to give you a quick opportunity, Mr. Giorno.

Guy Giorno: The challenge is that in an organization, sometimes the person at the top of the organization.... I'll use a non-political example. In the Ontario government—I worked in the Ontario government—deputy ministers have to have a screen because they are from the private sector. An ADM has to administer the screen, or somebody reporting to the DM. It's hard to have a screen in an organization when the person at the top of the organization needs a screen, but that doesn't mean the screen is not valid and it doesn't mean the principle is inappropriate, as challenging as it is.

The Chair: Thanks.

Mr. Cooper, you're starting the second round for five minutes.

Michael Cooper: Thank you, Mr. Chair.

Mr. Levine, continuing the discussion around ethics screens, the cornerstone of the Conflict of Interest Act is transparency, yet when it comes to the ethics screen set up by the Ethics Commissioner in respect of Mr. Carney, there is complete opaqueness. There is no transparency. Would you agree with that?

Gregory J. Levine: I'm loath to comment on specific screens, but as a general comment, they have the potential to mask conflicts rather than make them open. I'll leave it at that.

Michael Cooper: That's fair enough.

Professor Stedman, when I asked him about the ethics screen and about how Canadians would know whether it was being triggered when it ought to be in the face of Mr. Carney's multitude of conflicts of interest, answered, “It's trust and faith”, and nothing more.

I would submit that's not good enough. Would you agree?

Gregory J. Levine: Yes, I think there needs to be.... If you're going to use screens, I'd prefer some sort of legislative scheme that says how they had to be set up. I do take the point that if you have employees monitoring it, that's an issue.

Michael Cooper: When you say employees monitoring—

Gregory J. Levine: I mean monitoring the screens.

Michael Cooper: Here we have a screen that is being administered by the Prime Minister's chief of staff and the Clerk of the Privy Council, both of whom answer to the Prime Minister and serve at the pleasure of the Prime Minister.

That is a conflict, is it not?

Gregory J. Levine: It is potentially, yes.

It goes back to something I was saying before about the blind trust. Either it's working or it's not. Then you seem to have a screen to try to make sure there are no conflicts there. The relationship needs to be clarified.

Michael Cooper: Would you support some level of oversight by the Ethics Commissioner or some sort of reporting mechanism? What would you recommend in that regard?

Gregory J. Levine: I think it's both of those things, actually. The Ethics Commissioner obviously knows there are screens, but there needs to be a third party watching this.

Michael Cooper: I would observe, with respect to Mr. Carney's so-called ethics screen, that there is no oversight by the Ethics Commissioner. There is no oversight by anyone other than the chief of staff and the Clerk of the Privy Council, both of whom are conflicted. There is no public reporting mechanism. There hasn't even been transparency around how the ethics screen is supposed to work and how decisions are made.

I would submit that in the face of the most conflicted Prime Minister in Canadian history, Canadians deserve a whole lot better than what is nothing more than a smokescreen.

Thank you, Mr. Chair.

● (1805)

The Chair: Thank you, Mr. Cooper.

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

Gurbux Saini: Mr. Giorno, thank you for appearing.

You were chief of staff to former prime minister Harper. Were there such things as blind trusts and screens at that time, and were you entrusted to take control of those, similar to what is happening today?

Guy Giorno: The first answer is yes, there were blind trusts and there were screens. They existed.

Mr. Harper didn't have any, so I didn't administer them. My successor had one and it was administered by the deputy chief of staff.

Gurbux Saini: Who did the deputy chief of staff report to?

Guy Giorno: Nigel Wright's was administered by the deputy chief of staff because Nigel was the chief of staff.

Gurbux Saini: The deputy chief of staff also reported to the former prime minister, did he not?

Guy Giorno: No, he reported to the chief of staff, whose screen he was administering.

What took place in the Harper government is exactly what we're talking about.

Gurbux Saini: What is the issue today, when it wasn't an issue 15 years ago?

Guy Giorno: I don't know.

I'll say this: There are three pieces to the transparency of a screen, and two are already legislated and should be happening.

First of all, the screen itself is supposed to be reported and published. I believe I see people in this room who had their screens published, so that exists.

Second, recusals, when they happen, are supposed to be published and reported, and they're probably available.

The missing piece is that when a staff member or the screen administrator screens something away so that it never gets to the public office holder, there is a gap in the act. The act doesn't say this needs to be reported somewhere. That could be fixed up.

The act has been around for 18 and a half years and the screen has been around for 18 and a half years.

Gurbux Saini: You have noted that voluntary political activity should be automatically treated as lobbying. How can parliamentarians best draw the line between legitimate voluntary political activity and compensated lobbying so that rules remain fair and constitutional?

Guy Giorno: I said that I believe voluntary activity should not be treated as lobbying. I oppose moves to expand lobbying regulation to cover things people do for free. There are jurisdictions that do regulate it, but I don't support that and I don't advocate moving to that federally.

Gurbux Saini: You have warned that merging the offices of the Ethics Commissioner and the Commissioner of Lobbying could create confusion and weaken expertise. Instead of merging them, what practical coordination tools, such as joint guidance or shared definitions, would best serve Canadians and strengthen each office's mandate?

