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Chair: Ms. Rachael Harder

Standing Committee on Access to Information, Privacy and Ethics

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• (1350)

[English]

The Chair (Ms. Rachael Harder (Lethbridge, CPC)): I'm calling this meeting to order. As you are aware, committee members, we are here to discuss a motion that was passed at this committee on July 22:

That, pursuant to Standing Order 108(3)(h), the committee review the safeguards which are in place to avoid and prevent conflicts of interest in federal government procurement, contracting, granting, contribution and other expenditure policies.

As a part of this study, we are hearing from a variety of witnesses, including academics, ministers and others who happen to be experts on this topic.

Here with us today we have Mr. Duff Conacher, who is the co-founder of Democracy Watch.

Mr. Conacher, I'm going to give you 10 minutes for an opening statement, and then we're going to take questions from the members of this committee. You can go ahead.

Mr. Duff Conacher (Co-Founder, Democracy Watch): Thank you very much, Madam Chair.

Thank you, to all the members of the committee, for this opportunity to present to you on this important topic of government ethics and preventing conflicts of interest in government decisions with regard to spending.

The Chair: Mr. Conacher, I'm so sorry to interrupt you. Do you mind just holding one moment? We seem to be having a problem with regard to translation here.

Mr. Duff Conacher: That's no problem at all.

The Chair: I'm going to temporarily suspend until we can figure out the glitch that's taking place with regard to translation. Just one moment, please.

• (1350)

_____ (Pause) _____

• (1410)

The Chair: I'm calling the committee back to order.

Mr. Conacher, thank you so much for your patience with us. We sincerely apologize for the glitch.

I'm going to put you on the spot here. I'm wondering if you would be able to accommodate us by staying with us until 3:15 or 3:30 depending on your schedule.

Mr. Duff Conacher: Yes, that is fine.

The Chair: That's perfect. Thank you so much.

Mr. Conacher, I'll let you restart your statement.

You have 10 minutes to open, and then we'll proceed with asking questions.

Mr. Duff Conacher: Thank you, again, Madam Chair, and all the members of the committee, for this opportunity to talk [*Technical difficulty—Editor*] conflicts of interest in government decisions.

[Translation]

Good afternoon.

I'll be speaking mostly in English during the meeting. Although I do need to practice my French, with all the technical jargon, I have an easier time in English. Feel free to ask me questions in French, if you prefer, and I will try to answer in French.

Again, thank you for the opportunity to address the committee on this important subject, conflicts of interest in government decision-making.

• (1415)

[English]

The Chair: Mr. Conacher, please feel free to speak in whatever language you're most comfortable in.

We have interpreters, so we're good to go.

Mr. Duff Conacher: Thank you very much.

Democracy Watch is calling on the members of the committee today not only to recommend many changes to prevent conflicts of interest in government decisions with regard to spending but also to work together and actually draft and propose a bill, and to introduce it in the House of Commons this fall. Hopefully it will pass by the end of the year in this minority government.

You could easily work together to sponsor a bill that would lower the political donation and loan limit to \$100, as in Quebec, to stop the unethical influence of big money in Canadian federal politics and to close loopholes that allow for secret, unethical lobbying, excessive government secrecy, spending without competitive bidding, and politicians and top government officials profiting from their decisions in secret. The bill must also strengthen enforcement by establishing an independent commission to appoint our democracy and good government watchdogs; requiring the watchdogs to audit everyone regularly and issue public rulings on all questionable situations instead of making secret rulings or ignoring complaints; allowing anyone to challenge the rulings of any watchdog in court; extending whistle-blower protection to everyone in federal politics, including political staff and the staff of political parties; and imposing high fines for ethics violations, including dishonesty.

Secret and unethical lobbying, excessive government secrecy, unethical big-money influence campaigns, and unethical decision-making and spending are all legal in federal politics and generally across the country. Canadians are more likely to get caught parking their car illegally than politicians are to get caught violating key ethics rules and spending rules. Incredibly, across the country, the penalties for illegally parking your car or vehicle are higher than are those for serious ethics violations by federal politicians and top government officials.

This dangerously undemocratic and corrupt system is the scandal, and it's not surprising that it encourages dishonest, unethical, secretive, unrepresentative and wasteful decisions by politicians and government officials. It must finally be cleaned up by closing all the loopholes, increasing transparency, strengthening political ethics and spending rules and their enforcement, and increasing penalties.

I have been before this committee about 15 times in the last 20 to 25 years. I'm not going to say anything very different from what I said those other 15 times, but I'm going to go through a few of the details, based on the summary I just gave, of the six key areas that need to be cleaned up in order to actually prevent conflicts of interest.

First of all, stop big money in politics. Stopping big money in politics is key because the favours organizations and their lobbyists can do for parties and candidates by funnelling and bundling donations unethically influence the decisions of cabinet ministers and other decision-makers in the federal government. Clinical testing by psychologists worldwide has shown that even small gifts and favours have influence and are the best way to actually influence someone's decisions. The only way to stop the unethical influence of big money in politics is to stop big-money donations and loans, as Quebec has, to ban gifts, including sponsored travel, which it is illegal for MPs to accept even from lobbyists as the lobbying commissioner ruled last year, and to restrict and require disclosure of all favours, including volunteer help on campaigns.

There are many other detailed changes that would democratize our political finance system. Democracy Watch issued a news release today, which has also been submitted to the committee with all the links, including one to the testing done by clinical psychologists showing that giving gifts and doing favours, including making donations, is the best way to influence someone's decision because

it creates a sense of obligation to return the favour. That's why it's deeply unethical and has to be stopped through lowering the donation limit and banning gifts, including sponsored travel.

Stopping secret, unethical lobbying is the second of the six key areas.

- (1420)

The House ethics committee—this committee—recommended some of the changes back in 2012 to close secret lobbying loopholes, but not all of them. They need to be closed.

If even some of the loopholes that allow for secret lobbying had been closed years ago, everyone at WE Charity would have been prohibited from lobbying the Prime Minister's Office and the finance minister's office and department, because of their connections to those ministers. However, because the loopholes are open, not only did they not have to register the lobbying for this funding that they received, but it's also legal for them to be giving gifts, doing favours, campaigning and helping on political campaigns for any federal politician. Only registered lobbyists have to follow the lobbyists' ethics code. If you don't stop secret lobbying, you will not stop unethical lobbying because those who can still legally lobby in secret will also be able to lobby unethically.

Secret lobbying is only a part of the excessive federal government secrecy. The Trudeau Liberals promised that government information would be open by default and promised to apply the Access to Information Act to ministers' offices. Neither promise has been kept. Past governments have also not kept their open government promises.

There are many loopholes in the Access to Information Act. It really should be called "the guide to keeping information secret act" because that's really what it is—it's so full of loopholes. Those loopholes must be closed to end the culture of excessive secrecy that often hides wrongdoing and wrongdoers in the federal government.

The fourth area is to stop unethical decision-making. It is legal under the Conflict of Interest Act for ministers and top government officials to profit from their decisions. As long as the decision applies generally, which 99% of their decisions do, they are not required to step aside when they have a conflict of interest. They are actually allowed to have a financial conflict of interest and still participate in making the decision. This was proven most recently by finance minister Bill Morneau, who introduced a bill that would have helped his own family's pension management company make more money. Since he was a shareholder at the time, Mr. Morneau would have made more money. The Ethics Commissioner ruled that this was all fine because of this giant loophole in the Conflict of Interest Act. That loophole also exists in the MPs' ethics code and in the Senate ethics code.

The Conflict of Interest Act is a key law that protects the public's money and protects our democracy. The Supreme Court of Canada ruled in 1996 that if it is not strictly and strongly enforced, along with other laws like the Criminal Code anti-bribery provisions, we do not have a democracy. This key law does not apply 99% of the time to decisions made by the most powerful people in the federal government. This loophole must be closed and everyone in federal politics must be prohibited from participating in any decision-making process when they have even the appearance of a conflict of interest.

As well, a rule requiring honesty should be added to the federal ethics law and to the codes, to ensure that politicians and government officials are penalized if they mislead voters about anything, including their own wrongdoing.

Unbelievably, the rules and codes that cabinet ministers have imposed on the lowest level of government employees in the federal government, who have very little decision-making power at all, prohibit those employees from participating in all decisions if they have even a potential or apparent conflict of interest, even when the decision applies generally. Those lower-level employees are also required to be honest and to provide honest advice. They can be suspended or fined if they break those rules.

This is a truly perverse system, where the lowest level, least powerful people in the federal government and in federal politics are the ones who actually have the highest ethics standards and the highest penalties.

