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• (1100)

[English]

The Chair (John Brassard (Barrie South—Innisfil, CPC)): Good morning, everyone.

I would now like to call the meeting to order.

Welcome to meeting number 22 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[Translation]

Pursuant to Standing Order 108(3)(h), the motion adopted by the committee on Wednesday, September 17, 2025, and the order of reference of October 28, 2025, the committee is resuming its study of the Conflict of Interest Act.

[English]

I'd like to welcome our witnesses for today.

We have, from the Office of the Conflict of Interest and Ethics Commissioner, Konrad von Finckenstein, commissioner; Lyne Robinson-Dalpé, director of advisory and compliance; and Michael Aquilino, legal counsel.

Welcome to committee.

Commissioner, you have up to five minutes to address the committee. Go ahead, sir.

[Translation]

Konrad von Finckenstein (Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Good morning.

I'm pleased to appear before the committee during its review of the Conflict of Interest Act. You have already introduced the colleagues I have joining me.

[English]

I commend the committee for conducting this review. In the past 18 years, there have been just a few minor amendments to address specific matters.

The act has been working quite well since it took effect in 2007 and has met the purposes set out in section 3. There is, however, room for improvement. We have identified six legislative changes that could make the administration more efficient.

[Translation]

They are based not just on my own experience as Commissioner over the past two years. They also reflect the experience of the

Commissioner's office in administering the act for almost two decades.

[English]

The first is a proposed amendment to the Parliament of Canada Act under which a commissioner is appointed. It would let the lobbying commissioner step in temporarily if there is no Conflict of Interest and Ethics Commissioner. While the commissioner's office can manage day-to-day administration of the Conflict of Interest Act, only the commissioner can exercise the discretion given in various provisions.

The other five amendments concern the Conflict of Interest Act.

[Translation]

One, my office recommends adding “apparent” conflicts to public office holders’ general duty to arrange their private affairs in a way that prevents conflicts of interest. This would make the act more consistent with the Conflict of Interest Code for Members of the House of Commons and the ethics rules for federal public servants.

Two, allow some assets to be designated as “exempt assets” if they pose no risk of conflict of interest. The Commissioner has no discretion to exempt any assets from the act’s blanket prohibition on reporting public office holders owning controlled assets.

• (1105)

[English]

Exchange-traded funds are a perfect example of that.

Third, allow public officers to participate in matters affecting the private interests of their friends and relatives if those interests are the same as those of other members of a broad class of which they are part. This would make the act more consistent with the code.

Fourth, let the commissioner approve outside activities that don't conflict with reporting public office holders' official duties. The act restricts activities that are not part of their official duties. There are some limited exceptions, but they don't cover many activities that would not cause a conflict. Teaching is, for instance, a perfect example.

Fifth, raise the maximum administrative monetary penalties. This is not to make them more punitive but to stress the importance of meeting the act's reporting requirement.

These recommendations were discussed in our last annual report under the act. As the committee will recall, I also mentioned them during my last appearance.

[*Translation*]

As part of this review of the Conflict of Interest Act, we have been following this committee's work and the testimony of other witnesses. Some interesting points have been raised about enhanced education, increased transparency and greater accountability, among other topics.

[*English*]

I'm pleased to answer any questions the committee may have about my recommendations or those of others who appeared before the committee.

The Chair: Thank you, Commissioner.

We have six-minute rounds starting with Mr. Barrett.

Go ahead, sir.

Michael Barrett (Leeds—Grenville—Thousand Islands—Rideau Lakes, CPC): The Liberals' Bill C-15 creates a new power for ministers to exempt companies from federal laws, and this can be done in secret. This opens the door to conflicts of interest that Parliament and your office might never see.

If a minister can grant exemptions, and they can be granted to companies that they are connected to and even conceal their orders from public release, won't this, at a minimum, make it harder to detect that a conflict of interest exists? Doesn't it also create the opportunity for real conflicts of interest to occur with no effective oversight whatsoever?

Konrad von Finckenstein: Just because the minister is authorized by statute to do something doesn't mean he can avoid the Conflict of Interest Act. If it is part of his function to exempt a company, he can do that. However, if, under the act, there is a conflict of interest, as you suggested in your example, then he has to recuse himself. The act is quite clear: He cannot participate in the decision. He can't even be in the room. He has to absent himself when that decision is made.

Michael Barrett: There appears to be a systemic gap being created, though, Commissioner. It's a path for ministers to bypass the usual parliamentary safeguards and ethical scrutiny by shifting decisions into private exemption orders.

Does that not present a cause for concern for parliamentarians?

Konrad von Finckenstein: I'm not sure I follow you, Mr. Barrett. Where is the shifting taking place here?

Michael Barrett: The effect of the orders is not public. They can exempt the normal release of information that we would see. It's for a period of years and there would be no detection that it has occurred. We assume that the minister leaves the room, but oftentimes we find out that a breach has occurred only because of the release of information, access to information requests, inquiries of ministry, order paper questions and the like.

Konrad von Finckenstein: When you say the exemption is secret, do you mean the act authorizes the minister to make a decision and not to publicize it?

Michael Barrett: The information does need to be publicized in the Gazette.

Konrad von Finckenstein: If the company is exempted, that means if they weren't exempted they couldn't do this. Presumably, the exemption has to be published somewhere.

• (1110)

Michael Barrett: One would hope that it would be through the transparency that's required, but that's not the effect of the budget implementation act, Bill C-15.

Your question that I've provoked is born out of the same expectation that Canadians have about transparency and openness that we expect from government. Instead, we're moving off the path of normal government and into exemptions to all laws except the Criminal Code. That's what the act says.

Konrad von Finckenstein: First of all, Bill C-15 is not law yet; it has to be passed by Parliament.

Second, the obligation to not act in contravention of the conflict of interest is there. You posit that he will make an exemption that benefits himself and people will not know about it.

I always have difficulty answering a hypothetical question. If you give me an actual case or an actual fact, I can answer it. I don't quite see how we can have a secret exemption. The effect of the exemption will be public and people will ask, like you, why this company is doing it, when normally an act would require A, B, and C. Where do they get the authority?

Therefore, somebody will say that there is an exemption and here it is.

Michael Barrett: To be clear, I don't see the mechanism in the legislation that would publish the exemptions that are able to be made to all laws except the Criminal Code, including the Lobbying Act, access to information laws and the Conflict of Interest Act.

Am I to understand, then, that the law as it's written, should it come into force and without giving any hypothetical examples, gives rise to no concern for you?

Konrad von Finckenstein: Parliament has the authority to enact what it wants. As you know, Parliament is supreme. If it enacts that, we will look at the act. I have not looked at it from this particular aspect that you mentioned, but I cannot understand the rationale of how you can have an exemption that is secret and will not be.... After all, it's an authorization and has to appear somewhere.

Michael Barrett: The expectation I think Canadians have, as Parliament is supreme and has passed laws including the Conflict of Interest Act, the Lobbying Act and access to information laws, is there's no reason for a government to put forward legislation that gives them the opportunity to exempt themselves from all laws except the Criminal Code.

I think that Canadians should be rightly concerned. I certainly am.

The Chair: Thank you, Mr. Barrett.

[*Translation*]

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

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

Welcome, everyone, to the Standing Committee on Access to Information, Privacy and Ethics.

Mr. von Finckenstein, in your opening remarks, you said that you had listened to all the testimony that has been given so far in this study. I assume you listened carefully to that of Michael Sabia and Marc-André Blanchard. During their testimony, they talked a lot about the blind trust and the conflict of interest screen.

I'd like to hear your opinion on that screen and whether you're satisfied with the way it's being managed by the Prime Minister's chief of staff and the top public servant.

Konrad von Finckenstein: The conflict of interest screen is a method that has been approved by the Federal Court of Appeal and that helps in administering the Conflict of Interest Act. It's a preventive measure. We don't want a conflict of interest to arise that would require the Prime Minister, or anyone else, to recuse themselves.

For that reason, the men responsible for his day-to-day work and the documents that land on his desk will review them to see if they contain anything that may cause the Prime Minister to have to recuse himself. If they find something that represents a potential conflict of interest, they'll prevent it from getting to the Prime Minister, and they'll go to another minister. The Prime Minister is only informed about it when the decision takes effect, so he has no chance of changing that decision.

In short, it's a preventive measure that was approved by the Federal Court of Appeal. Mr. Sabia and Mr. Blanchard are the people who are responsible for all the documents that come before the Prime Minister, whether on the bureaucratic side or the political side. The two of them work with a large team to review every single thing that has to come before the Prime Minister to see if there's a potential conflict of interest. If so, the document isn't presented to the Prime Minister.

Representatives from the Prime Minister's Office have explained to the committee what they do to manage the screen. Based on their testimony, I believe that it's a measure that works well.

• (1115)

Linda Lapointe: Thank you for that clarification.

Mr. Sabia and Mr. Blanchard told us that they used an assessment tool to help them decide whether or not to submit an issue to the Prime Minister. They also explained to us that they were constantly working with you.

I'd like to know how you help the chief of staff and the top public servant in those kinds of situations.

Konrad von Finckenstein: As you know, it's my role to give advice to people who are subject to the Conflict of Interest Act. Obviously, the Prime Minister is subject to the act.

If there are problems, Mr. Blanchard or Mr. Sabia call us and we give them advice. What I or my colleagues tell them is confidential. However, we have had conversations initiated by Mr. Blanchard's office and by Mr. Sabia's office, and I imagine we'll have more in the future.

Linda Lapointe: We know that Mr. Sabia and Mr. Blanchard are managing the screen. However, we learned through their testimony that they aren't involved in the blind trust at all. That's managed by external people.