Guy Giorno: It's exactly that. Shared definitions and joint guidance could do that. In fact, the two commissioners—the Commissioner of Lobbying and the Conflict of Interest and Ethics Commissioner—have collaborated. Now they have shared guidance on acceptable limits for meals and hospitality. They actually work together and try to dovetail their work.

Exactly what the member has asked about is a better solution than a merger.

Gurbux Saini: Mr. Levine, what is your viewpoint on that issue?

Gregory J. Levine: Sorry, I have nothing to add to that.

Gurbux Saini: Okay.

The current act includes a five-year pause on climate-lobbying bans for designated public office holders. Are the length and scope of that restriction still appropriate today? How could it be improved to protect integrity without discouraging qualified people from going into public service?

The Chair: Who are you directing your question to, sir?

Gurbux Saini: It's for Mr. Giorno.

Guy Giorno: I think five years is appropriate. I know that some people on the Hill question that, but the purpose of the ban is to ensure that people who, in the service of the Crown, for which they get paid a salary, amass a network of contacts—belonging to the people of Canada because they were amassed on the taxpayer's dime—don't turn around and use those contacts to fuel their lobbying practice. Five years was seen as an appropriate amount of time by Parliament at the time. I think that's the case.

I know that many people end up in lobbying. It's a valid profession, it's a lawful profession, it's a helpful profession and it's actually important in the development of public policy. However, I would hope that nobody goes into government hoping to come out lobbying. If that's the sort of person who is affected by five years, then I'm not sure that's a public policy problem.

● (1810)

The Chair: Thank you, Mr. Giorno and Mr. Saini.

[*Translation*]

Mr. Thériault, you have five minutes.

Luc Thériault: Mr. Levine, I would like to briefly revisit the screening issue.

The fact that the Conflict of Interest and Ethics Commissioner considers it appropriate to implement conflict of interest screens after a public official has made a declaration is an indication or concrete manifestation of a potential conflict of interest.

[*English*]

Gregory J. Levine: Yes.

[*Translation*]

Luc Thériault: In that case, could we find a way to make these filters more transparent so that we can understand what they match? How could another authority scrutinize compliance with those screens?

Currently, this is managed by the chief of staff, but I can't imagine the prime minister recusing himself, leaving the room, and coming back with a decision that everyone would have invalidated. I have serious doubts about the feasibility of such a scenario.

[*English*]

Gregory J. Levine: I'm not sure about the example. I mean, it's been said that the screens have worked for a long time. I don't necessarily refute that. I just think it needs to be clearer how they operate.

I think you're right about who is monitoring them. Why isn't the commissioner monitoring the whole process, and why isn't there more reporting about the decisions that are made?

[*Translation*]

Luc Thériault: In response to my questions, the commissioner stated that he would be in a conflict of interest if he had to review the screen himself. Personally, I think we have to find—

[*English*]

Gregory J. Levine: Is that because he would have to rule on it?

[*Translation*]

Luc Thériault: Yes, but we could always avoid having him be both judge and jury while ensuring that there is at least a review of the process and some accountability.

What do you think?

[*English*]

Gregory J. Levine: Well, that's true. You could argue there's an institutional bias, but if you're talking about screening walls and walls of separation, there's no reason he couldn't have a separate process within his office that would wall him off from the problem of making two decisions on the same matter.

[*Translation*]

Luc Thériault: Do you think the definition of "conflict of interest" should be extended to cases of a general scope, rather than strictly personal interests?

[*English*]

Gregory J. Levine: You used the term "private interests", and the reason I commented on that was that I had listened to some earlier testimony that said the only interests that mattered were financial, and I don't think that's right. I think it's good that the act talks about private interests, so I would leave that, actually.

Private interest is the thing to look at because it encompasses both financial and other types of relational interests that may come into play.

[*Translation*]

Luc Thériault: What the Conflict of Interest and Ethics Commissioner told us was that, as long as a conflict of interest situation is general in scope and it's not just the individual or a member of his family who benefits, there's no problem.

That's why Mr. Duff Conacher said that 99% of the act means that the Prime Minister won't have to recuse himself.

● (1815)

[*English*]

Gregory J. Levine: That is the common law. It embodies what the common law was, and it's saying that there's an interest in common with the electors, the citizens or the people at large. It's not that you don't have a conflict of interest; it's that the conflict of interest is so broad that it's about the interests of all the people. That's essentially what it's saying.

It's not an uncommon exemption. If you look through most of the legislation in the country, you will see the same thing.

The Chair: Thank you, Mr. Levine.

[*Translation*]

Thank you, Mr. Thériault.

[*English*]

Mr. Majumdar, you have five minutes, followed by a sharing of time between Madame Lapointe and Ms. Church. Then we'll have two and a half minutes if anybody wants to finish up. You can think about that.

Go ahead, Mr. Majumdar, for five minutes.

Shuvaloy Majumdar: Thank you.