As well, so-called blind trusts must be banned, as was recommended by the 1984 Starr-Sharp report, as well as the 1987 Parker commission. The person who sets up a trust knows what they put in it, so it's not a blind trust. It's a complete sham. It's a facade. Instead, politicians and government officials should be required to sell their investments while in office, as again the Parker commission recommended.

Conflict of interest screens should also be banned because they are smokescreens that hide whether someone is actually stepping aside from decisions when they have a conflict of interest.

Then the last two areas—areas five and six—are, first, to stop questionable sole-source spending. There are far too many loopholes that allow for sole-source spending. A way to check them is to close some of them, but also to require, if it is significant spend-

ing, that the institution doing the spending check with the Auditor General and do a little compliance check before it actually initiates the spending process. Then the Auditor General could say, "No, you can't do that. You have to have a competitive bid or I'm going to rule when I audit it five years from now and find that you've broken all the rules."

• (1425)

Finally, we need to strengthen enforcement. The watchdogs are hand-picked by the cabinet ministers and top government officials they watch over. They usually don't have the power to impose penalties. They're allowed to do secret rulings, and, as a result, it's not surprising that they have acted like lapdogs, letting many people off the hook. Everyone needs to be able to challenge their rulings in court. They need to be chosen by an independent commission. They must be required to conduct audits and issue public rulings on every questionable situation, and they must be empowered to impose high fines for violations of these key good government rules.

Finally, whistle-blower protection, as I mentioned, must be extended to everyone who works as political staff or for political parties. A House of Commons committee unanimously recommended in June 2017 several key changes to strengthen the whistle-blower protection system. The government ignored those recommendations, as they ignored this committee's recommendations to strengthen the Access to Information Act, and as the Harper Conservative government, back in 2012, ignored the recommendations made by this committee to close many of the secret lobbying loopholes.

I welcome your questions about any of these six areas. All of these changes are needed to close the loopholes and to stop conflicts of interest in government spending decisions. I hope committee members will work together to draft a bill, propose it in the House and, in this minority government, recruit your colleagues to pass it this fall and finally clean up this undemocratic and corrupt—

The Chair: Mr. Conacher, thank you very much.

Moving into our first round of questions, we have Mr. Barrett for six minutes.

Mr. Barrett, please go ahead.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Thank you, Mr. Conacher, for your comments and insights today.

My first question is with respect to adding input to process for government decisions such as unsolicited proposals. Should these count as lobbying? Secondly, during your tenure, how has your organization looked at or spoken about charities with respect to lobbying?

Mr. Duff Conacher: Well, to answer the second part first, there are two sets of rules, one for hired-gun consultant lobbyists and the other for organization lobbyists, which is anything that is incorporated in any way, including any charity. The loopholes have to be closed for everyone and every type of organization. If you leave any of them open, they'll be exploited. Essentially, if you are communicating with regard to decisions, you should have to register, whether you're paid or unpaid, no matter how much time you're spending.

The Internet is set up for this. The registry is very easy to fill out to track your lobbying. Right now, in terms of monthly communications, only oral pre-arranged communications are required to be registered in those monthly records. That's the huge hole. If you're not paid for your lobbying, or if you're at an organization and not spending 20%, then you do not have to register. It's also very easy to arrange a contract or do your lobbying and space it out, month to month, so that you don't cross those thresholds, or to do a contract saying you'll be paid for strategic advice, but not paid for your lobbying, and then it's actually legal to lobby in secret.

Therefore, close all these loopholes. Not one minute of secret lobbying should be allowed. It's very easy to register and everyone should be required to register all the time.

Mr. Michael Barrett: Thank you.

With respect to the awarding of the CSSG to the WE Charity by the Liberal government, you've stated that key rules protecting democracy are being violated when it comes to this contract.

Can you expand on that? What key rules specifically are you referring to?

Mr. Duff Conacher: My position is.... This is my position as a co-founder of Democracy Watch, but I'm also doing my Ph.D. in law on this specific topic of preventing conflicts of interest, so with my legal training, my position is that the Prime Minister and finance minister already admitted they violated the Conflict of Interest Act when they said they were at the final cabinet meeting that approved the contract.

I also believe that they violated the act in a separate way by participating in the process before that cabinet meeting or by having their staff do so. It has been confirmed that both staff of the Prime Minister and staff of the finance minister participated in the entire process. We don't know all the details yet. The disclosure of documents that has happened over the weekend will provide some of the clues, but we need to see the entire communication record to really know and try to get close to the truth. We won't see recordings of phone calls, likely, but we should at least know who called whom and when for everyone involved in the process, all the emails, all the texts. I believe there are those two violations.

Then if any staff or the Prime Minister or the finance minister themselves, or any minister, tried to influence that process, not just participate in it but in any way push it in the direction of WE Charity receiving the funding, then that would be a third violation, a violation of section 9, which makes it illegal to try to influence a decision-making process when you're furthering someone's private interests—your own, your family's, your friend's or your asso-

ciate's—or improperly furthering a charity's interests in this case because of your connections to it.

• (1430)

Mr. Michael Barrett: With respect to section 9, the public service, the staff around the minister and the Prime Minister, were clearly aware of Prime Minister Trudeau's relationship with WE Charity.

Do you believe that, given this awareness, both parties should have dropped using the WE organization as the administrator of this program?

Mr. Duff Conacher: It would have to be a decision made entirely by the public service without any participation at all by any ministers' staff, because first of all, according to Treasury Board's own policy and the federal government's own statement, ministerial staff act on behalf of ministers. You can't use your staff person as a front and have them do the things you're not allowed to do and then claim that you didn't know.

Finance Minister Morneau has already admitted that he did direct his staff to participate. When the chief of staff of the PMO is involved, as Katie Telford testified that she was and others were, they're acting on behalf of the ministers, so the minister is the one who's found guilty because their staff acts on their behalf.

Of course, there is this concept of plausible deniability. Often ministers try to create that situation, and the staff person is the one who falls on their sword and resigns, and they claim they never knew. In this case, we know that they knew.

Mr. Michael Barrett: I have just a couple of seconds left, so it's a quick question.

What grade would you give Prime Minister Justin Trudeau for his adherence to ethics laws since being elected in 2015?

Mr. Duff Conacher: On ethics laws and also in terms of breaking open government promises, the Liberals rate an F in both cases, for sure. It's been a complete failure. He sent a great letter to ministers with great talk in terms of saying that they have to meet the highest ethical standards that will bear the "closest public scrutiny". That was in November 2015, but Prime Minister Trudeau has not walked his own talk ever since.

The Chair: Thank you, Mr. Conacher.

Madam Shanahan, you have six minutes.

Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.): Thank you very much, Chair.

Thank you, Mr. Conacher, for being here. I've had the occasion to hear your testimony at other committees as well, including government operations and so on, so I'm well aware of your dedication and your many years of work in this area.

I think you're aware of the motion that we have before us today and what we're looking at. I'll just read out the first paragraph, which states:

That, pursuant to Standing Order...108(3)(h), the Committee review the safeguards which are in place to avoid and prevent conflicts of interest in federal government procurement, contracting, granting, contribution and other expenditure policies.

On that, I want to highlight the fact, as you mentioned in your opening remarks, that we're actually due for a statutory review of the Conflict of Interest Act. I think in that regard, since we are here, the kinds of remarks that you're bringing to us today are very pertinent.

For those who are watching and listening to us, briefly, with regard to the Conflict of Interest Act, the Conflict of Interest and Ethics Commissioner has a dual mandate. He is responsible for both public office holders and members of the House of Commons. In that mandate, for public office holders there are the following four points: providing confidential advice to the Prime Minister; providing confidential advice to individual public office holders; examining and reporting on possible contraventions of the act; and administering the disclosure regime.

Just to summarize, any parliamentarian can request an investigation or the commissioner himself can conduct such an examination; he or she reports such investigations to the Prime Minister; and the reports are made public, although particular types of information must be kept confidential.

This comes to my question to you. What are your top three recommendations to this committee to improve the Conflict of Interest Act? Also, what elements of the act are working, as far as you're concerned?

• (1435)

Mr. Duff Conacher: I'd say, unfortunately, not very much at all is working, although there was one improvement made by the new Ethics Commissioner, Mario Dion. The old Ethics Commissioner, whom you will be hearing from later today, Mary Dawson, had ruled, although it doesn't say this in the Conflict of Interest Act, that private interests are only financial interests, that they do not include political interests or social interests. There is nothing in the act to suggest that at all. In fact, the MP's code says that private interests are only financial interests, which points to the fact that if something wasn't included in the Conflict of Interest Act then Parliament didn't intend to limit it.