I'd like to hear your comments on that.

Konrad von Finckenstein: The Prime Minister put all of his assets in a blind trust. He doesn't touch it, he doesn't talk to the trustee, and he doesn't make any decisions about that trust. Naturally, he knows what assets he owned before handing them over to the trustee.

That said, decisions relating to companies in which he held assets could be profitable for him if those decisions led to an increase in the assets' value. That's why a conflict of interest screen was put in place. The idea is to prevent the Prime Minister from making any decisions that relate to the assets in the blind trust and that could affect their value.

He obviously only knows the assets that were placed in the blind trust in the first place. Maybe those assets have changed or have since been sold.

The Chair: Thank you, Commissioner.

Thank you, Ms. Lapointe.

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

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

Welcome, Commissioner, to you and your colleagues.

With all due respect, please feel free to answer in English. There are important nuances, and I don't think your command of French makes it possible to convey those nuances right now. The interpreters also do a very good job.

When Mr. Sabia came to meet with us, he submitted to the committee the assessment tool for applying the Prime Minister's conflict of interest screen. I asked him if he was required to report to the Office of the Conflict of Interest and Ethics Commissioner. He answered that this wasn't necessary because there was constant co-operation, there was total transparency, and he shared all the activities related to the Prime Minister's conflict of interest screen with the Commissioner's office.

I then asked Mr. Blanchard about this because I was wondering about Mr. Sabia's answer. Mr. Blanchard said that they were frequently in contact with you and that you contributed to their analyses.

I'm a little confused by that. In your previous testimony, I asked you about accountability because I thought the conflict of interest screen should be managed independently. I suggested that the Commissioner's office should do that. You answered that, if that were the case, you would also be in a conflict of interest, and that you couldn't be both judge and stakeholder. You explained that if your office were involved in administering the screen, you would be the one who would have to make a decision if there was a conflict of interest.

First, is there accountability to your office or not?

Is your contribution to applying the screen that frequent?

• (1120)

Konrad von Finckenstein: First, you said that we were involved in the analysis. That isn't exactly the case. We give advice, and they then do the analysis and make decisions. Our role is to help them do their job, not to make decisions for them.

Luc Thériault: How often do they communicate with you? They said that they were in constant contact with you and that, as a result, they didn't have to report to your office.

Konrad von Finckenstein: They decide how many times they have to consult with us.

Ms. Robinson-Dalpé leads the section that's responsible for those consultations. She could tell you a bit about how it works.

Lyne Robinson-Dalpé (Director, Advisory and Compliance, Office of the Conflict of Interest and Ethics Commissioner): As the Commissioner said, the Office of the Commissioner has been asked to give advice on specific situations on a number of occasions.

Like any other public office holder who has a conflict of interest screen, we consult the Commissioner's office for the administration of the screen. As for the exact frequency of those consultations, I can't specify, but it happens regularly.

Luc Thériault: It's frequent enough that they don't have to report back. That's what we're to understand.

As part of administering the assessment tool for applying the Prime Minister's conflict of interest screen, you have such frequent exchanges that accountability is unnecessary. You're aware of everything Mr. Sabia and Mr. Blanchard are doing as they make decisions about applying the screen.

Is that what we're to understand?

Lyne Robinson-Dalpé: I can say that we're aware of the situation in the vast majority of cases.

Luc Thériault: According to them, you approve of what they're doing.

Lyne Robinson-Dalpé: I can't say that we approve of what they're doing. As the Commissioner said, we give them advice on the situation. We provide them with details or additional pieces of information. However, they're the ones who ultimately make the decisions on applying the screen.

It's ultimately up to the public office holder to recuse themselves if something is put forward by the screen administrator.

Luc Thériault: Yes, we know that.

However, for them, administering the screen is so complex and complicated that they need the Commissioner's office to guide them.

Wouldn't it be simpler for the screen to be applied by a completely independent person?

• (1125)

The Chair: You have 35 seconds.

Lyne Robinson-Dalpé: Unfortunately, at the Commissioner's office, we don't have people in every organization who can help us manage conflict of interest screens.

Luc Thériault: We aren't talking about just any public office holder. We're talking about the Prime Minister of Canada, who makes laws. As the Commissioner said earlier, there also wouldn't have been a screen if there hadn't been an apparent conflict of interest in relation to his blind trust.

The Chair: Your time is up, Mr. Thériault.

[English]

Mr. Cooper, you have five minutes in the second round.

Go ahead, sir.

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

Welcome, Commissioner, and welcome to your team.

Mark Carney's ethics screen that you set up lists 103 companies, almost all of which are Brookfield companies. The chief operating officer of Brookfield, Justin Beber, told this committee that Brookfield owns 2,000 companies and businesses.

Do you have a full and comprehensive list of all of Brookfield's companies and businesses?

Konrad von Finckenstein: We have a list of what the Prime Minister and his lawyers furnished us, and it is attached in annex A to the screen.

Michael Cooper: You do not have a full list of the 2,000 Brookfield companies.

Konrad von Finckenstein: No.

Michael Cooper: Okay.

Mark Carney holds stock options and deferred share units in Brookfield potentially worth tens of millions of dollars. The chief operating officer at Brookfield said that in respect of Carney's stock options and deferred share units: "As the value of Brookfield increases, the value of those instruments increase."

Accordingly, it follows that as Brookfield-owned companies do well, Brookfield does well and, by extension, Mark Carney does well.

If you don't have a full list of the companies, I would put it to you that you are missing potentially a whole long list of conflicts of interest or potential conflicts of interest that Mr. Carney has with Brookfield companies.

Konrad von Finckenstein: Annex A to the screen lists the first five companies, which are really the ones that own all sorts of others, the rest of those companies, directly or indirectly, which are dealing with those.

It is clear that Mr. Carney's future compensation is tied to the success of Brookfield, but in order to avoid that he makes decisions which can be seen to benefit Brookfield and therefore indirectly himself, he firstly has put everything in a blind trust. Secondly, he has set up a screen to make any decisions that he makes regarding the five key holding companies or the ones that he knows about—

Michael Cooper: Commissioner, I think you said it exactly right: That is, Mr. Carney's portfolio is tied to Brookfield. When Brookfield does well, so does Mark Carney, yet 95% of Brookfield companies are not subject to the screen. How do you explain that?

Konrad von Finckenstein: I don't know where you get this 95%. What you have before you is his statement saying that these are the companies that he knows about, and then the entities that appear in the lobbyist registry and the entities that were defined by our office. That's essentially the universe we know about.

As he himself says in annex A, in item C, "I had no role in managing them, and no direct financial interest in them." Now you're saying he has a financial interest. I don't know how you.... Are you contradicting the statement made in annex A?

Michael Cooper: I'm simply referencing what Mr. Beber said.

Mr. Carney has stock options and deferred share units. I know that we saw a letter from Brookfield today that merely dismisses these companies as *de minimis*. Are you just taking Mark Carney and Brookfield at their word? Have you sought further information?

Given Mr. Beber's testimony that there are 1,900 other companies, are you going to go back to Mr. Carney and go back to Brookfield and say, "Provide us with a list of those companies to determine whether or not additional companies should be added to the screen"?

• (1130)

Konrad von Finckenstein: Lyne, do you want to answer that?

Lyne Robinson-Dalpe: Essentially, the screen is a preventive measure. It's there to anticipate conflicts of interest; it's not there for the Prime Minister to avoid conflicts of interest.

For all intents and purposes, if a matter is brought to the Prime Minister's attention and the Prime Minister is aware that it would further the private interests of Brookfield, then he would have to refuse, even if the screen did not capture that item because it's not on the annex that—

Michael Cooper: I understand how the screen works. I'm just asking if you will undertake to get a list of those companies or if you are intending to, in light of Mr. Beber's testimony. That was my question.

Konrad von Finckenstein: Of course, we looked at these companies to make sure we know what their interest is. Most of them, as Mr. Beber said, are *de minimis*, but any kind of deferred compensations that you—

Michael Cooper: You are taking Brookfield at their word.

The Chair: Thank you.

I'm going to have to cut it off there.

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

Gurbux Saini (Fleetwood—Port Kells, Lib.): Good morning, and thank you for coming.

Mr. Cooper has made statements that are contrary to what Mr. Beber said. Mr. Beber said that yes, they may own 2,000 companies, but only 105 of them are directly related to the conflict that could occur, so for Mr. Cooper to continue repeating something that he was told is not correct.

It's not only that: The other 1,900 companies are not even in Canada. They are all over the world. They are limited partnerships that own their own assets and do their own thing.

I would like to hear your comments on that.

Konrad von Finckenstein: Well, what you said is absolutely correct. What is listed here, as he said, are the companies in which he had a management position or an oversight role. They are listed there.

The first five are the key. Everything after those five is really part of the Brookfield global transition fund, and then in B and C are those that we came up with by looking at the lobbyist registration and by looking at the web and seeing what Brookfield owns, but all of these are minimally invested. Some of them may operate in Canada and some of them may not.

The first five companies in annex A are the key. What follows underneath is really an elaboration of the Brookfield global transition fund. Whether they operate in Canada or somewhere else, they are limited partners, as you suggested. There may be small interests or there may be some tie-up, etc., but this is not something that's going to have any impact in terms of conflict of interest. He has, out of an abundance of caution, disclosed as much as he can and as much as he knows, and he put it in the annex.

Gurbux Saini: Thank you.

The duty of this committee was to bring some changes if we felt they were needed, but in my opinion, looking at the Prime Minister's conflict of interest has become the main thing, rather than looking at the broad aspect of what we can do for Canadians. That is very shocking.

We have heard testimony from quite a few witnesses that Canadian ethics laws are some of the best, that they're gold-plated. Even the appeals court has said that this is working very well.