Mr. Giorno, let me thank you for your service. I was a public office holder for a time when we overlapped.

I want to ask you first a bit about the difference between consequences and accountability. Your testimony described that there's not much accountability beyond public embarrassment or shame if people contravene the act, except for minor infractions. Is that right?

Guy Giorno: The short answer is yes. The longer answer is that the act was intentionally developed by people who thought that was okay.

Shuvaloy Majumdar: I recall, though, that there was another layer of accountability that came straight from the top during the Harper government, meaning your contribution to ensuring that public office holders, like members of Parliament and cabinet members, were held to a higher standard by your office, the Prime Minister's Office.

Does that seem like a fair representation, knowing what the act had and the standards you held for the government?

Guy Giorno: The answer is yes. I thank the member for saying that. I think I tried to do that, but I don't think that was a substitute for the deficiencies in the act.

Yes, we tried to be very vigilant and very firm about these things.

Shuvaloy Majumdar: It comes from the top.

I'm asking that question because it speaks to the nature of the kind of leadership we have and the potential conflict they're in.

Just to be clear—and I know this might seem a bit repetitive—the Conflict of Interest Act clearly applies to the Prime Minister. He's not above that in any way. Is that right?

Guy Giorno: That's correct.

Shuvaloy Majumdar: Of its 55 rules, 40 carry no actual penalty if broken.

Guy Giorno: That is correct.

Shuvaloy Majumdar: If the Prime Minister, Mark Carney, breached the most serious conflict rules, there would be no fine, no charge, no penalty.

Guy Giorno: That is correct.

There would be, in theory, a potential report by the commissioner that would be made public.

Shuvaloy Majumdar: There would be a report.

Sections 8 and 9 forbid using public office to further personal interests. If Mr. Carney's decisions benefited assets he knows about that are placed in a so-called blind trust, that would qualify under those sections. Is that right?

Guy Giorno: I wouldn't want to go that far, because that's what the sections say for sure, but I would hesitate to apply facts to law not knowing all the facts.

Those are certainly sections that would come into play. I would defer to the commissioner's interpretation of how they apply to those facts.

Shuvaloy Majumdar: The facts can be murky, because if his assets remain undisclosed, there's no way for Canadians to even know if a conflict exists.

Guy Giorno: Yes, but the commissioner knows his assets; they know all assets in blind trusts and not in blind trusts.

Shuvaloy Majumdar: If Mr. Carney was meeting with money managers in places like New York and elsewhere, knowing what assets he held in a blind trust before they went into a blind trust, there's really no appreciation of what degree he's making decisions and promoting specific deals that would benefit his own portfolio holdings. There's no transparency around that. Is that right?

Guy Giorno: There is no public transparency. The commissioner does have the tools to deal with that. Whether the commissioner has the resources to deal with that is another story. Certainly, the commissioner should know what's in blind trusts and the commissioner should know what personal assets are not in blind trusts.

Shuvaloy Majumdar: Section 21 requires recusal from any matter where there is a conflict. Is that correct?

Guy Giorno: Yes.

Shuvaloy Majumdar: If Mr. Carney makes policy decisions that affect his own undisclosed investments, there's technically no enforceable consequence. Is that fair?

● (1820)

Guy Giorno: That is correct. There's also a requirement to disclose the recusals under section 25, but that's correct: There are no penalties for not doing either.

Shuvaloy Majumdar: But there are incentives for the decisions he might make.

Mr. Carney can control the country's economic agenda while personally benefiting to the tune of tens of millions of dollars. Canadians may not even know about what kind of benefit he's deriving from the decisions he's making.

Guy Giorno: I'm not aware of some of those facts, but it is true that these things are known only to public office holders and the commissioner, except for what is disclosed in the public registry.

Shuvaloy Majumdar: Would you agree that this loophole allows the appearance, if not the reality—but perhaps the reality—of serious conflicts of interest for the Prime Minister, as it's established today?

Guy Giorno: I'm not sure which loophole the member is referring to. I think there are many.

Shuvaloy Majumdar: It would be great if you could enumerate them.

Guy Giorno: The absence of penalties is one of them, obviously. That's the largest one. The fact that divestment is defined to include non-divestment is another.

The reality is the commissioner knows more than we know. The way the act should work is the commissioner and the reporting public office holder should have equal knowledge of what is going on. The commissioner should be there and has the power to initiate, without even a complaint, wherever the problem lies.

The Chair: Thank you, Mr. Giorno and Mr. Majumdar.

[*Translation*]

Ms. Lapointe and Mrs. Church, you're sharing your time.

[*English*]

Ms. Church, go ahead. You have five minutes.

Leslie Church: Thank you, Mr. Chair.

I'd like to pick up on that.

Mr. Giorno, is a public office holder restricted in the instructions they may provide to a trustee in a blind trust?

Guy Giorno: Yes, but there are restrictions. General guidance can be given, but not specific restrictions related to the act of managing the trust. It's going to be blind.

Leslie Church: What would the purpose of that be?

Guy Giorno: What would the purpose of—

Leslie Church: What would be the purpose of limiting the public office holder's ability to issue instructions?