Thankfully, Mario Dion, with his ruling on the SNC-Lavalin scandal last summer, reversed that and said that interests include political, social and financial interests and there's a very broad definition. So that's a step forward but it's kind of an arbitrary step forward that could be reversed by the next commissioner. The definition of private interests, specifically, should be put in the act. Other than that, I don't think much is working.

You're going to hear from Mary Dawson. She let 85% of the people she reviewed off the hook, with secret rulings most of the time. The rulings do not have to be made public if she decides to drop an investigation, as she decided, for example, to drop the investigation into Nigel Wright and his financial conflicts of interest. We learned about that only because a reporter chased after her for a year until

she finally admitted that she had just dropped that investigation. There are zero penalties for violating the key rules. Even for violating the administrative rules of disclosing your assets and liabilities accurately and on time, the maximum penalty is \$500, which is not much incentive to a cabinet minister who is making more than \$200,000 and a Prime Minister making more than \$300,000.

I don't see much working at all. There is no statutory five-year review of the act required, but it should happen. A review of the Lobbying Act by this committee is now three years overdue. Both acts need to be reviewed together, and both need to be strengthened in the ways that I've outlined. You can see all the details in the—

Mrs. Brenda Shanahan: Thank you, Mr. Conacher. I just want to check my time.

Chair, how much time do I have?

The Chair: You have one minute left.

Mrs. Brenda Shanahan: One minute? Then I want to get to my last question.

The act does outline the duties of the Ethics Commissioner. Do you or do you not agree that it is the job of the Ethics Commissioner to do investigations of any violations that members of Parliament or public office holders are engaged in? In other words, is it appropriate for this committee to be doing an investigation that the Ethics Commissioner is doing?

Mr. Duff Conacher: Parliament is sovereign and this is the ethics committee. I think a partisan committee, made up of MPs who are partisan, is not the best forum, because the questions tend to be driven by partisan motives as opposed to the rules and the evidence, but Parliament has a right to all the information from the government that it has requested. That is getting the information out there in the public.

Personally, given that Mario Dion was hand-picked by the Trudeau cabinet through a secretive, dishonest process, I don't fully trust him to be examining everything. We are challenging a ruling of his in court right now—

• (1440)

Mrs. Brenda Shanahan: So do you say that you don't have confidence in Mario Dion?

The Chair: Madam Shanahan, that's your time.

We'll move on to Mr. Fortin for six minutes.

[Translation]

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

Good afternoon, Mr. Conacher.

You talked about political financing and the need to beware and, perhaps, tighten up tax rules. The decision-making process was affected by conflicts of interest. When Mr. Trudeau and Mr. Morneau appeared before the committee, they acknowledged that they should not have participated in the decision and they apologized for it.

As far as the decision to award such a large contract is concerned, don't you think it was crucial to put out a request for proposals? Since that wasn't done, what steps could have been taken to make up for the fact that there wasn't a request for proposals?

Mr. Duff Conacher: Thank you for your question.

[English]

As I mentioned in my testimony, there are loopholes in the Financial Administration Act and the related regulations that allow for sole-source contracting. I think this process was a failure also of the public service. As many experts have pointed out, several other organizations, if they had been given a full chance, could have put forward a proposal that would have certainly matched WE Charity's proposal to administer this program. Several organizations have greater reach than WE Charity. As we've learned most recently, they can't operate in Quebec and have no real presence there at all, so how would they ever be chosen to run a national program? But in other ways, other groups had just as much reach as they had.

Frankly, as I pointed out, no one should forget that the Canada summer jobs program and the Canada youth service corps program should have just been expanded to incorporate this program. That was the best way to do it. There was no reason to contract out and waste tens of millions of dollars of the public's money.

[Translation]

Mr. Rhéal Fortin: Mr. Conacher, sorry to cut you off, but every second counts.

I understand what you're saying about the importance of launching a request for proposals. Other organizations also could have administered the program.

I'm going to get right to the point. There doesn't seem to have been any due diligence. The government awarded this money to a new entity associated with WE Charity, but that entity had no assets.

Do you think that was an appropriate way to proceed, or should strict parameters governing the contribution agreement have been put in place? I'm referring to due diligence checks and an oversight mechanism, for example.

In Democracy Watch's opinion, what mechanisms could have been put in place to make up for the fact that there wasn't a request for proposals?

[English]

Mr. Duff Conacher: I mentioned in my testimony that I think the key thing to do is to require everyone to check with the Auditor General in advance when starting any significant spending process. The Auditor General could then do a quick check and say, wait a second, you've decided to do this as a sole-source, can you really prove that one of these huge loopholes, which should be closed, applies?

For example, there's one where sole-source contracting is allowed if it's in the public interest. Who decides that? That is just open to such abuse in terms of exercising discretion in defining what is in the "public interest". In the case of WE Charity, it was if there's only one organization that is deemed by the public service,

with possible political influence, to be the only organization that could actually administer whatever is to be done or provide whatever product or service.

Those loopholes need to be constrained and every government institution should have to check with the Auditor General to do a compliance check before they start the whole process. Then the Auditor General would be able to stop it, instead of reporting five years later that all the rules were broken. That's, I think, the best way to go. We have the watchdog in place. Give that watchdog the power to stop the spending and correct it before it happens.

• (1445)

[Translation]

Mr. Rhéal Fortin: Mr. Conacher, what due diligence checks should be done before a contract like this is awarded? Should an organization's finances, legal affairs and general standing be audited?

How far should the government have gone in its scrutiny of WE Charity Foundation before signing the contract?

[English]

Mr. Duff Conacher: Given the amount of money.... One of the sole-source loopholes is if a contract is less than \$25,000. You can see why. It's a small amount of money and some of the safeguards may not need to be in place. Although, again, I think you should just essentially ban and put in place high penalties if contracts are split to try to fit under that \$25,000.

Otherwise, yes, due diligence means looking at whether the organization has a good business record. For example, you have to have that if you want to start a bank in Canada. That means looking through their annual reports and verifying things and ensuring that the money is flowing to an organization that actually has a track record, as opposed to a shell organization that is fronting for that other organization. These are simple, basic steps, and I think it was a failing of the public service as well to not do the due diligence in this case, perhaps because of the ties of the key person, Ms. Wernick, with the WE Charity, given that she had worked with them and approved grants for them before.

The Chair: Mr. Conacher, that's your time. Thank you.

[Translation]

Mr. Rhéal Fortin: Madam Chair, on the Standing Committee on Finance, members who question witnesses in French are given a bit more time, not because the interpreters do a bad job, but because it always takes longer. I'm not sure whether you plan to do the same here, on the Standing Committee on Access to Information, Privacy and Ethics, but I would suggest that you give us an extra 30 seconds, since the interpretation usually costs us a good bit of time. With your permission, I'd like to ask the witness one last question.

[English]

The Chair: I will give you the opportunity to ask one last question. Please be brief.

[Translation]

Mr. Rhéal Fortin: Mr. Conacher, you're a lawyer with expertise in government accountability, so have you ever seen a case where a government awarded a \$43.5-million contract to administer a \$900-million program without putting out a request for proposals or doing some due diligence beforehand?

Have you ever seen such a thing?

[English]

Mr. Duff Conacher: No, I have not seen that since 1993 when Democracy Watch started up.

[Translation]

Mr. Rhéal Fortin: Thank you.

[English]

The Chair: Thank you very much.

We'll move on then to Mr. Green for six minutes.

Mr. Matthew Green (Hamilton Centre, NDP): Thank you, Madam Chair.

I appreciate having the witness here. As a newer member of Parliament, I'm certainly fascinated by the historical context of the Conflict of Interest Act, as well as the many well-documented violations of that. We have "The Trudeau Report". The witness has provided some examples. I wonder if you would like to comment on the recommendations that came out of "The Trudeau Report", which outlined a whole laundry list of violations in the past, in terms of the recommendations that came out versus what we failed to act on at that time.

Mr. Duff Conacher: Are you talking about the "Trudeau II Report" with regard to SNC-Lavalin scandal or "The Trudeau Report" with regard to the Aga Khan?

Mr. Matthew Green: You could speak to either of them. I was speaking to "The Trudeau Report", particularly as it related to the Aga Khan and the vacations and the travel and any of that sort of thing. I just wondered if you could comment on the lessons that would have been learned from that.

Mr. Duff Conacher: Well, the main one is that there's a loophole in the gifts rule for cabinet ministers: if it's a gift from a friend or family member, the gift is legal. Former ethics commissioner Mary Dawson interpreted that rule...in a way, you could say, taking into account the purpose of the act, which unfortunately she didn't do in a lot of other cases of preventing conflicts of interest. In that case she interpreted it to say that even though it says that a friend can give you a gift, if a friend is a lobbyist or is involved in dealings with the government, she's going to disallow the gift and say that it's prohibited. But technically, the law still says that if it's a friend, the gift is legal. If Prime Minister Trudeau had been able to overcome that hurdle of proving that the Aga Khan was actually his personal friend as opposed to an old family friend, then he would have been let off, possibly by a commissioner other than Mary Dawson at the time, who was saying, no, sorry, even if it was a friend, she was going to ignore the rule and apply it, taking into account the purpose of the act.