I'd like to hear your viewpoint on that.

Konrad von Finckenstein: You're absolutely right. We are considered the gold standard in terms of conflict of interest for the way we handle it, the way we insist on disclosures, the way we verify and the way we make public any breaches of the COIA.

The reason I put five changes in my annual report is just to make the act a little bit smoother and easier to administer. For instance, exchange-traded funds are controlled assets, and somebody who's appointed or elected, like you, is not allowed to own them. Why not? How can you influence anything by owning exchange-traded funds? They are, in effect, the same as mutual funds in terms of their effect, but at the time the act was drafted, there were no exchange-traded funds, so that's why they're not listed there.

Another one is, for instance, that you may not be employed or do anything outside of your job. There are a lot of people who want to teach, even pro bono, at the university or share their opinions, etc., but they can't do that, because in order to be a teacher at the university, the union insists you be employed by the university and then you're employed and you can't do it.

Why not give me the discretion to ask, "Is it relevant or not?" If it's not, but it benefits the public, like my teaching example, by all means, go ahead. This is the sort of thing we should be doing here: trying to make the act a little bit easier to use, both for the users and for me as an administrator, because you want to be able to attract good people into the public service and to minimize the conflict of interest if it's irrelevant.

• (1135)

Gurbux Saini: Thank you.

You stated in your opening remarks that you are recommending six changes. Are you also suggesting any legislative changes? If so, could you give us an opinion or give us your remarks?

Konrad von Finckenstein: Those changes I suggested require legislation, and I actually put the proposed changes to the act in my annual report.

The Chair: Thank you, sir.

[*Translation*]

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

Luc Thériault: Thank you, Mr. Chair.

Commissioner, during your testimony before the committee in September, you said:

We want to avoid a situation where he would make a decision knowing that it would increase the value of one of the companies he divested. For that reason, we set up this screen. The chief of staff and the Clerk of the Privy Council have to review every decision that the Prime Minister has to make and determine whether it will have an impact on a particular company.

Moments later, you said:

...if the decision is a general one that doesn't affect a specific company, he isn't required to recuse himself.

When I analyzed the assessment tool for applying the Prime Minister's conflict of interest screen, I realized that there were shortcomings in how Mr. Sabia and Mr. Blanchard applied the screen. For example, in Bill C-15, which seeks to implement the budget tabled in the House this fall, a clean technology tax credit was added that didn't exist for small nuclear power plants. Another

clean energy tax credit was also created, for which nuclear energy property was eligible.

Now, page 3 of the assessment tool says that care must be taken with Westinghouse, which belongs to Brookfield. However, Mr. Sabia and Mr. Blanchard told me that they hadn't applied the screen, because it was a general decision.

On page 5, the assessment tool defines "general application" as follows:

If the decision or discussion applies to an undetermined group of people or companies, then the matter is of general application.

There are only five actors that can commercialize nuclear power plants right now. That isn't an undetermined number. I have even named them before.

On page 6, when it comes to the notion of a broad class of people or entities, the assessment tool states the following:

If the decision or discussion applies to a small group, then the matter does not apply to a broad class.

However, they didn't apply the screen.

Should Mr. Carney recuse himself from the vote on Bill C-15?

Konrad von Finckenstein: Mr. Aquilino, do you want to answer the question?

Michael Aquilino (Legal Counsel, Office of the Conflict of Interest and Ethics Commissioner): My understanding of the tax credit is that it applies to taxpayers, not directly to nuclear plants.

I listened to Mr. Sabia's testimony. If he's correct, it would be a general application decision.

Luc Thériault: Mr. Sabia is wrong. We have created an entirely new tax credit for small nuclear plants. We also created a clean energy tax credit, which didn't previously apply to nuclear power plants.

We aren't talking about a small, undetermined group here, but a very specific group, which includes only five players, including Brookfield, which owns Westinghouse.

• (1140)

Konrad von Finckenstein: There are only five companies.

Luc Thériault: Yes, there are only five companies that can market nuclear power plants at the moment.

Konrad von Finckenstein: Are those five companies located in Canada or elsewhere in the world?

Luc Thériault: There are some elsewhere in the world, yes. There are American companies, but there are also companies all over the place. I can name them for you if you like.

I think the screen should have been applied to Mr. Carney, because he's directly linked to his interests in a blind trust. You said it yourself. The screen is applied in such a way that he can't be involved in those decisions. We're talking about the budget implementation bill here.

Would it not then be prudent for Mr. Carney to recuse himself from the vote on Bill C-15?

Konrad von Finckenstein: You're referring to a lot of facts about the nuclear industry and small reactors, among other things.

I'm not in a position to answer you right now, but, if you want, you can send me your question in writing, and I'll give you an answer.

The Chair: Please, out of respect for the interpreters, don't speak over each other.

Luc Thériault: Yes, but wait one second.

The Chair: Mr. Thériault, you have 10 seconds left.

Luc Thériault: If Mr. Sabia and Mr. Blanchard are always in contact with you, how is it that they didn't check with you whether Mr. Carney should recuse himself in this specific case?

They would then have been somewhat lax in their ability to be accountable or to seek your advice.

The Chair: Okay.

Thank you.

Konrad von Finckenstein: May I answer?

The Chair: It has to be a short answer, because we have a lot of questions and not a lot of time.

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

Gabriel Hardy (Montmorency—Charlevoix, CPC): Mr. von Finckenstein, thank you for being here today.

Two weeks ago, major announcements were made in Alberta, including on five major topics that I'm going to talk to you about today.

Were you consulted about the carbon capture plans?

Was the screen activated for that?

Konrad von Finckenstein: All the consultations that are done are confidential. I can't tell you whether I was consulted or what the content of the consultation was.

Gabriel Hardy: Regardless of what happens, then, we're never in a position to know whether you were consulted on the issue. That means we have to rely on Mr. Sabia and Mr. Blanchard to know whether the screen was activated.

Is that correct?

Konrad von Finckenstein: Mr. Sabia and Mr. Blanchard are responsible people. They can come and consult us, and it will be up to them to decide whether or not to disclose the advice we give them, if any. It isn't up to me to do that.

Gabriel Hardy: We analyzed that at the committee. The employees who report directly to the Prime Minister are the only ones

who can tell the public whether or not the screen has been activated and whether Mr. Sabia and Mr. Blanchard consulted you.

Given that you're someone outside the cabinet, you don't have the right to disclose the content of the consultations.

Is that correct?

Konrad von Finckenstein: That's correct.

Gabriel Hardy: How can the public trust a screen managed by employees who report directly to the Prime Minister?

Currently, when it comes to carbon capture in Alberta, Brookfield is involved. When it comes to transmission lines, Brookfield is involved. When it comes to artificial intelligence with data centres, Brookfield is involved. The same is true when it comes to nuclear energy and pipelines.

Canadians are questioning announcements made in the public interest.

In all those announcements, a company directly owned by the Prime Minister is involved, and it's impossible to know whether the screen has been activated.

Is that correct?

Konrad von Finckenstein: You're focusing on the screen. However, the screen is a prevention mechanism. It's up to the Prime Minister to recuse himself if there's a conflict of interest.

To help him, we applied this screen, which is managed by Mr. Blanchard and Mr. Sabia. They have to let him know if he's in a conflict of interest. To do that, they have the right to consult me, and I give them advice.

Gabriel Hardy: You understand that, right now, the committee has to ensure that mechanisms are there to protect Canadians. We're told that Mr. Carney is capable of managing himself and that his ethics are beyond reproach. Other witnesses have told us the same thing here.

However, Canadians want checks and balances. They want to ensure transparency. The current perception is a weight, to a certain extent. There's a perceived conflict of interest, and the only people who can detect potential conflicts of interest are the people directly connected to the person causing the conflict. Basically, what's the counterbalance?

I'm just trying to understand how we, here, can judge the current structure if we can't know when the Prime Minister has been asked to recuse himself.

• (1145)

Konrad von Finckenstein: Mr. Sabia and Mr. Blanchard aren't involved in the decision. Their job is to prevent and avoid a conflict of interest. Their own responsibilities, their jobs, are to protect the Prime Minister and prevent any conflicts of interest.

Gabriel Hardy: In your sentence, you understand—

Konrad von Finckenstein: You don't trust them. I don't understand why.

Gabriel Hardy: It's because they're employees who report directly to the person who's potentially in a conflict of interest. You're saying their job is to protect the Prime Minister. In your sentence, you have just given an exact answer to the question.

Konrad von Finckenstein: You're saying that their job is to help the Prime Minister avoid being in a conflict of interest.

Gabriel Hardy: It's to "protect the Prime Minister". Those are your words.

I'll move on to another question.

It's often said that decisions are made in the general interest of the public. However, the line is thin right now. The head of Brookfield came to tell us that when Brookfield gets richer, the Prime Minister gets richer.

At what point has a line been crossed?

How do we know that the decision was made in the public interest? How do we know if the decision was heavily influenced by a potential private interest of general application?

At what point has the line been crossed and led people to say, "Oops, we crossed the line; this isn't working"?

The Chair: You have 30 seconds.

Konrad von Finckenstein: The philosophy behind the system is that if the Prime Minister makes a decision for Canada's overall well-being, that's fine. If he makes a decision that benefits only his own interests, that's not good.

Obviously, we have to determine whether the person made a decision in the public interest or in their own interest. That could mean taking—

Gabriel Hardy: There is currently no way of knowing, then. We don't really know.

Is that correct?

The Chair: Thank you, Mr. Hardy.

Konrad von Finckenstein: I could ask Mr. Aquilino—

The Chair: We'll come back to that, Mr. von Finckenstein.