Guy Giorno: The purpose would be to ensure that the trust is blind and that there's a separation between what's happening inside the trust and what the reporting public office holder is aware of.

Leslie Church: Is the trustee under any obligation to accept guidance from a public office holder?

Guy Giorno: It's quite the contrary. The trustee can't accept guidance. As was said, with the trust instrument, the act provides what it's to say, and the commissioner will not approve an instrument setting up the trust if it doesn't provide for the proper separation between the reporting public office holder and the trustee.

Leslie Church: What, if any, constraints exist on the information provided to a public office holder about the composition or the performance of any assets in a blind trust?

Guy Giorno: The only things the reporting public office holder who has assets in a blind trust is entitled to receive are reports on the total valuation. There's also a section of the act about any other information that's needed for legal requirements. That would be anything the public office holder may have to file. The trustee is able to tell the RPOH that. That's it.

Leslie Church: Once a blind trust is established or is in the process of being established, if I understand you correctly, the person establishing that blind trust has almost no ability to provide instructions to the trustee on how that trust should be managed, and, in fact, the commissioner would step in if such instruction was given.

Guy Giorno: Yes—should step in.

Leslie Church: A trustee is actually bound not to accept guidance on the composition of the trust once it's established. They have an obligation to maintain the trust independently, blindly. There are strict constraints limiting any information on the performance and composition of the trust once it's operational.

Guy Giorno: Yes, all of those things are correct. The trustee can't be a brother-in-law or a sister-in-law. It has to be somebody who's in the business of doing this—a financial institution or an individual who manages assets for a living. The commissioner will also have a say on that.

Leslie Church: Thank you, Mr. Giorno.

[*Translation*]

Linda Lapointe: Good morning and welcome.

In his 2024-25 annual report, the Conflict of Interest and Ethics Commissioner proposes to amend the Conflict of Interest Act to explicitly expand its scope to apparent conflicts of interest by amending section 5 to read as follows:

> 5. Every public office holder shall arrange his or her private affairs in a manner that will prevent the public office holder from being in a conflict of interest or an apparent conflict of interest.

Do you agree with this proposal, and if so, why?

● (1825)

[*English*]

Guy Giorno: I would not have drafted it that way, but in general, I believe it's appropriate to add a perception or appearance standard, because I believe it's appropriate to have the commissioner deal with situations where a reasonable person, knowing all the facts, would perceive that such a situation existed. That's for public confidence reasons.

[*Translation*]

Linda Lapointe: Do you think expanding the application of the Conflict of Interest Act to the appearance of conflict of interest could make its application more difficult or easier?

[*English*]

Guy Giorno: It makes it harder to apply, yes.

[*Translation*]

Linda Lapointe: As I've asked other witnesses, what conflict of interest laws in other countries or other Canadian provinces and territories would you suggest as a model?

[*English*]

Guy Giorno: I don't know what Mr. Levine would say on this, but my answer is—and I've said this before—that I believe the federal Conflict of Interest Act is among the gold standards. By my count, there are five different ways of defining conflict of interest. This act uses an opportunity-based test, which I think is one of the best.

The last point I'll make is that, even though the federal public sector doesn't use the same definition as this act, the policy on people management and the directive on conflict of interest established by the Treasury Board uses, in my view, a definition that's inferior to this one. I think this act is the gold standard. When I go to other places, like municipalities with a municipal integrity commissioner, I point to this definition as one of the leading definitions.

The Chair: Thank you.

Gregory J. Levine: May I say something?

The Chair: If it's quick, Mr. Levine, please add something to the discussion. I have two more rounds to do.

Gregory J. Levine: I won't belabour it, but I would go to the B.C. act if you're dealing with apparent conflicts of interest. In some ways, the Members' Integrity Act of Ontario's formulation is better than that of the federal act—not on apparent conflict of interest but on conflict of interest generally.

The Chair: We've heard consistently about both Ontario and British Columbia, and we've heard about Quebec as well.

Mr. Cooper, go ahead for two and a half minutes.

Michael Cooper: Thank you, Mr. Chair.

At this time, I would like to move a motion that I put on notice on October 1.

The Chair: Go ahead.

Michael Cooper: The motion calls upon the Prime Minister to come clean and disclose exactly who he met with and who they represented, and the particulars of what was discussed when the Prime Minister met in New York City and London, England, with leading global investment leaders.

Since the motion was put on notice, the Prime Minister has disclosed the names of who he met with. Frankly, those names raise even more questions.

The Chair: Hang on. Before we move forward with any discussion on this, the motion, as you said, was on notice, so it's in order. I'll give you the floor, but perhaps at this point I should dismiss Mr. Giorno and Mr. Levine because we are near the end of the time we needed.

Gentlemen, I want to thank you for your testimony and expertise on this issue. It was very helpful today. On behalf of the committee and of Canadians, I want to thank you for that.

Mr. Cooper, go ahead on the motion.