As she recommended out of that, gifts should simply be banned. I mean, yes, your family members can give you birthday gifts and holiday gifts, but other than that, gifts should just be banned.

• (1450)

Mr. Matthew Green: Sure. I would also like to publicly state that I think there is some confusion around the relationship between the Trudeau family and the Kielburgers. One said they were friends. One said they weren't friends. It was kind of awkward, quite frankly.

This idea of plausible deniability seems to underscore the circumvention of the act as it's applied. This is subsection 6(1):

No public office holder shall make a decision or participate in making a decision related to the exercise of an official power, duty or function if the public office holder knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest.

Plausible deniability says, "I didn't know." What do you consider to be reasonable? Please be brief, as I have only another three minutes.

Mr. Duff Conacher: Again, I think if your staff are acting on your behalf...of the top government officials, which cabinet appoints and which, unfortunately, makes the top level of the public service partisan, because they're all serving at the pleasure of the cabinet. If those people are acting on your behalf, then I don't think the plausible deniability defence should be allowed unless you can truly prove that they went rogue.

That's the key. It's part of our whole notion of ministerial responsibility and accountability. It's stated in the Prime Minister's code and the Treasury Board code that staff are acting on behalf of ministers and have no authority to act otherwise.

Mr. Matthew Green: Thank you.

That leads me to my next question. It relates to the disclosure of gifts. You have, I think quite rightly, identified that the penalties for these violations are so immaterial in relation to people's ability to pay. In fact, some have even suggested that the more wealthy you are, the less susceptible you are to influence or corruption, that somehow \$40,000 is not material if you can write a cheque and make it go away.

How would you care to comment on section 23's disclosure of gifts at a \$200 threshold versus the anti-avoidance in section 18, which clearly states that people should not be engaged in activities that would circumvent the spirit of the act, essentially, or the obligations of the act?

Mr. Duff Conacher: First of all, I would point to how, as I mentioned, the lowest-level government employee can be fired from their job if they're involved in a decision where they have even the appearance of a conflict of interest, even if the decision applies generally. Again, 99% of cabinet ministers' decisions apply generally because they're usually decisions to change laws. It's really only hiring their staff or contracting out that it's a specific decision where the act even applies.

I think a sliding scale of penalties is something that could and should be considered. If you are paid more, the penalties should be higher.

Mr. Matthew Green: Or not even paid more; it's clear in your submissions that people who are coming in with blind trusts are essentially asking the public to blindly trust them that the decisions they make regarding their own personal wealth will somehow be managed in another way. Do you believe, in your opinion, the writing of a \$40,000 cheque, that actual action, is in contravention of the anti-avoidance section, section 18, of the Conflict of Interest Act?

Mr. Duff Conacher: In that particular situation, it's possible that Minister Morneau thought he paid for that entire trip, for those two trips by his family, and that his family paid the entire amount, because they did pay \$52,000. But I will not believe that claim until I see the entire communication record between WE Charity and every member of the family.

If WE Charity said at any time that part of that was complimentary, then Minister Morneau knew, and it raises questions not only of ethics violations because he accepted that gift.... But as you say, trying to pay it off just before testifying would, I think, violate that anti-avoidance clause, and it raises questions—as Democracy Watch has filed complaints with the RCMP—of breach of trust. Being in that kind of relationship, knowing what the ethics rules are, which Minister Morneau does because he has been found guilty of violating them and has been investigated for violating them, but still continuing to participate and direct his staff to participate in the process raises those questions.

• (1455)

The Chair: Mr. Conacher, that's time.

Thank you.

We will move to our five-minute round.

First up is Mr. Gourde.

[*Translation*]

Mr. Jacques Gourde (Lévis—Lotbinière, CPC): Thank you, Madam Chair.

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

As we speak, ethics in Canada has taken a serious beating—anything having to do with conflicts of interest, apparent or real, involving members of Parliament, ministers, even the Prime Minister. As Canadians, we are looking for the safeguards, but few, if any, exist.

I'm going to tell you a little story about ethics. Fifty years ago, in my small municipality, the fellow who owned the local store became mayor. He sold the municipality a wheelbarrow and lost his job as mayor over \$3.25. That's what you call ethical. Here we are, today, and the government is awarding \$40-million or \$50-million contracts. We are talking about the appearance of a conflict of interest. The word “appearance” is paramount, because what we're witnessing is the sponsorship scandal, version 2.0.

If members of our government can trade in favours to benefit their families, either directly or indirectly, what does that say to you, a long-time and well-placed observer of ethics? Where is Canada heading, in the face of something like this?

[*English*]

Mr. Duff Conacher: Well, very unfortunately, it's not getting better. As I mentioned, I've been before this committee 15 times, and other committees, as well, on related issues, such as whistleblower protection. The Harper Conservatives made some changes, but specifically, the Conflict of Interest Act eliminated the rule that required honesty and continued to allow this sham of so-called “blind trust”, which is not blind at all, because a person knows what they put in the trust, chooses the trustee and can even give instructions. Disclosure hasn't really increased that much, so in every way dishonest, unethical, secretive, unrepresented and wasteful decisions and actions are still legal, and therefore encouraged, especially because of the weak penalties. To put it another way, everything Karlheinz Schreiber did in relation to Brian Mulroney is still legal at the federal level in Canada. That's how bad it is.

I'm hoping for change soon. That's why I'm encouraging the committee to realize that the system is the scandal and to draft a bill and to introduce it in the House. Private members' bills have a much better chance of passing in a minority government.

Recruit your colleagues. Even if the party leaders resist and try to maintain this currently undemocratic, unethical and corrupt system, hopefully a critical mass of MPs will say, “No, we're going to finally clean things up, in part so we're not found guilty by association with the people who are there serving their own interests and the interests of those who have done favours for them, as opposed to being there to serve the public interest.”

[*Translation*]

Mr. Jacques Gourde: You really captured how Canadians perceive the government and the system. You called Canada's current system corrupt and unethical. It scares me to see the legacy that's being passed on right now. If those at the top are setting the example, Canadians just might cast ethics aside overall.

In a democracy, especially ours, ethics is a hallmark of morality. It's paramount. No matter what programs are introduced and no matter what support we want to give Canadians, if everyone can apply for assistance, whether they need it or not, or cheat a bit to get ahead, someone, somewhere, is going to have to pick up the tab in the end. It'll be a very hefty tab for all of Canadian society.

Do you think we can find a way out of this?

[*English*]

Mr. Duff Conacher: Well, we can. We can certainly change the rules first and increase the penalties and enforcement, and together those three things will hopefully change the culture and drum out those people through transparency, whether they be politicians, government officials, appointees, lobbyists or staffers, who are there in federal politics for the wrong reasons.

As Prime Minister Trudeau mentioned in the 2015 election platform, sunshine is the world's best disinfectant, so we need the transparency the Liberals promised. We need to close all the loopholes. As Jean Chrétien said back in 1993 in the Liberals' red book platform chapter on governing with integrity, if the government is to be a force for good in society, it must act with integrity. He was right. The trust levels right now, over the past five years, are generally at about 10%. Only 10% of voters trust politicians.

Thankfully, swing voters care about these issues and swing voters decide elections. Every party that has put forward a strong platform and put it as a highlight of their platform in the last 25 years, in every election across Canada, federal and provincial, a platform to clean up politics in multiple ways—

• (1500)

The Chair: Mr. Conacher, thank you.

Mr. Duff Conacher: —has won more seats or won the election. So swing voters care and it's a good thing that they continue to care.

The Chair: Thank you, Mr. Conacher.

I am moving on to Madame Brière and Ms. Zahid.

You have five minutes.

[*Translation*]

Mrs. Élisabeth Brière (Sherbrooke, Lib.): Thank you, Madam Chair.

Good afternoon, Mr. Conacher. Thank you for being here. Thank you as well for answering our questions, and sharing your thoughts and comments with us.

I want to thank the public service for everything it's doing right now to help us through this crisis. We heard from senior officials who said they didn't think they had the capacity to administer the Canada student service grant program. Let's set aside the decision to recommend WE Charity. Do you not have confidence in our public service, and its capacity to determine what it can, could or should do, especially during a crisis like this one? We're talking about a public service that has already pushed the limits, one that is already stretched thin. Public servants have implemented numerous programs during the crisis.