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

Abdelhaq Sari (Bourassa, Lib.): Good morning to all the witnesses.

Thank you for being here.

Before I begin, I'd like to tell you that you speak excellent French, Mr. von Finckenstein. I completely understand what you're saying.

You have really come here this morning to explain a number of elements that I consider important. You're speaking to us and answering us in French, and I'm very grateful to you for that.

Since I only have five minutes, we're going to have a kind of quick discussion to explain the subject of the study before us in layman's terms.

My main goal is to respond to the Canadians listening to us this morning. We're able to understand the jargon that we sometimes

use here in committee. However, the goal is to have the trust of Canadians.

We sometimes hear comments that could undermine the public's trust.

How can we reassure the people listening to us and make them understand that we're working very proactively to prevent conflicts of interest?

Konrad von Finckenstein: I'll use the Prime Minister as an example.

First, he placed all his assets in a blind trust. He can't give any instructions.

Second, we also want to prevent him from making decisions that will benefit the assets he has placed in the hands of trustees. That's why we set up this screen.

We tell Mr. Carney that he can't make decisions that would affect the companies in which he has interests. We have to warn him when he's in a conflict of interest situation in which he has to recuse himself. He then has to make a public statement to say that he's in a conflict of interest, that he's recusing himself and that he isn't taking part in a decision.

We save him from having to deal with those issues. Mr. Sabia and Mr. Blanchard will then notify the Prime Minister if he's in a situation where a decision concerns his assets. That's all.

• (1150)

Abdelhaq Sari: We've heard from a number of experts in the field. They were pretty unanimous. They said that our system is among the best in the world. I can agree with members of the other parties that it isn't perfect, because the context is changing. What we have now could be improved. I agree with that.

However, can we say that the system doesn't allow Brookfield to have a loophole right now?

Konrad von Finckenstein: Could you rephrase your question?

Abdelhaq Sari: Okay.

For the moment, is there a loophole that allows any public office holder to avoid their ethical obligations?

Does the system have any gaps right now?

Konrad von Finckenstein: As I said before to your colleague, I think we have one of the best systems out there. We just want to improve a few aspects of it. Compared with other countries, such as European countries or the United States, our system is fabulous.

The conflicts of interest that I have investigated are very minor. At no point has there been a situation where someone has become rich because of a decision they made.

Abdelhaq Sari: If we were to amend the Conflict of Interest Code for Members of the House of Commons to include the appearance of conflicts of interest, do you think that some competent people may decide not to get involved in politics?

Those people might think that if it's so complicated to get into politics, it isn't really worth doing so.

The Chair: Mr. von Finckenstein, please answer in 20 seconds.

Konrad von Finckenstein: The appearance of conflicts of interest is really at the heart of all this. On the one hand, the public wants to know whether or not there is one. On the other hand, it's very hard for an elected or appointed person to act and do their job without creating the appearance of conflicts of interest. The question is how to strike a real balance between those two aspects.

We want to add a general obligation to the Conflict of Interest Act, as is the case with the code. It would be a principle whereby people have to avoid the appearance of conflicts of interest.

The Chair: Thank you, Commissioner.

[English]

We're going to go to Mr. Barrett, followed by Mr. Maloney, for five minutes.

[Translation]

It will then be Mr. Thériault for two and a half minutes.

[English]

Then I'm going to suspend for a bit, just to take a bit of a break, and then we're going to come back for the second hour.

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

Michael Barrett: Commissioner, I want to circle back to our conversation about the budget implementation act. I'm going to read an excerpt to you from it:

a minister may, by order, for a specified validity period of not more than three years and on any terms that the minister considers appropriate, exempt an entity from the application of

a) a provision of an Act of Parliament, except the Criminal Code, if the minister is responsible for the Act;

and specifically that:

The minister may exclude information that, in the minister's opinion, would be inappropriate to make publicly accessible for reasons that include safety or security considerations or the protection of confidential or personal information.

It seems to me that there's an absence of safeguards here, because we're looking at the opinion of a minister to make a decision about whether or not to allow for the publication of a decision to create an exemption to an act of Parliament. For the same reason that it ought not to apply to the Criminal Code, I posit that it ought not to apply to the Conflict of Interest Act as well as to the Lobbying Act.

I'm interested in your opinion for the very reason that this matter is under consideration before the House. Frankly, this stands to limit your ability as an independent officer of Parliament to discharge the watchdog role Canadians expect you to be able to discharge.

• (1155)

Konrad von Finckenstein: This is your interpretation of Bill C-15. Undoubtedly, if Bill C-15 in its present form is enacted, this particular issue will be litigated at some point in time. I hear your interpretation. I'm not sure I necessarily agree with it. As I told you before, it's not an act and I didn't expect to be asked to comment on a bill that's before Parliament. Once it is enacted fully, I certainly

do not see that action under that act and the provision that you act automatically protect you from the Conflict of Interest Act and allow you to take decisions that clearly benefit you. Not you, I mean the person involved.

Michael Barrett: I think the core problem and the reason that I raise this with you today is that we have an opportunity to address this before the matter is voted on by members of the House. I think that a minister could legally conceal information that you need to assess whether a conflict exists. That's the fundamental problem with this provision.

Konrad von Finckenstein: I understand your position. As I say, this will undoubtedly be litigated if ministers take that position and we will see what the courts have to say. Or else, since the bill is still in committee, you can amend it before it gets passed.

Michael Barrett: We would litigate those issues if we knew, if we were to ever know, about the decisions that were taken. That's the problem with secret orders.

I have just over a minute in this round left.

Konrad von Finckenstein: On that point, again, I keep saying if it is that it's normally prohibited but an exemption has been granted, surely somebody is going to say, on what basis are you doing it? The act says the only answer the minister can say is because I exempted it. It is not secret.

Michael Barrett: It says:

The minister may exclude information that, in the minister's opinion, would be inappropriate to make publicly accessible for reasons that include (...) personal information.

It's a pretty broad scope, and who is going to test the minister's judgment? That's why decisions are to be gazetted. That's why they're published in the Canada Gazette. That's why we have reports tabled in Parliament. That's why we have independent officers of Parliament. It's so that we have transparency. When politicians are able to take decisions in secret based on their opinion, then it seriously erodes the public's confidence, Canadians' confidence, in our democratic institutions and the executive should not seek, nor should they be given, this level of power.

The Chair: I'm going to have to leave it there.

Konrad von Finckenstein: There are two things with your answer. The first is what's personal information and how you determine that. Secondly, if your scenario is true and plays out, etc., then the electors will have a negative affection and the electors can obviously remedy the situation. There's a pretty risky scenario you paint here that somebody will deliberately do this in order to protect their conflict of interest.

Michael Barrett: If you give a monkey a loaded gun, whose fault is it when someone gets shot? The person who gave him the gun or the monkey?

The Chair: Thank you.

Mr. Maloney, go ahead.

I'm going to stick to the strict timelines here. I have to just to make sure we get everything in.

Go ahead.

James Maloney (Etobicoke—Lakeshore, Lib.): Thank you.

I'd like to, first of all, thank you for being here today. You have a very demanding job, and today is an example of the patience required to fulfill your role, so I just want to express my gratitude.

I'm going to go off topic here a little bit—not off topic, but I'm going to change the focus. The problem with the ethics rules and the Conflict of Interest Act is that they become weaponized time and time again by politicians, which I find not only wrong but incredibly offensive.

Mr. Barrett's talking about the integrity of the institution, the integrity of people.... Weaponizing this process does just that. I can give you very specific examples of where the rules and reports have been weaponized to no end and people regret it.

We're supposed to be doing a statutory review of the legislation here. I've been here for two meetings. I've heard very little in the way of questions about amending the statute. What I have heard is a number of allegations that have not been substantiated or proven, and there's no evidence to support them, which is what undermines the integrity of the whole process. What you see here is a bunch of allegations, you know, throwing around the Prime Minister's name quite loosely, and there has been not one iota of evidence or proof to substantiate any of this. It's also not what we're here to do, which takes me to what Mr. Barrett was talking about.

This provision in Bill C-15—and I'll quote him quoting the bill—says, “if the minister is responsible for” that.

Now, here's my first question. All these screens, these ethics screens and processes are put in place before a politician assumes a role or immediately upon their assuming the role, i.e., when they get elected or when they get appointed to cabinet. Is that correct? Okay.

Nowhere has Mr. Barrett suggested that, in this proposed legislation, that would imply that a cabinet minister could then go back and amend the ethics legislation to exempt him from anything. That's because it's not in there. In fact, his language says, “if the minister is responsible for that act”.

The legislation we're talking about falls under the jurisdiction of the President of the Treasury Board. Isn't that correct? So, the defence minister or the finance minister or any other minister could not, in any conceivable fashion, put forward a piece of legislation and, therefore, exempt himself from any requirements under the ethics act. Is that correct?

● (1200)

Konrad von Finckenstein: Yes, absolutely.

You're talking about the quotation that Mr. Barrett read. I don't have it in front of me. I don't see..., but if, as you stated, the exemption can only be done by the minister responsible for the act, that

minister is not responsible for the Conflict of Interest Act—you're absolutely right.

James Maloney: That's correct. Thank you.

The other reference he made was that the minister can withhold information, but it's not the minister's personal information that we're talking about. It's information related to the subject matter or whatever piece of legislation might be before the House. So, again, it's a mis-characterization of what is contained in Bill C-15.

I guess, really, what I want to know from you is whether you see a way forward so that the government or the House of Commons can amend this legislation so that it can no longer be weaponized in a way that undermines the integrity of me, everybody sitting around this table and every person in the House of Commons.

The Chair: You have a minute and 10 seconds.