Michael Cooper: Mr. Chair, the Prime Minister's so-called ethics screen covers Brookfield. In light of the Prime Minister's very real conflicts of interest due to his connections to Brookfield, including his future bonus pay worth tens of millions of dollars—

● (1830)

The Chair: Sorry to interrupt again, Mr. Cooper, but I don't believe you read the entire text of the motion. I need you to do that to put it on the record. I know it's on notice, but I need you to put it on the record before you continue.

Michael Cooper: The motion reads as follows:

> That, having regard for the fact that the Prime Minister met with several "business as well as investment leaders" in his recent trips to New York City, New York, and London, England, and the Prime Minister has refused to disclose which individuals and/or entities he met with during those trips, and is subject, pursuant to the Conflict of Interest Act, to an ethics screen intended to prevent him from making decisions related to 103 companies that would place him in a conflict of interest, the committee order, from the Prime Minister's Office, the production of records which comprehensively list each individual, and, if applicable, the name of which entity, corporation, organization, and/or agency they represented and their job title, that was present in a meeting with the Prime Minister, the time and date at which those meetings took place, and what was discussed in those meetings, from and including September 21, 2025, to and including September 28, 2025, and that these records be deposited with the Clerk of the Committee in both official languages no later than one week following the adoption of this motion.

That is the motion. It's about transparency. It's about seeing whether the Prime Minister's so-called ethics screen is, in fact, working.

The Prime Minister met with top global investment leaders in New York and London. They were secret meetings. When he was asked who he met with, he refused to say. This motion was put on notice; subsequent to that, the Prime Minister disclosed the names of the individuals he met with. That limited disclosure, frankly, raises more questions than it provides answers, because among the representatives of the companies he met with are those who have ties to none other than Brookfield.

The Prime Minister's ethics screen covers Brookfield because of the very real conflicts of interest he has arising from the time he was CEO of Brookfield Asset Management, but we have the Prime Minister meeting in secret, in New York and London, with global investment leaders with ties to Brookfield.

I would cite, for example—

[*Translation*]

Abdelhaq Sari: I have a point of order, Mr. Chair.

I just want to understand where my colleague is going with this motion. Is he amending his motion? Is he moving another motion? If he's giving notice of a motion, I think he's already debated that motion.

I just want to know exactly where he's going with this motion. What is the agenda? If he's giving notice of a motion, it cannot be accompanied by an explanation. If he's amending the motion, he is, once again, getting into—

I just want to know exactly what his position is.

[*English*]

Michael Barrett: That's not a point of order.

[*Translation*]

The Chair: No.

[*English*]

Just hang on a second.

Mr. Sari, the motion was put on notice on October 1. Mr. Cooper has now moved the motion that was on notice, and it was distributed to all members. Every member has a copy of the notice and the motion. He properly moved the motion just now, and he's speaking to the motion. He has the floor. Ms. Lapointe is afterwards. Everything is in order here.

[*Translation*]

Abdelhaq Sari: If I understand correctly, Mr. Cooper is speaking to the moving of his motion. We are now at the tabling of the motion. Is that correct? Okay.

[*English*]

The Chair: We're on the motion right now, yes. Thank you.

Mr. Saini, do you have a point of order?

Gurbux Saini: It is a matter of privilege. I have another commitment. We were supposed to finish at—

The Chair: It doesn't work that way. I'm sorry.

Gurbux Saini: —6:30, and I don't think we can carry on.

The Chair: Well, until this motion is disposed of or we run out of resources, it will be debated. I'm sorry that you have a meeting, but I would suggest you speak to your whip and maybe have somebody come in and fill in for you, sir.

Mr. Cooper, you still have the floor. Go ahead.

● (1835)

Michael Cooper: Thank you, Mr. Chair.

We have the Prime Minister meeting in secret with representatives of companies with ties to Brookfield—global investment leaders like Bill Gates of Microsoft. Microsoft has an offshore agreement with Brookfield with respect to green power. Google has a large agreement with Brookfield on green energy. Of course, we know the Prime Minister coled efforts to raise tens of billions of dollars of capital for two of the largest green energy funds in the world, the global transition funds, for which he is entitled to carry interest pay, a.k.a bonus pay, with respect to the performance of those funds.

It's not good enough to provide the names. We need to know exactly what was discussed. Canadians deserve to know whether the Prime Minister, in any way, tried to advance Brookfield's interests, which would advance his personal interests. This motion is about transparency. It's about providing those answers. If the Prime Minister has nothing to hide, didn't advance his personal interests and acted fully ethically, the Prime Minister's Office should be very happy to provide those details, and Liberal MPs across the way should be voting for this motion with enthusiasm.

I'll wait to see what they do.

The Chair: Thank you, Mr. Cooper.

[*Translation*]

Ms. Lapointe, go ahead on the motion.

Linda Lapointe: Thank you very much, Mr. Chair.

The information covered by the motion has already been made public. It's been in the media, so there's no secret there. For that matter, Mr. Cooper already stated that it was made public. Indeed, he sent us his notice of motion last Wednesday.

However, I don't understand why he still wants to move his motion today. I don't understand why he's moving his motion again, even though everything was made public. Everything he wants to know is already in the media.