[*English*]

Mr. Duff Conacher: Well, first of all, the head of the largest public sector union testified that, no, the public service could have done it, and I would presume he would have connections and contacts with top-level people and be able to check on something like that before saying it.

Second, though, thousands of applications were already being processed by the Canada Service Corps and Canada summer jobs. It is easier to just expand that and continue processing those applications. We know now some of the details of what WE Charity was going through to try to start up and implement this program. Even if you are going to contract it out—I know there was a rush, but there are rules in the Financial Administration Act, whereby you can put out a contract for bidding for 10 days.

If you're in a rush and there is something that needs to get done really quickly—although I don't really think it had to get done as quickly as everyone is proposing—then that 10-day rule could have been used and some of the 20 groups that were supposedly reviewed but most of which were never even contacted would have, I'm sure, put in a proposal if they would have known that they would be getting \$33 million to administer it. They might not have the internal capacity without the \$33 million, just as WE Charity didn't, but if they knew \$33 million was on the table, then I would bet you would have seen half a dozen applications at least from things like the Boys and Girls Club and the United Way and you would have had a competitive bidding process.

So there was no reason to break the rules. There's no reason to break the rules in this crisis in any way, including in terms of not having Parliament fully open to be reviewing government and holding government accountable. You just do things faster, but you don't have to completely throw out rules and compliance with the rules in this situation at all.

[*Translation*]

Mrs. Élisabeth Brière: Do you have confidence in our public service?

[*English*]

Mr. Duff Conacher: Well, I can't answer such a general question. We're talking about hundreds of thousands of people, and I've seen lots of scandals. We don't have a whistle-blower protection system that protects others, the many people who want to report wrongdoing, so it's an assessment I can't do.

In this case, though, we know that Ms. Wernick had a relationship with WE Charity going back a few years. I think that relationship... As I mentioned, the small gifts and the building of a relationship is what lobbyists do, and they do it for a reason. They do it because clinical psychologists have proven that it influences people's relationships and their decisions. I think that's part of what happened here. There was an easy alternative, which Ms. Wernick knew, and which cabinet knew very well, and they just got tunnel vision instead of following the rules.

The rules are there to protect people from having tunnel vision and advancing their own private interests, the private interests of their family's favourite charities, or those of a favourite organization they have worked with. The rules are there to protect the public's money, and that's why the rules need to be strengthened. Loopholes need to be closed, and enforcement and penalties need to be put in place, because there are no penalties right now for violating those spending rules, other than maybe seeing an Auditor General's report five years from now saying that you violated the rules. Why would anyone follow a rule when there's no penalty?

• (1505)

Mrs. Élisabeth Brière: Thank you.

I'm sharing my time with my colleague.

Mrs. Salma Zahid (Scarborough Centre, Lib.): Thank you, Chair.

Thank you for appearing before the committee, Mr. Conacher.

My question is this: Where would you draw the line for the involvement of a family member in charitable or professional work? This could overlap with the decision-making of an MP in cabinet.

Do you have an opinion on where a line should be drawn for determining who is a family member? How far does the family go?

The Chair: You have 30 seconds.

Mr. Duff Conacher: Well, it should go where the Conflict of Interest Act goes now, which is not just to immediate family members, but also relatives. It was entirely appropriate for the Ethics Commissioner to find, for example, Minister LeBlanc guilty when one of the bids for a contract he approved came from a cousin.

You just have to be aware of these things. Every minister should have a list, and all of their staff should have it too, of what their interests are, who their family members are, and what businesses and other organizations they're involved in. They should be checking that list, and checking it twice, to make sure that they're not involved when they're not allowed to be.

The Chair: Thank you, Mr. Conacher.

Moving on to Mr. Kurek for five minutes, please.

Mr. Damien Kurek (Battle River—Crowfoot, CPC): Thank you very much, Mr. Conacher. I appreciate you coming to join us. I have certainly followed much of your work through my interest in politics over the last number of years, and I continue to now while having the honour to serve in Parliament.

I'm troubled by the decision-making process that led to this whole series of events: the conflict, whether it is perceived or real; the throwing of the public service under the bus; and the, at best, misrepresentations—there are certainly other words that could be used to describe the actions of the Prime Minister and others—in how they've answered questions related to this.

I'm curious as to your thoughts on the decision-making process that led to this and about your suggested changes that could be implemented to ensure that this sort of thing, first, gets exposed, so that we get all the facts, and, second, doesn't have to happen again. It's an abuse of taxpayers, an abuse of trust, and it truly damages the trust that Canadians need to have in their public institutions.

Mr. Duff Conacher: One thing they didn't mention was this notion of conflict of interest screens, which has been in the news with regard to the Prime Minister's chief of staff, again, over the weekend. These conflict of interest screens were created by ethics commissioner Mary Dawson. They're not authorized by the act. Democracy Watch challenged them in court. Unfortunately, the Federal Court of Appeal said they were a reasonable enforcement tool.

They really aren't. Anyone who has a screen who is a minister...then their staff, who serve at their pleasure, are supposed to enforce this screen and tell them what to do, and tell them not to go to meetings or take part in phone calls or whatever when they have a conflict. Then they learn what decision or meeting is going on, because they're told they can't go and why. Who's to stop them from intervening or telling their staff, "Thanks very much for your input, but you serve at my pleasure, and if you want to keep your job, you'll keep your mouth shut"?

What's required in the act is recusal. The recusal has to be declared publicly with the reasons for the recusal within 60 days. The screens should be banned. It would be a step forward, as it would be for the recusal system to go forward, as former ethics commissioner Bernard Shapiro recommended back in 2006 because he saw so many problems with using screens.

That's one key thing, but I think another one is that, as I mentioned, when you initiate a spending process, there should be a compliance check with the Auditor General right up front. The Auditor General would be able to flag a lot of things very early on. That wouldn't work for all decision-making processes, but strengthen the rules, close the loopholes, strengthen enforcement and penalties and everyone would have much more incentive to follow the rules, with a higher chance of getting caught and penalized than they have now. The current system is a scandal. It's really a sad joke. It's no surprise at all that there's scandalous behaviour as a result.

• (1510)

Mr. Damien Kurek: Thanks very much.

I'm wondering if you could outline just a couple of examples of what you feel appropriate penalties would be for violation of the Conflict of Interest Act once, twice and we're looking down the barrel of what could be a third time. I'm wondering if you have any comments on what those appropriate penalties could be.

Mr. Duff Conacher: A lot of people misunderstand the act. They say, "Wait a second, they didn't do anything to help anybody." No, the act is there to prevent you from doing that. If you do something to help someone, then you're in breach of trust. If they gave you any favour or benefit in order for you to do something, then that's the anti-bribery provision in the Criminal Code.

The act is there as a civil, non-criminal means to prevent these things from happening. The Supreme Court of Canada has ruled that it's essential; if it's not strictly and strongly enforced, then we don't have a democracy. It ranks just below the Criminal Code in terms of importance of maintaining government integrity. I think the penalties should be, as a result, very high. I believe one year's salary for a violation of these key rules that are there in the act should be the minimum penalty that the commissioner is required to impose. You are all supposed to be upholding the public trust. When you violate this act, you violate the public trust. The penalty should be very severe.

Mr. Damien Kurek: This will be my last question. The Prime Minister in the 2015 campaign talked a lot about sunny ways, transparency and all of these things. We saw a few virtue-signalling measures like public mandate letters and that sort of thing. Can you comment on any substantive changes that have taken place over the last number of years since the current government formed office in 2015, other than those very public attempts to make things look transparent?

The Chair: You have 20 seconds.

Mr. Duff Conacher: The Access to Information Act enforcement has been strengthened by making the Information Commissioner able to order the release of documents, but the Liberals in 2015 did not promise any changes to strengthen ethics rules, lobbying rules or whistle-blower protection and have ignored recommendations from committees since then on this.

That's about it. That's why I say there's a failing grade on both the ethics file and the open government file for this government.

The Chair: Thank you, Mr. Conacher.

Mr. Dong, you have five minutes.

Mr. Han Dong (Don Valley North, Lib.): Thank you, Chair.

I want to thank you, Mr. Conacher, for coming here and for your presentation. I listened quite carefully. I have just a couple of things.

First, what's your opinion on the current commissioner, Commissioner Dion? Do you think he's doing a good job right now?

Mr. Duff Conacher: Commissioner Dion has been hit-and-miss. His ruling on SNC-Lavalin, as I mentioned, was good in that he reversed a very bad decision made by Ethics Commissioner Mary Dawson, very early in her mandate, that private interests in the Conflict of Interest Act did not include political, social or any interests other than financial interests. She just created a huge loophole that essentially gutted the law even more than it was gutted before. It already didn't apply to 99% of decisions, and now it didn't apply to 99% of interests. It really should be called the "almost impossible to be in a conflict of interest act". He closed one of those loopholes with his reinterpretation.