Konrad von Finckenstein: I have just now given an interpretation that suggests that it can't be done in any event, but clearly you could make an exception to any act other than the Conflict of Interest Act. You could just put that into the legislation. That would solve the issue.

James Maloney: That's correct. That would solve the alleged issue raised by Mr. Barrett, which actually isn't in Bill C-15. However, my question is this: Can you think of anything else, any other provision in the act or acts, that would prevent or that would allow for consequences for weaponizing this process?

Konrad von Finckenstein: I don't know. You call this weaponizing, but really, if we have the Conflict of Interest Act the way we have it now and they administer it, it's really, I think, generally regarded as being neutrally and objectively administered. We have remarkably few conflicts of interest in this country over issues of breaches. Other jurisdictions come to talk to us about how they can learn from us and adopt a law similar to ours.

As for weaponization, it's a normal political process of debate and partisan dialogue. I don't think you can deal with that legislatively.

[Translation]

The Chair: Mr. Thériault, you have the floor for two and a half minutes.

Luc Thériault: Thank you, Mr. Chair.

When I asked Mr. Sabia and Mr. Blanchard how many times they had asked the Prime Minister to recuse himself, they corrected me and told me that they don't ask him; they impose it on him. Mr. Blanchard told me that he had imposed on Mr. Carney not to meet with the companies listed on his statement. I asked him the following question: Was that also imposed for telephone communications? Was Mr. Carney instructed not to communicate with Brookfield? His answer was no. He told me that Mr. Carney holds himself to the highest standards.

I have to admit that I was frankly perplexed by that answer. I was told that there's ultimately no need to tell him not to communicate with those people, not to call them and not to receive their calls, because he knows his obligations. We know that Mr. Carney must have quite a full address book.

If the same logic had been applied to the matter of the blind trust, a blind trust wouldn't have been imposed on him. He would have been told that he knew his obligations and that he set himself the highest standards possible.

Don't you think that shows a lack of rigour on Mr. Blanchard's part as a manager of a conflict of interest screen?

Doesn't that show that a chief of staff isn't the right person to manage this screen?

• (1205)

The Chair: Mr. von Finckenstein, you have 50 seconds.

Konrad von Finckenstein: The fact that you said the screen doesn't apply to phone calls surprises me, frankly.

It's a matter of communication with the company. I haven't seen the exact example you cited, but I can tell you that if Mr. Blanchard or Mr. Sabia know that Mr. Carney is going to talk to people at Brookfield, they will be required to tell him that there's a conflict of interest screen and that he can't do that.

I was surprised to hear you say that the screen doesn't apply. Mr. Blanchard has done exactly that.

The Chair: Excuse me, gentlemen. Time is up.

Luc Thériault: What he said is in the blues. You can go and check.

The Chair: Thank you, Mr. Thériault.

[*English*]

We're going to suspend for a couple of minutes, and then I'm going to restart the clock.

• (1205)

(Pause)

• (1210)

The Chair: We're back for the second hour. We're going to play it by ear and see how much time we have. We should be able to get three rounds in.

We're going to start with Mr. Cooper for six minutes.

Michael Cooper: Thank you, Mr. Chair,

Commissioner, on April 30, two days after the federal election, Mark Carney was personally lobbied by NorthRiver Midstream. NorthRiver Midstream is a Brookfield portfolio company that is subject to the ethics screen. Did Mr. Carney or his office contact you prior to meeting with NorthRiver Midstream?

• (1215)

Konrad von Finckenstein: As I've told you before, any conversation I have with Mr. Carney, etc., is confidential. If there's anything made public—

Michael Cooper: Okay—

Konrad von Finckenstein: —it's from him, not from us.

Michael Cooper: Thank you for that.

We know that Mr. Carney was lobbied by NorthRiver Midstream. Mr. Carney, on May 6, a week later, met with Sam Pollock, the CEO of Brookfield Infrastructure in Washington, D.C. Brook-

field Infrastructure is also subject to the ethics screen. It has recently come to light that, in October, Mr. Carney met with the chief operating officer of Brookfield, Justin Beber, in the Prime Minister's Office.

Here we have a pattern of Mr. Carney meeting with top Brookfield executives who have direct access to the Prime Minister as well as Brookfield-owned companies. Is this what you envisioned when you set up the ethics screen?

Konrad von Finckenstein: I wish you would not focus on the ethics screen but understand the system. The system is clear. If there's a conflict of interest, the Prime Minister has to recuse himself, and his recusal is made public. That is the basic rule.

To help him live up to...because he's a busy man and he deals with thousands of issues, the office has established a screen to try to make sure that he doesn't get exposed to it. That's what—

Michael Cooper: Commissioner—

Konrad von Finckenstein: You're asking me what the screen has to do—

Michael Cooper: The conflicts involving the Prime Minister are so vast with respect to Brookfield that you saw it necessary to implement a screen as a precautionary measure.

Mr. Sabia said that you told the Prime Minister to basically stay away from Brookfield, yet here we have the Prime Minister meeting with the chief operating officer, being personally lobbied by one of the major Brookfield companies that is on the list of companies that is captured in the screen.

I'm asking you, does that not raise questions about whether, in the face of all of Mr. Carney's conflicts, Brookfield has a direct line to the Prime Minister?

Konrad von Finckenstein: The incidents that you recited just now, would you please recite them again? Which ones are you talking about?

Michael Cooper: NorthRiver Midstream: the Prime Minister was personally lobbied by them. He met with Sam Pollock—

Konrad von Finckenstein: What do you mean by “personally lobbied by them”?

Michael Cooper: Well, he was lobbied by NorthRiver Midstream on April 30. They met with him, and on May 6—

Konrad von Finckenstein: I'm sorry. When you say he was “lobbied”, is there—

Michael Cooper: There's a disclosure of that.

Konrad von Finckenstein: There's a disclosure under the Lobbying Act that they made a representation to Mr. Carney?

Michael Cooper: That's right.

Konrad von Finckenstein: Okay.

What's the next one?

Michael Cooper: That's Mr. Pollock, the CEO of Brookfield Infrastructure, and then in October, the chief operating officer of Brookfield.... It certainly seems like he has an awful lot of contact with Brookfield, and not just anyone from Brookfield, but the CEO of Brookfield Infrastructure and the chief operating officer of Brookfield.

Konrad von Finckenstein: This was prior to the election, after the election or...?

Michael Cooper: After the election. All of these were after the election.

Konrad von Finckenstein: You know what the rules are and how this screen is established to prevent everything, etc. You're talking about a meeting with this Mr. Beber, etc. I understand from the Prime Minister and from Mr. Beber's testimony that this was about anti-Semitism—it had absolutely nothing to do with business—and that it was a personal visit, etc. Should it have taken place or not? That's for you to decide. If they just talked about anti-Semitism, it is clearly not—

Michael Cooper: Well, certainly NorthRiver Midstream wasn't about that, nor was the meeting with Sam Pollock in Washington, D.C., I would submit, and I think most Canadians would agree that it would be a heck of a lot better if the Prime Minister just stayed away from Brookfield, but that isn't happening.

Now, on September 27, while in London, England, Mark Carney attended a working breakfast with Canada's high commissioner to the U.K. and eight international investors. Did you sign off on that meeting, having regard for the list of attendees?

• (1220)

Konrad von Finckenstein: I don't sign off on meetings and, as I keep telling you, I give advice, and the advice is confidential. It's up to the Prime Minister to disclose it or not.

Michael Cooper: Mr. Carney's chief of staff came before this committee and testified that you had been made aware of that meeting and you signed off on that before it took place. Is that accurate?

Konrad von Finckenstein: It is. Okay, fine; yes, that was a general meeting with investors as part of his duty as the Prime Minister being in the U.K. and trying to encourage people to invest in Canada. This is one case where they disclosed my advice, and since it's up to him to disclose, I can comment on it.

The Chair: Thank you.

[Translation]

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

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

Thank you again to the witnesses for being here today and answering our questions.

We have been looking at this study for some time now. Some witnesses have said that the general exemption provided for in the definition of private interest in the Conflict of Interest Act should be removed.

Could that hinder people's ability to fully carry out their duties?

[English]

Konrad von Finckenstein: Michael, you can take that.

[Translation]

Michael Aquilino: The general application exemption is found in all ethics regimes in Canada. It's an almost uniform provision across all provinces.

It's there for a reason. If a public office holder makes a decision and incidentally has an interest, just like all the other people affected by that decision, the decision should be exempted from the allegation that it furthers the decision-maker's private interests. It will be said that the decision-maker is acting in the public interest, not in their own interest.

Linda Lapointe: Thank you.

Commissioner, in your most recent annual report, you proposed a number of amendments to the Conflict of Interest Act.

What changes would you like to see in terms of harmonization between the act and the Conflict of Interest Code for Members of the House of Commons?

Konrad von Finckenstein: There's obviously the issue of the appearance of a conflict of interest. The code has a special provision that applies to members, which is that they have to avoid the appearance of a conflict of interest. That's a general principle. It isn't in the act, which talks only about actual conflicts of interest.

I suggest changing that because the appearance of a conflict of interest is very important for the public. The public doesn't know the facts or context, but they don't like that kind of appearance. The appearance of a conflict of interest will undermine trust in the government.

For that reason, I believe we should harmonize the code and the act on this issue.

Linda Lapointe: Your suggestion is that we look at situations with an apparent conflict of interest to maintain public trust.

Have you discussed the various ways of doing things in Canada?

Are we all on the same wavelength?

Are there any places in the world that inspire you when it comes to provisions related to the appearance of a conflict of interest?