[*English*]

The Chair: Ms. Church, go ahead on the motion.

Leslie Church: Well, if we are being honest with ourselves here, this motion is about grandstanding at this point. A motion to have more information about these super secret meetings that have already been disclosed, along with the people the Prime Minister met with—which is public knowledge and on the public record now—doesn't seem to be a particularly good use of the committee's time.

The one thing I would say to the members opposite proposing this is, actually, a word of thanks for explaining to all of us—and I'm sure to our audience at the committee—the extent of the Prime Minister's expertise in helping to build private sector investments and relations across the world with some of the strongest economic and corporate actors in global markets today. At a time when members opposite spend much of question period talking about the importance of investment in the Canadian economy, I think it's reassuring to see a government focused on trying to ensure that Canada remains top of mind for some of the world's largest investors and that they understand directly from a high office, like the Prime Minister's Office, the value of investing and contributing to growth in Canada.

Despite my views on this matter, I still think, for the sake of the committee's time, that these meetings have already been disclosed and that we have lists in front of us of the people the Prime Minister met with. It should be within the prerogative of this committee to focus on work that will advance our understanding of access to information and ethics, rather than the grandstanding we're seeing here.

[*Translation*]

The Chair: Okay.

Mr. Sari, you have the floor to speak to the motion.

Abdelhaq Sari: I think quite a few things have been covered by my honourable colleague Leslie Church.

I think the purpose of this committee is to provide a framework for ethics and access to information. On October 1, a request was made to require a certain amount of transparency from a specific person or public figure—namely, the Prime Minister. We got the information, which demonstrates our Prime Minister's transparency. Also—as MP Leslie Church put it so well—our Prime Minister is diversifying our economic capacity quite a lot. He is meeting with public figures to increase our investments in various sectors or in other countries.

Instead of recognizing the Prime Minister's exceptional work and efforts, he's now being asked to report on his meetings and show much greater transparency. Is it the role or the objective of this committee to ask people to tell us whether they had a coffee with such and such a person, to ask them if they took notes and to ask them to provide those notes? Is that really what we want to do?

I think that in doing so, we're wasting our time. What we want is not just to frame the current situation. We want to frame the situation on an ongoing basis in the short, medium and long term, so the work of members is as regulated as possible and so we don't get bogged down in discussions like the one we're having today.

I'm perfectly willing to stay here until midnight. I have no issue with that, as long as it's to discuss how we, as members of Parliament, can be better governed in terms of ethics and access to information.

When this kind of request is made at 6:30 p.m., what exactly does it show? Is that how we're going to function during this mandate? I don't think it will really be efficient and effective. It doesn't do anything for the taxpayers who are listening to us right now, and I think that's really unfortunate.

In closing, I would like to congratulate the Prime Minister once again on the work he has done. I congratulate him on the meetings he attended, because that answers all the questions asked during question period today. I congratulate him because he is working hard to ensure that we have a strong economy and a strong Canada.

There you have it, Mr. Chair. I'll stop there.

● (1840)

The Chair: Mr. Thériault, you have the floor.

Luc Thériault: Mr. Chair, I would like to commend Mr. Cooper for not moving his motion earlier. At times in the past, notices of motions given before our meetings were debated while witnesses were present, and we were unable to hear from those witnesses. Out of respect for today's witnesses, I think this was a good thing.

Now, there is a notice of motion that must have been distributed to the Liberals. That's fine, but it would have been nice if the Prime Minister's office, out of respect for this committee, had sent not only that information to journalists, but also everything that the motion or notice of motion requested from the committee. That would have been a sign of respect, because we are not playing politics. We are concerned with ethics here, and the reaction of my colleagues across the floor leads me to believe that their position is to defend their leader. I have nothing to do with that. That is not why I came here.

What I want is transparency, and especially more transparency in the unusual case we are currently dealing with. Everyone agreed that the current situation of the Prime Minister—who holds the highest office in Canadian government—was not anticipated when the Conflict of Interest Act was drafted. It was not even anticipated during the last revisions.

In this regard, if my colleagues are acting in good faith, they will not oppose greater transparency surrounding the work that is supposed to be done in the common interest by this Prime Minister.

That is why I will be voting in favour of the motion.

The Chair: Thank you, Mr. Thériault.

● (1845)

[*English*]

Mr. Saini, go ahead.

Gurbux Saini: I am a new member, but I thought we were here to debate the ethics legislation. What I see happening here is that my colleagues on the other side have nothing more to do than attack our current Prime Minister, who was elected by Canadians knowing full well what he was doing, as compared to the Leader of the Opposition, who couldn't even hold his own seat.

It is a sad situation that we are just attacking one person. This is not the ethics committee's role. I'm sad that this is where we're heading.

The Chair: Thank you, Mr. Saini.

I have Mr. Barrett on the motion.

Michael Barrett: I'm sorry to interrupt the member opposite's dinner plans, but I think this is an important matter. We have, as Mr. Cooper articulated, a situation that's extraordinary.