But, in that ruling, he let eight other people off the hook who did exactly the same thing that the Prime Minister did, which was pressure the Attorney General to stop the prosecution of SNC-Lavalin. He said they can't be found guilty because they're not the Prime Minister and they can't influence the Attorney General. That was a very bad ruling that Democracy Watch is currently challenging in the Federal Court of Appeal.

Mr. Han Dong: Sorry, I didn't mean to cut you off.

I like that substance. You also made a comment that he was appointed by the current administration; therefore, it may be perceived that process is biased. I just want to make sure that I understand where you're coming from.

Another thing you mentioned in your presentation is that all members should be under review or perhaps audited by the commissioner to take a look at where they're getting their donations or people who are helping out on their campaigns. I just want to understand a bit more. Right now, no corporate donations are allowed. They are all coming from individuals. In my case, in my riding, if a community group likes my policy, likes what I've done or likes my focus locally and its members decide to support me when it comes to an election campaign, in your view would that be seen as a conflict of interest? Or perhaps they help me or they're influencing my policy or vice versa. What do you think about that?

• (1515)

Mr. Duff Conacher: Just briefly, on the Ethics Commissioner selection process, and the Commissioner of Lobbying as well, the

Federal Court of Appeal ruled that the Trudeau cabinet was biased when it chose those two commissioners, but the bias is allowed under the Supreme Court of Canada ruling, unfortunately. Five provinces use a more independent system for choosing their watchdogs, and the federal level should do it as well, whether it's an all-party committee or an independent commission that comes together to—

Mr. Han Dong: Yes, I just want to bring it back. The reason I asked my last question is that if we implement everything that you suggested today, I wonder how practical it is for individuals or community activists to step forward to join an election and hopefully be elected.

Mr. Duff Conacher: It's entirely practical, but if they'd helped you in a significant way, they would not be allowed to lobby you. The other way to go is, if they had those ties and they were lobbying you, you would have to recuse yourself because of the favours they did before.

That threshold is already in the Lobbying Act and the Lobbyists' Code of Conduct. If you've helped someone significantly, you cannot lobby him or her for four years.

Mr. Han Dong: I've got limited time, but thank you for clarifying that.

What's your opinion on a parliamentary committee of partisan MPs effectively summoning the financial records of private citizens or a private entity? Do you think that purpose would be better served by the commissioner who's doing the investigation?

The Chair: You have 30 seconds.

Mr. Duff Conacher: Again, Parliament has the right to ask for information from government and from private citizens. There's an old saying, "follow the money". So there's a money trail in this situation and it has to be followed because it tells part of the tale. The whole communication record has to be out there and the whole money record has to be out there before we can really get close to the truth of what happened in this situation.

Mr. Han Dong: Thank you.

I have a last question.

The Chair: Mr. Dong.

Mr. Han Dong: I just want to return the favour. What's your rating on Prime Minister Harper's government?

The Chair: Mr. Dong, that is your time. Thank you.

Mr. Han Dong: Would you allow an answer, Chair?

The Chair: I'm happy to allow an answer.

Mr. Han Dong: Okay, I'm done. Thank you.

The Chair: You have five seconds.

Mr. Duff Conacher: Democracy Watch's final report card on the Conservatives, issued in 2014, rated them an F for their government accountability and democratization record, essentially failing to keep more than half of their promises made in 2006 in the Federal Accountability Act, and also taking some huge steps backwards by gutting the ethics rules in a few key ways.

The Chair: Thank you, Mr. Conacher.

Mr. Michael Barrett: It turns out “better” isn't possible.

Some hon. members: Oh, oh!

The Chair: Moving on then to our final round, we have both the Bloc and the NDP, who will each get a 2.5-minute question, starting off with Mr. Fortin.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Madam Chair.

Mr. Conacher, clearly, the processes that characterize good governance weren't rigorously followed in this case, and the consequences are significant. So far, what we've seen in terms of propriety, if I can call it that, is Mr. Morneau and Mr. Trudeau apologizing for their involvement in the decision-making process.

Do you think their apologies are enough to put the awarding of an untendered contract and the decision made by Mr. Morneau and Mr. Trudeau behind us? Keep in mind, their families were closely involved with WE Charity.

[*English*]

Mr. Duff Conacher: Well, no, first of all, because they've only apologized for not recusing themselves at the final cabinet meeting. Neither of them has apologized for having their staff involved right through the entire process, participating in it, and—once we see the full communication record—maybe trying to influence it and rig it in favour of WE Charity.

Second, apologies, as in other areas of enforcement of law, go to what kind of sentence or penalty you pay; they don't excuse your behaviour. They just possibly mitigate what kind of penalty you might pay based on how quickly you apologize and whether you show remorse.

No, they're not adequate at all. That's why we need very high penalties put into the law so they'll have to pay a penalty no matter what.

• (1520)

[*Translation*]

Mr. Rhéal Fortin: I gather that stiffer monetary penalties might be a deterrent.

Earlier, in response to a question from the honourable member from the Conservative Party about the effects of this ethical breach by the Prime Minister and the Minister of Finance, you said the people at the top set the example. Many members are calling on Mr. Morneau and Mr. Trudeau to resign from their posts as finance minister and Prime Minister. At the very least, they are being asked to step down from their positions, without necessarily resigning as members of Parliament. Others should take over until the Conflict of Interest and Ethics Commissioner's final report comes out.

Do you think their resignations are necessary and relevant, or is that going too far?

[*English*]

The Chair: You have 20 seconds.

Mr. Duff Conacher: No, I think it is relevant, but I prefer to wait until the investigation is over. The failure to recuse at the final cabinet meeting is not as serious a violation, if it is true that the public service actually recommended on its own that WE Charity be given the funding. However, participating in it and possibly influencing it are much more serious, possibly raising questions of breach of trust, which is why Democracy Watch has complained to the RCMP. I think those types of offences are the types of offences over which resignation is due.

The Chair: Thank you, Mr. Conacher.

We will move to Mr. Green for the final question.

Mr. Matthew Green: Thank you.

It was alluded to earlier that perhaps the minister forgot that he hadn't paid \$40,000, which I think raises the question of competence, particularly in a finance minister. It's a pretty material oversight. However, we have so far admitted to the travel, which is section 12; the duty to disclose, which is section 31; and section 23, which is gifts.

Particularly with regard to the travel, with the private trip essentially, we don't know whether it was chartered or whether it was a public flight. We don't have those details yet. If that was the case, would that then cross the threshold into bribery? Would that then become material enough that we would have a breach of trust in a way that—and I should be reminded, because you brought this up earlier, that this is for the public service—a public servant who does not comply with the requirements of this code is subject to the appropriate disciplinary action, up to and including the termination of employment. This is what we set for the public sector, yet right from the top we have a slippery slope that could go from potential conflict of interest, which I think, given some of the admissions that have already been made publicly, there's no real need for an investigation into at this point; they've already admitted to this.

If it comes back that this was on private chartered flights, regardless of the disclosure or failure to recuse, and it comes back that all these other subsections have been violated, do you think this would then be the prime opportunity to talk about them having lost the public trust and, therefore, being required to step down?

Or—I'll go further, Madam Chair—do you think that part of the reforms should include that the act—and you'll note the act is very weak on enforcement—should forget about the \$500 and have this actually as an outcome of the enforcement on this criteria?

The Chair: You have 30 seconds.

Mr. Duff Conacher: Sure.

First of all, it does have to be shown whether Minister Morneau knew, or thought for sure, that he had paid for all of the costs. So that investigation needs to be done. To prove breach of trust, four of the five elements are already proven; he's an official, and so is the Prime Minister, taking part in a decision, in an official decision-making process, and breaching the standards of office in a serious way. The fifth one is whether it was done intentionally. That's where the investigation needs to look at the whole communication record.

But when you have that relationship with the charity, and you have been found guilty of violating the act before, as the Prime Minister and finance minister both have, and you're still taking part in directing your staff to take part in the decision-making, knowing that it's wrong, then I think that is evidence of wrongful and dishonest intent.

• (1525)

The Chair: Mr. Conacher—

Mr. Duff Conacher: That's where the investigation has to go.

The Chair: Thank you.

That concludes this portion of our committee meeting.

Mr. Conacher, thank you so much for giving your time today. Thank you for your patience at the beginning. Again, we sincerely apologize for the glitch.

We very much appreciate your taking this opportunity to share your thoughts with us. Thank you.

Mr. Duff Conacher: Thank you very much.