Konrad von Finckenstein: British Columbia's legislation deals with exactly that. It imposes an obligation to avoid the appearance of a conflict of interest.

We also have to look at the regimes in England, Scotland and Ireland. Those three countries use different words, but they have exactly the same ideas. Elected and appointed individuals have to avoid the appearance of conflict of interest.

Linda Lapointe: Thank you very much.

As members of Parliament, we often receive information about the government's activities and legislative proposals before they're made public.

Do you think we should consider a stronger or more harmonized code for members of Parliament?

• (1225)

Lyne Robinson-Dalpe: According to the rules, members themselves are clearly subject to the Conflict of Interest Code for Members of the House of Commons. Public office holders are subject to the act. One group of individuals is subject to both sets of rules.

It's always easier to have harmonized rules because you know all the rules that apply to each of you. That means it's always clearer when the same regime applies to everyone who's subject to the rules on conflicts of interest.

For example, in Quebec or Ontario, a rules model is used for the various categories of people who are subject to the rules, but within the same framework.

I think it's much more understandable and much clearer for the people subject to those rules when the regime is the same for everyone.

Linda Lapointe: Thank you.

That would help us to have better harmonization in that sense, then.

Commissioner, what do you think could constitute an apparent conflict of interest?

Konrad von Finckenstein: We gave an example from the Mulroney-Schreiber affair. Justice Oliphant suggested adopting a definition and amending our act.

Mr. Aquilino, can you read it?

Michael Aquilino: Unfortunately, I have the definition only in English, but it mainly refers to imposing a regime based on the standard of a reasonable person. The definition would be the following:

[*English*]

An apparent conflict of interest exists when there is a reasonable apprehension, which reasonably well-informed persons could properly have, that a conflict of interest exists.

[*Translation*]

The Chair: Okay. Thank you.

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

Luc Thériault: Thank you.

Do you conduct any inspections or audits regarding information filed by public office holders or regarding the activities of public office holders?

Lyne Robinson-Dalpe: My office's mandate is to review the documentation provided by public office holders and members of Parliament. Those two systems rely on good faith, and they're based on disclosure by the people who are subject to the rules. For example, my office can't communicate with the Canada Revenue Agency about tax returns. It can't do credit checks either.

The Canadian system is based on good faith and disclosure provided by members of Parliament and public office holders.

Luc Thériault: Thank you.

Commissioner, the last time you were here, you explained that one of your three main objectives is to examine alleged conflicts of interest involving elected or appointed federal officials and report your findings. That means you investigate when someone, somewhere, raises a red flag.

When the ethics commissioner of Quebec came to meet with us, she explained to the committee that she had the power to investigate and that she could start an investigation on her own initiative. That power is obviously based on reasonable grounds to believe that a breach has occurred.

Would you like to have that power and exercise it without there even being a complaint or an allegation?

Konrad von Finckenstein: I already have that power.

Luc Thériault: How many times have you used it?

Konrad von Finckenstein: I have rarely used it because generally, if there are any doubts, someone will write to me and ask me to investigate. I have that power, but I believe I've used it only once since I was appointed, that is, in the past two years.

• (1230)

Luc Thériault: Based on what I told you about Bill C-15, could you exercise that power to dig into this matter a little more?

How do you go about exercising your power to investigate on your own initiative?

I get the impression that you often wait for someone to raise a red flag. If that isn't the case, can you explain to us when and in what situation you have launched an investigation yourself?

Konrad von Finckenstein: Ms. Robinson-Dalpe, could you please read the provision?

Lyne Robinson-Dalpe: The provision in subsection 45(1) of the Conflict of Interest Act states, "If the Commissioner has reason to believe that a public office holder or former public office holder has contravened this Act, the Commissioner may examine the matter on his or her own initiative."

Luc Thériault: Now—

Konrad von Finckenstein: As you know, I'm a former judge. When I see a situation reported in the newspaper, for example, I wonder whether it should be looked into, whether it raises suspicions, whether it's really in the public interest to know certain things.

There's no final test. It's really by looking at all the indications and the whole context that I can figure out whether the situation is likely to evolve and whether to continue with the examination.

Luc Thériault: Since you want the government to include the concept of apparent conflicts of interest in the Conflict of Interest Act, I imagine you'll be more sensitive to that power and to the possibility of further analyzing situations so that public confidence isn't undermined by apparent conflicts of interest.

For example, when parliamentarians raise questions, I imagine you have what it takes to avoid waiting for an official complaint to be filed before checking the facts and asking for accountability from the Prime Minister, for example, or from the person or department in question.

Have you ever done that, or is it part of your job to demand accountability when an issue is raised?

Konrad von Finckenstein: If Parliament adopts the provisions I'm proposing regarding the appearance of a conflict of interest, that also includes the definition that my colleague read out. If that makes it easier to enforce the law and to investigate, then good. It's really important that there be no appearance of conflict of interest.

That said, do I really have to suspect something illegal?

The Chair: Commissioner, time is up. Please answer in five seconds.

Konrad von Finckenstein: Okay.

The Chair: We'll come back to it later.

We'll go to Mr. Hardy, Commissioner.

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

Gabriel Hardy: Thank you, Mr. Chair.

A bit earlier today, Mr. Maloney said that he had attended two committee meetings and that we surely had better things to do. He talked about the weaponization of ethics.

I'd like to come back to what Mr. Aquilino said when he was talking to us about the Conflict of Interest Act. He referred to a reasonably well-informed person.

When people come to see us, they're reasonable and well informed. They aren't under the impression that we have better things to do and that it's a waste of time. They believe that we have to ask questions.

The situation we're dealing with is very unusual; it's surely a historical first. Examples of this situation often come up in Parliament: carbon capture, transmission lines, artificial intelligence, data centres, nuclear energy and pipelines. There's even talk about the Canadian Space Agency, which is apparently 50% owned by Brookfield. In light of all that, as well-informed people, we find that there's an apparent conflict of interest.

Do you share that opinion, Mr. von Finckenstein? That's what you're suggesting, and you're saying that the act should be amended.

If the act were amended, do you think there would currently be an apparent conflict of interest?

• (1235)

Konrad von Finckenstein: It's a bit difficult to answer that, because you're mixing up a lot of things.

If the Conflict of Interest Act were amended, and I had the power to launch investigations in response to an apparent conflict of interest, I would do so on an individual basis, not collectively.

Gabriel Hardy: Would you do so in this case?

Say the act were amended, that your recommendations were taken into account, that the committee agreed—

Konrad von Finckenstein: If you amend the act, I'll have an obligation to do so.

Gabriel Hardy: There would be grounds to do so, then.

Konrad von Finckenstein: You're saying—

Gabriel Hardy: However, I agree with your recommendation.

Let's take the example of a well-informed and reasonable person—the committee and the public, in this case—who calls on us because they're wondering why the government isn't investigating this, since it seems to them that there would be a conflict of interest. The person doesn't say that there's a conflict of interest; they say that there seems to be the appearance of a conflict of interest.

In that case, do you intervene?

Konrad von Finckenstein: No, I'm the one who has to make the decision, not the person who's calling on me.

Gabriel Hardy: I'm asking you if you would do it.

Konrad von Finckenstein: Say someone is explaining a situation to me. I will then examine it myself. After considering the facts and circumstances, I'll make a decision. If I find that, yes, there's an apparent conflict of interest, that's when I'll launch an investigation.

Gabriel Hardy: Commissioner, we agree. The issue is being raised in Parliament. What I'm telling you are publicly known facts. I'm not making anything up. Brookfield owns 50% of the Canadian Space Agency. I'm not making that up; these are facts.

We're talking about facts and public knowledge, then. Do you intend to intervene if there appears to be a conflict of interest under the act? Will you intervene?

Konrad von Finckenstein: I can't answer your question. My team will review the situation and present the facts. They aren't going to be isolated in the way that you're doing. Based on that presentation of facts, I'll make the decision.

The Chair: Mr. Hardy, you have one minute left.

Gabriel Hardy: Thank you.

In your view, what I'm telling you is an interpretation of the facts, not the facts, then.

Mr. Sabia and Mr. Blanchard told us that they called you on a regular basis.

The first time you appeared, you said you didn't want to be judge and jury. That meant you didn't want to regularly take a position on the application of this formula to ensure that there were no missteps.

However, at what point are you really part of the process, since they tell us that they call you every day?

Do things potentially happen every day? Both witnesses told us that independently.

Konrad von Finckenstein: Okay. They said that. That's up to them.

The only thing I can tell you is that I'll respond to their request. If they call me, I'll give them my opinion.

Gabriel Hardy: If they call you every day, it means that a lot of things are happening every day.

Konrad von Finckenstein: As you know, we have employees who are assigned to each elected or appointed person. An employee of the Prime Minister's Office speaks with the person I have designated to be responsible for the Prime Minister.

The Chair: Thank you, Commissioner—

Konrad von Finckenstein: As for your question about how many times they call me, it's up to them to tell you, not me.

The Chair: Thank you, Mr. Hardy and Commissioner.

[*English*]

Mr. Saini, you have five minutes.

Gurbux Saini: Thank you.

I want to go back to Mr. Cooper's statement that Justin Beber met with the Prime Minister. The statement he made to this committee was that since the Prime Minister became Prime Minister, there has been absolutely no communication between Brookfield and the Prime Minister.

Yes, Justin Beber met him as a private citizen in his office once. Is there anything wrong with that? He stated that since the Prime Minister became Prime Minister, there has been absolutely no communication between the Prime Minister and Brookfield.

• (1240)

Konrad von Finckenstein: As Mr. Beber said, he was there not as representative of Brookfield, but in a personal capacity to speak about anti-Semitism. That's obviously his right, and he can do that.