We can go back several months to lay out the situation that Canadians are facing. I would hearken members back to one of the debates during the election, when the Prime Minister, the former chair of Brookfield Asset Management, which is a major shareholder in Westinghouse Nuclear, said from the debate stage that Westinghouse—by name—was the preferred option for a government that he would lead.

Why on earth would that have been the Prime Minister's choice? This, of course, is the same Prime Minister who, before there was any type of ethics screen in place, before disclosures were made to the public or before there were finalized reports to the commissioner, was sitting at the cabinet table in March. It's also the same Prime Minister who said that he, himself, wrote the Liberals' election platform. That's before any of these screens were being administered or were in place and, again, before the disclosures were made public. People are rightly concerned that this Prime Minister has not been acting in their best interests.

As for the list of companies or individuals that was disclosed, we don't know whether it's the full list, and it wasn't proactively disclosed. If I'm not mistaken, it was only released after media questions and after Mr. Cooper moved a motion at committee. This is a matter on which we're dragging—kicking and screaming—a prime minister.

Look, this isn't my first day. I've been here for a few years. It's been demonstrated that just the existence of the rules is not enough for Liberal ministers and prime ministers to follow them. Justin Trudeau was a serial ethical lawbreaker, time and again, as were ministers in his cabinet. Some ministers who broke ethics laws are still in the Liberal cabinet. You'll have to excuse us if we can't just say, “My goodness, this is unbelievable. The Conservatives are doing politics here and they're not taking the right honourable Prime Minister at his word.” We haven't been given any reason to. Unfortunately, we have to force a disclosure from the Prime Minister. Give us the information. Disclose the information so that we can get on with it.

I think it's unreasonable, at best, to simply say that this is not something we would ask for, because the only reason the information we have exists in the public forum is that we moved a motion at this committee. We can backslap and congratulate ourselves on what a great job everybody is doing instead of just addressing the matter at hand, but that's not providing accountability and transparency to Canadians in the context of a study that's about strengthening Canadians' confidence in elected officials and our public institutions.

I think everyone should see this. We hear the refrain from the government, very often, that they're a new government. Well, the only reason there's been a branding change is the conduct of the old government, but it's the same: The same people are still there, and we saw what happened before.

As some of our witnesses testified to today, the absence of meaningful penalties means that people treat this just like a speeding ticket, as if it's no problem; they're in a hurry, so they're going to move fast and break stuff. That's not the integrity Canadians expect from elected officials. That's exactly what undermines confidence in our public institutions.

● (1850)

Time and time again, as we saw in the last Parliament and over the last decade, in this very committee room we've had members opposite say, “This is just politics, and there's nothing to see here.” What did we find out? We found out that we were right. When we said there were what we believed to be contracting irregularities and that there was insider dealing on things like the $60-million arrive scam, that is exactly what we found. We were told, “Do not investigate this. You're calling into question the good work of honest public servants.” Nope. We were calling into question grifting done by people who were adding no value to products that Canadian taxpayers were paying for but could ill afford and that provided no real safety or service to them. We were told, “Don't ask questions. This is just politics that you're doing.”

The House passed motions to recuperate and recover that money because those were ill-gotten gains. We have a real opportunity here to actually refurbish the confidence that Canadians have in their public institutions and public office holders. That is something we're able to do. We're not going to be scared off by the mere suggestion that we should be delighted the Prime Minister ran for office. We're not going to simply accept that because he says it's so, it is. Trust has to be earned. If this was, in fact, a new government, we would not see ministers who broke the very law we are reviewing at this committee in the federal cabinet today. There hasn't been that kind of repair done to the reputation of the government.

We're going to demand accountability, especially in the context of the law we're reviewing. We saw, from the time that Mr. Carney started as an adviser to Mr. Trudeau, decisions being taken by the Liberal government that aligned directly with the investments and financial interests of Mr. Carney and the company he represented.

I think about decisions on heat pumps and Brookfield's investment in Trane. I think about mortgage rule changes. Brookfield is the owner of the second-largest private mortgage insurer, if I'm not mistaken. We saw what happened when Mr. Carney was in the U.K., with exactly the same kind of heat pump scheme being peddled by the government there in response to a request that benefited him. The heat pump hustle is a perfect example of why we can't just take him at his word.

This is about the integrity of the system we have, and I don't need to relitigate the issues of Mr. Trudeau, but Mr. Carney seems to be accumulating his own issues at such a speed that if we don't slow down and take a look at some of them.... Take, for example, this list not being furnished to this committee. He didn't send it to us, but he knew the motion had been passed. He has a really big staff. It was not furnished to this committee as evidence for our consideration or as a response to Mr. Cooper being proactive and being open.

● (1855)

This is an opportunity that they passed up, that Mr. Carney passed up. Why is that, if this isn't about politics and he's just focused on doing a great job?

Michael Cooper: No one believes that.

Michael Barrett: Unfortunately, it's impossible to believe because of the decisions he's made to this point. We're left to ask for the receipts. Show us who was there. We need to know.