You can see, of course, as I mentioned, much more detail in the background I've prepared and submitted to the committee and in the news release that summarizes the key changes to end this system that really is a scandal. I hope the committee will work together to take a step, by introducing a bill in the fall, and close these loopholes.

The Chair: Thank you, Mr. Conacher.

With that, we will suspend.

The committee will be called back for four o'clock to hear from our next witness.

• (1525)

(Pause)

• (1614)

The Chair: I will call the meeting to order.

Mr. Czerny and Mr. MacDonald, we will just be one moment.

Yes, Madam Shanahan.

Mrs. Brenda Shanahan: Chair, I have a request to the clerk. The previous witness made a statement saying that Rachel Wernick had many connections to WE. I would just like to ask the clerk if we could follow up with the witness to get evidence of what he was alluding to.

Thank you.

• (1615)

The Chair: Thank you.

Mr. MacDonald and Mr. Czerny, again, thank you so much for your patience. We appreciate you bearing with us. We will do our best to make good use of your time here today.

As you know, this committee has undertaken a study that pursuant to Standing Order 108(3)(h), the committee review the safeguards that are in place to avoid and prevent conflicts of interest in federal government procurement, contract granting, contribution and other expenditure policies.

You have been asked to come today and comment on this motion and answer any questions that those around this committee table would have for you.

In just a moment, I will give you each 10 minutes for your opening remarks. We will then proceed to questions from the members. Of course all parties around the table will have an opportunity to engage with you.

As you answer questions, I would just ask that you be mindful of time. The members are often trying to make it through as many questions as they possibly can, so efficiency is certainly of the essence.

With that said, I will have to interrupt you once the maximum time limit has been reached. I don't do so to be rude, but just to keep us on track, so please bear with me.

With that, Mr. MacDonald, I would invite you to take the floor with your opening remarks. You have 10 minutes.

Dr. Chris MacDonald (Associate Professor, Ryerson University): Thank you, Madam Chair. I'd like to thank the members of the committee for this chance to speak to you today.

My goal today is to provide a scholarly point of view. In what follows, I'll lay out the key elements of conflict of interest and the reasons that conflict of interest is important.

First, let's look at how it is defined in Canada's Conflict of Interest Act.

Section 4 of the act says the following:

For the purposes of this Act, a public officer holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

This definition from the act is flawed in one key way—namely, in its reference to exercising official power. Under this definition, the conflict of interest doesn't exist unless the official actually takes action in an improper way. This fails to correspond to the view of leading scholars in this area, according to whom conflict of interest is a kind of situation, not a kind of action.

According to this expert consensus, a conflict of interest exists as soon as the official finds herself in a certain kind of situation, namely one in which she has the opportunity to act in a way that puts biases into action. Such an official is already—blamelessly—in a conflict of interest, so a more suitable definition would be this: a conflict of interest is a situation in which a person has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties as, say, a public official, an employee or a professional.

According to this definition, all that's required for a conflict of interest is the existence of a certain kind of professional duty, one that is in tension with some personal interest that stands to affect judgment.

Next, why is conflict of interest considered a problem? Two reasons are generally recognized. First, conflict of interest is considered a problem because we worry that if the professional or official goes ahead and renders judgment or offers advice in spite of an unremediated conflict, her decision may fail to serve those she has sworn to serve. A judge, for instance, in adjudicating a case involving a family member, might impose a sentence that isn't a just one, or a manager might end up making a hiring decision that fails to serve the interests of the organization.

Perhaps more important is that where conflict of interest is not dealt with properly, there is the possibility that confidence in the decision-maker and indeed in the institution in which decision-making occurs will be shaken. Seen from this perspective, the problem with the conflicted judge is not just that she may make a bad decision but that citizens will lose faith in the judiciary. The problem with the conflicted manager is not merely that a bad hire may result but that stakeholders will lose faith in the company's hiring process.

This is in fact the moral crux of conflict of interest. Trust is imperilled if people even suspect that experts or office-holders, who are inherently difficult to monitor, might be in a position to improperly profit from their privileged status.

It's crucial to point out that, properly understood, conflict of interest itself is not and cannot be an accusation. Conflict of interest can arise entirely innocently, as when the judge finds that a close relative has been charged with a crime and brought into her court. The judge here has done nothing wrong, but she is clearly in a conflict of interest. She has a personal interest—namely, an interest in not seeing her relative go to jail—and that interest could be expected to interfere with her judgment. In this situation, the judge is not to be accused of conflict but simply needs it pointed out if she hasn't noticed it already. If she handles the situation badly—for instance, if she goes ahead and presides over the case—then she is rightly to be criticized for that.

What should the individual do when she finds herself in a conflict of interest? First, note that the fact that conflict of interest is not an accusation implies that the integrity of the individual is not a solution. When a true conflict of interest exists, it is insufficient for us to encourage the individual to take care and it's insufficient for her to insist on her own integrity. It's beside the point.

Most experts recommend three key steps in dealing appropriately with conflicts of interest: One, avoid them when you can; two, disclose conflicts to relevant individuals; and three, remove yourself from decision-making.

Each of these steps, however, poses difficulties. Avoidance, for example, is sometimes impossible, because sometimes professionals find themselves thrust into conflict of interest through no doing of their own. Disclosure too poses difficulties. Disclosure sometimes allows professionals to feel as though that's all they needed to do when additional steps were in fact needed. Further, disclosure may leave stakeholders wondering just what to do with the information that has been disclosed. Finally, removing oneself from decision-making is sometimes impossible due to relevant roles and responsibilities, and in some cases, recusal may not even be effective.

- (1620)

Imagine, for instance, the situation of a corporate board member who declares a conflict of interest on some matter and then steps out of the boardroom while a vote is taken. The other members of the board may well find their own decision-making influenced nonetheless by the disclosed interest of the colleague who has left the room. On the other hand, it might be said that while the practical value of disclosure is unclear, interested parties still have the right to know that an individual in whom they are placing their trust is in a conflict of interest.

Briefly, what does all of this imply for the Canadian Conflict of Interest Act? Time doesn't permit a full analysis, but let me make just a couple of points.

First, the act certainly has the ingredients to point public officials in the right direction with regard to conflict of interest. Under the act, public officials are properly obligated to arrange their own affairs in a manner that will prevent them from being in a conflict of interest. They are also obligated to abstain from decision-making regarding matters in which they have a private interest. Setting aside quibbles outlined above about how the act defines conflict of interest, the act does provide decent basic guidance to public officials seeking to satisfy the main requirements of ethical behaviour in the face of conflict. It exhorts officials to avoid conflict; to disclose conflicts, including in writing, to the commissioner, who then posts them on the commissioner's office website; and to recuse themselves from decisions regarding which they have a conflict.

However, one important implication of what I said above might be worth noting. One section of the act allows for exceptions to be made to some of its requirements “if the Commissioner is of the opinion that the contract or interest [involved] is unlikely to affect the exercise of the official powers, duties and functions”, but as I suggested above, whether the conflict will have an impact on decision-making is only half the point, and perhaps the smaller half at that. The key is really whether participation in a decision will reduce public confidence in the relevant decision-making process.

Finally, a key challenge with regard to conflict of interest really lies in what's not in the act—namely, the process by which government officials come to know the requirements of the act and hopefully to internalize its real meaning. There is clear consensus in the relevant scholarly fields that simply having a clear set of rules accomplishes relatively little. Individuals need to understand the values underpinning those rules. They need training. Reading a piece of legislation is not training. Training on ethical issues is a tricky thing, and unfortunately too often gets done in kind of a check-box manner. Ideally, training should be experiential. Individuals need to experience the relevant ethical challenges in order to both appreciate their seriousness on an emotional level and to practise—to develop the habit of—doing what the rules require.

One of my own research projects, IN.Lab, provides an example of what I mean. That project, which is online at www.interactives.ca, involves immersing individuals in realistic scenarios, simulated online, to allow them to engage in ethical decision-making in real time. Federal government training on conflict of interest doesn't need to look exactly like that, of course, but it illustrates what is possible in going beyond the typical annual sign-off approach to training on ethics and conflict of interest.

Thank you.

The Chair: Thank you very much for your time.

Mr. Czerny, I will hand it over to you for 10 minutes.

Mr. Robert Czerny (Former President, Ethics Practitioners' Association of Canada): Thank you very much.

Thank you for this opportunity to address you on important matters of proper relationships and conduct of work in Canada's national government.

• (1625)

My strong interest in federal government matters dates back nearly half a century. I was a public servant from 1973 to 1994. After that, much of my work as a management and communications consultant was for federal government clients, including Parliament itself. I have been very active at the Ethics Practitioners' Association of Canada for the last 10 years, including five years as president. We have workplace and retired members from the public and private sectors, and our educational activities have been much appreciated by public servants wishing to reflect on the ethical dimensions of their work.