It's unfortunate that it was done with just the two of them in the office of the Prime Minister. I think it would have been better if they had met as a group to talk with the Prime Minister so that one couldn't make the inference that some people are making, which is that this was contact by Brookfield.

Gurbux Saini: Thank you.

When the Prime Minister ran to be the leader of the Liberal Party and the Prime Minister, the country knew who he was. They knew that he was the chairman of the Brookfield Corporation. They still voted for him and elected him.

Do you want a country where a successful person should be excluded because they are successful in their private businesses? My friend on the other side seemed to imply that. They want us to go through that process where only people who have done absolutely nothing should be the leader and the Prime Minister of the country.

Konrad von Finckenstein: The act specifies, "The purpose of this Act is to establish clear conflict of interest and...minimize the possibility...and...provide the Conflict of Interest...Commissioner with the mandate", and it says, "encourage experienced and competent persons to seek and accept public office; and...facilitate interchange between the private and public sector."

It's specifically set out in the law, which means to make sure that the most talented and able people can come into the public service, in and out, without conflict of interest, or if there is a conflict, we'll manage it.

I see that as my mandate. Therefore, the fact that the Prime Minister was a very successful businessman, a former international

banker, a former governor of the Bank of Canada and the Bank of England, those are positives. That's a competent person. That's what I'm supposed to make sure of. I also have to make sure that he has no conflict.

Therefore, the more experienced and the more talented somebody is, the more difficult it becomes to apply the act. That doesn't mean we won't do it or that we discourage good people from entering. It's just the opposite. We want the best people to enter the public service.

Gurbux Saini: During the appearance before the ethics committee, the Quebec ethics commissioner, Ariane Mignolet, made the following statement:

As a society, we have chosen to give commissioners the responsibility of ensuring that public office holders and members conduct themselves in an ethical and professional manner. We must trust them and give them the flexibility they need to carry out their duties independently and impartially, taking into account the circumstances of each situation.

Do you agree or disagree with the commissioner from Quebec?

Konrad von Finckenstein: I fully agree with what she said.

Gurbux Saini: Thank you.

The Chair: You have 25 seconds, Mr. Saini.

Gurbux Saini: Can you describe how your office ensures uniformity in decision-making so that all parliamentarians are treated fairly and consistently?

The Chair: Give an answer quickly, Commissioner.

Konrad von Finckenstein: Lyne, that's up to you.

Lyne Robinson-Dalpé: My team is responsible for providing guidance to all parliamentarians and public officials. We have an internal practice manual. I have 10 advisers who provide guidance to all these people, consistently. With those rules written there, which have been sanctioned by the commissioner, they provide guidance based on that.

• (1245)

The Chair: Thank you.

[*Translation*]

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

Luc Thériault: Thank you very much.

Commissioner, let me summarize our previous discussion.

What I understand is that, if your suggestion to include apparent conflicts of interest is introduced into the act, you will have an additional tool to initiate a discussion with people who find themselves in that situation. You don't currently have that tool, so your work is somewhat limited.

Are you satisfied with that summary?

Konrad von Finckenstein: I agree.

Luc Thériault: Okay.

I really liked the answer that the ethics commissioner of Quebec gave me when I asked her whether a public office holder should be empowered to participate in a decision-making process of general application. Those decisions could indeed have an effect on their assets or on the assets of a former company.

She told me that the important thing was really to ensure that personal interests didn't compromise independent judgment. The issue isn't whether a law or a measure applies to a broad class of people, but whether the independence of judgment of the person adopting it can be influenced.

Do you agree with that?

Konrad von Finckenstein: Yes, I agree.

Luc Thériault: In that case, the admission here is that there may very objectively be situations in which a decision is of general application, but in which, given the person's context and background, there's an apparent conflict of interest. At that point, much stricter requirements have to be imposed or put in place to oversee that person's work.

Do you follow me on that as well?

Konrad von Finckenstein: You're now talking about a situation where the act is amended and where there's a provision on the appearance of a conflict of interest.

Is that what you're picturing?

Luc Thériault: I'll rephrase my question.

When it's known that a decision of general application can have an impact on the assets of a company or an individual, for that reason, and through the tool you're proposing to us—a provision on the appearance of a conflict of interest—it has to be recognized that there's an apparent conflict of interest, even when the decision is of general application.

In that case, additional tools are needed to address the situation and avoid the perception of a conflict of interest, because there's an apparent conflict of interest.

Konrad von Finckenstein: Yes, I understand.

I don't think we need more tools. With the current act and the interpretation we have already had, I think it's clear what a company or person can do to avoid the appearance of a conflict of interest.

Luc Thériault: You currently don't have the means to address the issue of apparent conflicts of interest, apart from a screen administered by employees of a person in office. What you're telling us is that you need this tool to do your job better and increase people's trust in democratic institutions.

However, simply considering a situation or decision to be of general application isn't enough to determine that there isn't a conflict of interest. It takes more than that. There may be an appearance of a conflict of interest. That's what you want to regulate in the act. That's what will enable you to acquire additional tools to do the work you have to do, which is to demand accountability.

Currently, if someone is in an apparent conflict of interest, but there isn't any evidence of a conflict of interest, your accountability will end there.

• (1250)

[English]

The Chair: Give a very quick response, please, Commissioner.

[Translation]

Konrad von Finckenstein: I don't think anybody is going to be subpoenaed if there's just an appearance of a conflict of interest. That's additional. It's important to see whether there's a conflict of interest first. It may be minimal, but it gives the appearance of a larger conflict of interest and leads to a lack of trust from the public.

[English]

The Chair: We're going to have time for Mr. Barrett, followed by Mr. Sari. Then I think we're going to go back to Mr. Cooper for five minutes and then we'll finish it off over here for five minutes.

Mr. Barrett, go ahead for five minutes.

Michael Barrett: I want to touch on the question of the list of 2,000 companies. There are 103 that are on the screen. That information was not, as I understand it, initially provided to your office.

The question that I hear from people is this: Why aren't those other companies on the list? Mr. Cooper said it's 95% of the companies on the list.

How do we have confidence that the screen is complete and that it's working if 95% of the companies are missing?

Konrad von Finckenstein: You have here the names we were furnished, obviously, because of the interest of Brookfield global asset management in those companies. On that basis, those were given to us confidentially. It's such a long list, but most of them, as Brookfield pointed out, are of minimal interest.

Michael Barrett: That's interesting. These are huge, highly successful companies. Brookfield doesn't really seem to be in the de minimis business. How are we defining de minimis? Wouldn't it just be easier for you to include the companies as part of the screen?

Konrad von Finckenstein: You would include them if there's a likelihood of their being affected by a decision. I don't know how else to explain it. If we make the decision saying....seeing the interest in those companies and saying it.

Michael Barrett: Did you say previously that you don't have the full list, though, sir? My question is this: If you don't have the list, how can you make a determination if you don't know?

Konrad von Finckenstein: I'm sorry, but what list are we talking about? Are you talking about annex A of the screen?

Michael Barrett: No. We're talking about the 2,000 companies that, in Mr. Beber's testimony, he referenced. Then, later, in his response to the committee, that you're aware of—I inferred, from your response, that you're aware of his response—that these companies were referred to as *de minimis*. Well, are you to take them at their word? Would it not be in the public interest to just include the totality of the entities that might create a conflict, from which Mr. Carney may stand to make money from decisions that he takes that benefit those companies?

Konrad von Finckenstein: I'm sorry. You are losing me now. We are looking here at the conflict of interest screen of Mark Carney. It's by him. He testified. He, in effect, signed this. He lists these companies, and he suggests here that he had a management position or oversight role in the activity prior to January, and he lists 25 companies. Of those, after number 5, from 6 to the end, are basically subsidiaries or part of the global transition fund, and that's why they're listed here. Then, he also lists other companies that had lobbied, so I don't understand where the 2,000 came from.

• (1255)

Michael Barrett: I have limited time. I want to circle back to the question that another member asked about depoliticizing and de-risking this for Canadians.

I have said before that I believe the sale of controlled assets, by someone who seeks to be Prime Minister, is complicated, absolutely. Is it possible, as confirmed, in this case, by Brookfield? Absolutely, and, as mentioned by a previous witness at this committee, there are steps to take. The cost of the administration of the screen is paid for by the taxpayer, so, too, could the government waive the tax liability on the sale of these assets so that we don't have this question: Is it 95% or 100%? Shouldn't they just sell these controlled assets, and we can continue to attract good people to public office?

Konrad von Finckenstein: That's also a question of the valuation, not only of the tax liability defrayed. Lots of these are future earnings that will be determined on the performance of Brookfield. How do you value those?

Michael Barrett: Even Brookfield said that they could arrive at that. I think that, when we're talking about the public's confidence in our democratic institutions, we should be able to figure out the tough questions so that we can avoid the murkiness that seems to persist here.

The Chair: Thank you, Mr. Barrett.

[Translation]

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

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

I was reminded of this quote: "Great minds discuss ideas; average minds discuss events; small minds discuss people." I mention this quote because it sort of brings to mind our debate. I don't think this is the most useful debate for establishing governance strategies that serve to better regulate ethics. If we really want to regulate ethics properly, we need to have a governance framework and think about strategic directions rather than focusing on individuals.

Here, unfortunately, we've been hearing about only one person for quite some time. I'm proud to be on this committee, but I would

have liked us to be a little more serious, to review the mechanisms and to propose solutions for the future instead of personalizing the debate.

That was my introduction for today. I really didn't want to repeat it, because I didn't want to politicize ethics. This is really very important, because there are people listening to us. That's why I want to make my questions as accessible as possible. Unfortunately, we're eroding trust in institutions, and it's very dangerous to see people with political careers wanting to continue eroding that trust in institutions in general. This isn't just a matter of trust in the House of Commons, but trust in general. It's really a shame.