Some of the questions we've examined today are about how we can improve on the act so we can know who knows what. When is the screen being triggered? What decisions has he recused himself from? We don't know. Again, we're left to take him at his word.

The question about tax havens today wasn't just conjured up out of thin air. It's because we know that Mr. Carney put together funds in his role as chair at Brookfield Asset Management that were in tax havens.

I can't believe this is someone who is altruistic and solely focused on what's in the best interests of Canada, when he thought, “What would be best for us is what's best for Bermuda. Let's headquarter this business down there above a bike shop and make sure we're not paying our fair share of taxes in Canada.” That doesn't sound like someone who has a good level of focus, so we have to press and we have to ask the tough questions.

It should be pretty up and down—a vote on something like this. You would think it could pass. Again, I've been here for a minute, and I've seen filibusters move from the back burner to the front burner. I can't sit here while we just cycle through speaker after speaker who just wants to say that everything is great and we should just let things slide and take him at his word.

I don't take him at his word. I would like to see the receipts, as we said. If this was a good-faith exercise from the Prime Minister's Office, they would have furnished them to the committee. They did not. We're asking for the rest of the information. It's not too much to ask. It's actually the least they can provide to Canadians.

If the conversation has to continue, we can continue it, but it's about improving the safeguards, improving the shields, so that Canadians can have confidence in elected officials and can have confidence in Parliament.

The Chair: Ms. Church, go ahead on the motion.

Leslie Church: Mr. Chair, my colleague, the member opposite, talks a lot about trust in institutions, but I would argue to this committee that what we're actually witnessing is an undermining of the trust in our institutions. The law is an institution in this country. There is an ethics regime under the law. It exists. The Ethics Commissioner oversees this regime.

We've just spent two hours listening to witnesses who have talked to us about the strictures of the framework that exists and that has been in place for decades. When I hear the members opposite talk highly about maintaining trust in institutions and about their concern over how the ethics framework is applied, I think about this committee's role and a member's role usurping the function of the Ethics Commissioner.

We heard from Mr. Giorno, about half an hour ago, that the Ethics Commissioner very deliberately has insight into the disclosures of all members who are subject to the regime. Parliament, in creating the ethics framework, has ensured that disclosure exists and that disclosure goes to an Ethics Commissioner who is independent and, in fact, above the partisanship of Parliament—a partisanship that is appropriate in certain circumstances. When it comes to personal and private interests and when it comes to the financial situations of all members of Parliament, these are communicated to the Ethics Commissioner to ensure that the office has full knowledge of what the situation of members is. With that knowledge, the Ethics Commissioner sets up the rules, which public office holders are then bound to apply.

What I'm hearing from my colleague opposite is actually an undermining of that framework, because he suggests that it is this committee's role to ensure that members go above and beyond, that in some ways, they take under their own advisement what rules they should follow. It's not about the rules on the books, the rules delineated in the law and in the act, and the time frames that have been established by Parliament. Somehow members must go above and beyond. It is a strange time when Conservatives consider the best approach to be that parliamentarians go outside or above the law.

As a committee, we need to be focused on the review of the act before us. I think that's the main prerogative of this committee. We should direct our attention, if the laws are insufficient, to fixing and changing those laws, not to prosecuting individual cases against individual members of Parliament in this forum.

● (1900)

The Chair: Thank you.

Go ahead, Monsieur Sari.

[*Translation*]

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

I'd like to thank everyone who spoke.

I'm trying to understand what's happening right now. In my opinion, we're harming our institutions.

First, as for trust in members of the House of Commons, including those who sit on this committee, not to mention political parties—I want to stay away from partisanship—I would remind you that it is founded on the will of the people, which was expressed less than six months ago.

Second, some are ignoring what people came to tell us. I don't doubt that there are experienced people across the table, but those commissioners appeared before us to explain this committee's role and that of MPs, as well as our Prime Minister's current situation. They're saying that these people are wrong and that we have to go further because it's an odd situation. It's odd for me to witness such experienced members go off the rails like this and overstep the role we have as members of this committee.

We must first focus on producing a report related to the mandate we were given—and it is your role to ensure that, Mr. Chair. If we have piecemeal discussions, our report will not represent the experience and expertise we should have as members of this committee.

● (1905)

The Chair: Thank you, Mr. Sari.

[*English*]

There is nobody else on the list.

Do I have consensus on this, or do we need to go to a vote?

An hon. member: Let's vote.

The Chair: There is a tie, and the chair votes “yes”.

(Motion agreed to: yeas 5; nays 4 [*See Minutes of Proceedings*])

The Chair: There is one more matter of business, and that is the budget.

Did everybody receive the information on the budgets for the briefing sessions with the Conflict of Interest and Ethics Commissioner and the Privacy Commissioner, and then for the review of the Conflict of Interest Act?

Are there any objections to the budgets? Do I have unanimous consent on the budgets?

Some hon. members: Agreed.

The Chair: The budgets are fine. Thank you.

That's it for today, everyone. Enjoy Thanksgiving with your families. We'll see you in a couple of weeks.

The meeting is adjourned.