Commissioner, I rely somewhat on observers and experts who say that Canada's ethical framework works because it's applied institutionally rather than personally.

Can you confirm for Canadians listening to us that the mechanisms in place for the Prime Minister's Office aren't intended to protect an individual, but intended to guarantee the stability, neutrality and transparency needed for this government to operate?

Konrad von Finckenstein: You put it very elegantly. I agree.

Abdelhaq Sari: Thank you for the short answer, because it gives me time to talk to Canadians. I really didn't want to do that today, because that's not what's important.

Having said that, I'm proud to be a Canadian, proud to serve and proud to be a member of Parliament. I don't want to damage our image, so I'm going to repeat and reiterate today that I find it unfortunate to personalize the debate in this way, to bring it back to the person of the Prime Minister, who was chosen by Canadians. I would like to neutralize the political attacks on an issue that's very important to me, namely the issue of ethics and especially perception. It's important to be careful, because politics is a matter of perception. I think it's really dangerous to play politics with perceptions of things that aren't facts.

That brings me to another question. We're operating in a rapidly changing environment. A year ago, there were tariffs and so on. The environment is becoming more and more complex.

You do have some experience. Can you confirm that the mechanisms in place have to be updated? That's the purpose and role of this committee.

Can we really reassure the public that these mechanisms enable the Prime Minister and his team, the people who came to see us, to work effectively, efficiently and in accordance with ethical standards?

• (1300)

The Chair: You have one minute.

Konrad von Finckenstein: We apply the act in such a way that there are no conflicts of interest. The public can rest assured that everything that's done is done properly. At the same time, we want to give the government as much flexibility as possible to ensure the country's safety.

Abdelhaq Sari: I have one last question. We're pitting the national interest against the Prime Minister's personal interest, because his shares are in a blind trust.

How can we say that this situation is in the national interest? What leads us, as observers or monitors, to say that it's in the national interest?

The Chair: You have 10 seconds to respond.

Konrad von Finckenstein: Ms. Robinson-Dalpe, do you have anything to say?

The Chair: There are six seconds left.

Lyne Robinson-Dalpe: National interest is about public interest. The act provides for a recusal mechanism if private interest is invoked rather than public interest.

[English]

The Chair: Mr. Cooper, you have five minutes.

Michael Cooper: Thank you, Mr. Chair.

Commissioner, does Brookfield provide you with an update of its new investments and acquisitions?

There's no mechanism in place. Have you thought about reaching out to Brookfield in light of the fact that as Brookfield's portfolio changes, potential new conflicts of interest involving the Prime Minister could emerge?

Konrad von Finckenstein: Brookfield is not subject to the act. The Prime Minister is and his interests in Brookfield are, but Brookfield itself is not.

Michael Cooper: Right, and his interests are tied directly to Brookfield, which could be impacted by certain acquisitions that Brookfield makes over the course of time. I'm asking you this in the context of ensuring that this is a living ethics screen, not a stale, dated ethics screen.

Konrad von Finckenstein: I have no power to ask Brookfield to disclose what it's doing or what its business strategies or acquisitions are, etc. All I can deal with is what's in the public domain and what has been disclosed—

Michael Cooper: I understand that your official powers under the law might be limited, but have you ever reached out?

Konrad von Finckenstein: No, I have not, because it behooves me to act in accordance with the act, not to add to the act or use the position of my office or its authority in order to obtain information to which I'm not entitled.

Michael Cooper: I think the key mandate of your office is to ensure that there are not conflicts of interest, and that if there are conflicts of interest, to investigate those conflicts thoroughly.

It seems that on top of 1,900 Brookfield companies being missing from the ethics screen, which is about 95%, it may be, in a matter of time, that 97% or 98% of Brookfield companies and businesses are not captured in the ethics screen. This raises questions

about the robustness of the screen. I would argue that it raises questions about it being deficient.

Mr. Carney stands to make tens of millions of dollars in carried interest payments—in other words, future bonus pay—from the multi-billion dollar Brookfield global transition fund I, which he registered in the offshore tax haven of Bermuda.

I understand that you're aware of the holdings within that fund, but are you aware of the limited partners—in other words, the investors in the fund?

Konrad von Finckenstein: I'm not aware of investors in the fund. No.

Michael Cooper: Did you request this information from Mr. Carney?

Konrad von Finckenstein: We asked him for information relating to his holdings and his interests. He pointed out that he has an interest in Brookfield, and part of it is in Brookfield's global transition fund, which, as you said, has a deferred benefit provision in it.

I don't know the relevance of the other partners. Why would I ask for that information?

Michael Cooper: I think it's material to know who invested in Mr. Carney's future bonus pay. These are, after all, investors that Mr. Carney would have personally sought out when he set up the fund. These investors represent potential conflicts of interest.

More broadly, I think it's in the public interest to know to whom Mr. Carney is beholden. It could be the Bank of China or the Qatar Investment Fund. We don't know.

Again, I put it to you that it is material.

• (1305)

Konrad von Finckenstein: You're using the word "beholden". I don't know on what basis you're using it. There may be other people who have invested in the fund. That doesn't mean they're beholden to it.

The whole implication of this is that there is something illicit or not proper that requires investigation. I can't do that—

Michael Cooper: No, I don't think that's a fair characterization. I think we have a Prime Minister who was involved in setting up in the fund. There are investors that he would have reached out to, and he stands to potentially make a lot of money in future bonus pay.

All I'm asking is whether there has been all of the disclosure that is necessary. I don't necessarily mean that all of it is in the public domain, but that your office has received the full co-operation of the Prime Minister in sharing all things that are material.

I think limited partners are material, but it sounds like the Prime Minister's Office hasn't been forthcoming. It seems like the Prime Minister has been very limited in what he has disclosed to you. I find it shocking that he didn't, for example, provide you with a list of 2,000 companies, but he gave you 103 companies, and you said, "Okay, that's it. There's no need to look any further."

The Chair: Thank you, Mr. Cooper.

Mr. Maloney, you have five minutes.

James Maloney: Thank you, Mr. Chair.

Thank you again to the witnesses.

The accusation period is almost over. Mr. Barrett, again, raised a topic I find quite intriguing. He suggested that elected officials dispose of all their controlled assets and be sheltered from the tax consequences. I'm sure that would be enticing to a lot of people, to run for office if they knew they could run, dispose of all of their controlled assets and not face any tax consequences.

Do you think that's a realistic proposal, sir?

Konrad von Finckenstein: No, sir.

James Maloney: I knew the answer, but I thought I'd ask the question anyway.

It's absurd in the extreme, actually. I don't think Canadians would find it appropriate at all that taxpayer money was used to pay the taxes for elected officials.

On Mr. Cooper's point about voting on things that could ultimately benefit somebody, all of the Prime Minister's assets are in a blind trust. Is that correct?

Konrad von Finckenstein: Yes.

James Maloney: As of the date that blind trust is created, he no longer knows what is contained in that or how it is being handled or how those affairs are being conducted. Is that correct?

Konrad von Finckenstein: That's correct.

James Maloney: Other members of Parliament, on the other hand—and there are many of them—own shares in a variety of corporate entities, including Brookfield, and they're voting in the House of Commons knowing they own shares in these companies. Is that correct?

Konrad von Finckenstein: Yes.

James Maloney: Okay. I'm just pointing out the irony. There's really no question there.

I'm going to go back to this political weaponizing of this process, which we've spent two hours here doing again, because there are all of these allegations.

Sir, you sat as a Federal Court judge for a number of years. I practised law for 20 years. There are consequences to actions when you go into a courtroom, and there are cost consequences. If you make false accusations, if you make false representations, if you are unsuccessful in those, there are consequences that come in the form of financial payment.

I asked you this earlier, but we ran out of time. Is there a process you can conceive of where people who continue to weaponize this

process politically simply to score cheap political points...? If there was a finding that there is no basis for the accusation or complaint, is it not possible to come up with some sort of mechanism to discourage that behaviour so that there are consequences?

Konrad von Finckenstein: Well, you're running here into the whole issue of parliamentary privilege. As you know, whatever any member says in the House it is not actionable and it has no.... Unless you really want to go to the whole core of the parliamentary system, I don't think there's anything you can do.

What members of Parliament say within the House of Commons is privileged, and it is their opinion, and they're entitled to do that. If it amounts to "weaponizing", as you call it, that's their privilege too.

• (1310)

James Maloney: I don't disagree with you that they're entitled to conduct themselves in that way, but let me put it another way, then.

Do you not think it would be appropriate, when you or your office is issuing a report, to address the issue of making these things as political as they are? You could do that without breaching privilege. Simply pointing out the fact that an accusation or an investigation we requested...and there's absolutely no foundation for it whatsoever, you could conclude that this was done for political reasons, could you not?

Konrad von Finckenstein: Yes, if I wanted to, I presumably could. I doubt that I'd go as far as you suggest. What I might say is that there were accusations made, but there's no basis for them. My investigation has revealed that they are baseless.

I don't think it's my job to get into the political arena. It's my job to be objective and to deal with issues of conflict of interest.

James Maloney: Thank you for saying that. I'm going to stop there, sir, because I think you've displayed today, time and time again, with every question answered, that level of objectivity and independence. I just want to say thank you to you and your colleagues for taking the time to be here today and for answering all of our questions.

Thank you, Mr. Chair.

The Chair: Thank you, Mr. Maloney.

I want to thank the commissioner, Ms. Robinson-Dalpe and Mr. Aquilino for spending time with the committee today.

I have no other business.

The meeting is adjourned.

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