This background allows me to highlight various dimensions of ethical conduct of public servants in relation to Parliament, ministers and cabinet, but I'm not an expert in conflict of interest legislation, structures and procedures or in the details of the present case. Rather, I hope to elucidate the context of the work done by public servants in a professional and ethical manner.

I'll end with five recommendations.

First, trust is essential to a successful public service. The public must trust the government in order to have smooth, constructive relationships between government and society. Without trust, you can't have peace, order and good government any more than you can have an efficient commercial marketplace. This is why it is essential to keep private interests out of government decision-making

and operations. Conflict of interest, whether real or merely potential or apparent, can destroy the public's trust in the government to act in its interest. Therefore, avoiding the appearance of conflict of interest is no less important than avoiding its actual occurrence.

Second, non-partisan public servants and elected representatives must collaborate in the work of government. There needs to be clarity about their complementary roles and operating principles. That relationship was articulated in a careful and inspiring manner in "A Strong Foundation", a 1996 report on public service values and ethics. Besides stating values that you want to find in every workplace and pursuit, such as integrity and respect, it sets out what it means to be a professional in public service within Canada's democratic system.

Third, key mechanisms have grown in this area since that time. There are, for instance, mechanisms for accountability, conflict of interest of both politicians and public servants, and protecting individuals who disclose wrongdoing from reprisal. There is also a solid set of best practices to encourage ethical conduct in organizations. Some of these are the articulation of values and codes of conduct; training and dialogue; counselling and mediation services; and how to manage conflicts of interest in, for instance, small communities where officials frequently have to deal with friends and relations. Ethics officials throughout the federal government have a network through which they share insights on all of this. Our association gives them the opportunity to do the same and to learn from the experiences of those in other sectors.

Fourth, an organization can have a code of conduct, a statement of values, or both.

Codes of conduct spell out a bottom line of rules and norms. Compliance is the issue, and we ask if this or that behaviour passes or fails a norm, if it obeys or contravenes a rule, and what the sanctions or consequences are for transgressions.

Statements of values, on the other hand, articulate the aspirations of an organization. The right questions to ask for these are about how well this or that behaviour embodies our ideals, and how we could do better. This is the realm of learning, improvement and celebrating excellence.

To my mind, an organization needs both. Being serious about ethics requires having a bottom line of acceptability and sanctioning what falls below that line, but organizations must aim higher than mere legality; otherwise, they won't inspire initiative and excellence in their personnel.

Fifth, what happens in an organization reflects its culture. Culture exists at all levels and is constantly shaped by behaviour at all levels, but the key factor is leadership, the tone at the top. Culture cascades; the ethics of senior leaders is signalled by their actions even more than by their words, and it filters down throughout the organization.

Sixth, a key spot where the ethics rubber meets the road is in speaking up, in raising an issue that could meet with resistance and could make the speaker unpopular or worse. A teacher and researcher in the United States named Mary Gentile discovered that people often know what's right and want to do it, but feel awkward about speaking truth to power even if the culture accepts it. Her "giving voice to values" practice involves a person reflecting on their moral courage, developing personal scripts for speaking up, and then rehearsal and practice. Her approach has a worldwide following, including in some business schools and in other uptake in Canada. The capacity to speak truth to power is needed at every level from junior staff with supervisor problems to interaction between a minister and his or her deputy. By the way, I have nothing personally to gain in publicizing her work.

Seventh, speaking up is necessary for cleaning up. Secrecy allows things like bullying and fraud to continue in the dark. However, secrecy is entirely different from confidentiality. Confidentiality is an absolute necessity for public servants to be able to give honest advice to ministers and for ministers to seek it.

Now I will share my five recommendations. The first two are specific to conflict of interest.

Number one, lest conflict of interest ever be overlooked, it should be standard procedure for all cabinet meetings that the chair of the meeting begins by raising the issue of conflict and inviting recusal.

Number two, there could be a similar process at the departmental level. When helping the minister to prepare for a cabinet meeting, the deputy minister's written or personal briefing of the minister could include a reminder along the lines of "please assure yourself that you are not in conflict of interest regarding these agenda items". This should be seen as part of the deputy's support to a minister.

Number three, requests to a department from a minister or cabinet can be as broad as "provide feasible options for achieving x ", but the request can also be as narrow as "conduct due diligence on choice y for achieving x ". In order to give the best possible advice, in order to speak truth to power and protect ministers from possible risks, the deputy's response to a narrower request could add any other pertinent intelligence that departmental staff can generate.

Number four, public servants sometimes feel inappropriately pressured when making decisions or providing information or analysis. Of course, they should respect their values and ethics code and resist pressures to contravene it. At the same time, other parties should also respect the code and not try to have public servants deviate from it. A statement should be added to the code addressed to anyone who deals with the public service to the effect that "it is a violation of this code to pressure a federal public servant to contravene it." This is compatible with current instructions to ministers and ministerial staff.

Number five, an ethical culture is sustained by constant dialogue concerning "the good" as well as specific instruction on norms, values, structures and processes. Senior leaders should provide the tone from the top by supporting and participating in such dialogue and training constantly.

In conclusion, I believe that Canada's public service has the capacity to provide expert and ethical service. If that is what parliamentarians want, they should support it, they should insist on nothing less, and they should never ask for anything else.

• (1630)

The Chair: Thank you, Mr. Czerny.

Moving on, we will go into our first round of questions. Each of the members has six minutes to engage with the witness of their choice.

Mr. Barrett, you are first up.

Mr. Michael Barrett: Thanks very much. Thank you to both of the witnesses for joining us today.

I'll start with a question for Mr. Czerny.

You talked about the tone from the top and you said that leaders must demonstrate the highest ethical standard. You also talked about sanctioning actions that fall below the standards and that the standard should be higher than simply what is legally allowable. What do you believe appropriate sanctions should be for repeat offences or repeat violations of the act?

• (1635)

Mr. Robert Czerny: Thank you.

I really cannot speak to the political side, because I really don't have experience in that, but on the public service side there are provisions in the employment conditions that say what is to happen when performance is below par. People have annual performance appraisals, for example. There is training and there can be reassignments and other sorts of things.

I think the clearest thing to say is that when there is consistent behaviour that is contrary to the norms, the organization has to look into whether something is a matter for forensic investigation and deal with it legally, but otherwise there are always constructive things that can be done to find ways to help people find the niche where they can perform well. It's part of the flexibility of everyday life in organizations.

Mr. Michael Barrett: Okay. Thank you.

My next question is for Mr. MacDonald.

You talked about the need for experiential learning when it comes to having an understanding of ethics and having an ability to follow those, so I guess my question is if an individual was found to have broken ethics rules and received a written report from the adjudicating body one time and then a second time, would you consider that to be a sufficient experiential background so that one would not further contravene those rules?

Dr. Chris MacDonald: As an educator, my standard answer is going to be that there's never enough training and education.

What you want is to provide people with a rich enough range of educational experiences. Sometimes, yes, the school of hard knocks and learning on the job is part of that, but what you ideally want is to have the training take place ahead of time and to have it give people a real enough sense of what these problems are like so that you go past either just reading an act or reading it in a textbook.

Mr. Michael Barrett: Right.

With respect to the matter that led to this study, which is the awarding of the service agreement to the WE Charity by the Government of Canada, in testimony related to that at the finance committee, Prime Minister Trudeau laid a great emphasis on the distinction between a conflict of interest and the perception of a conflict of interest, an actual conflict versus the perception of one.

Gentlemen, one of you spoke to the harm that does to the trust that people have in institutions. Was that you, Mr. MacDonald?

Dr. Chris MacDonald: It was, yes.

Mr. Michael Barrett: Okay. What do you make of that distinction, when an individual says, “You know what? I didn’t actually have a conflict. In fact, it was just the appearance of a conflict”? The implication there is that it’s not serious.

Can you speak to that argument?

Dr. Chris MacDonald: Sure, yes.

There’s a valid distinction to be made, because in some cases the perception of conflict of interest is based on some observer’s misunderstanding of the facts of the case, and where that is true, then the solution is different. When it really is a mere perception, then one of the things you want to try to do is to fix the misperception and clarify the facts of the matter, but it doesn’t mean that the perceived conflict is in no way interesting from an ethical point of view, because it does still need to be dealt with because it stands to erode public confidence or the confidence of stakeholders.

Something needs to be done, but it’s going to be a different something than it would be in the case of an actual conflict of interest.

• (1640)

Mr. Michael Barrett: In that case, would you say that once one becomes aware of the potential for a conflict or for the perception of a conflict, then in the list of steps that one can take—avoidance, disclosure, removal—have we now passed the point where we’re able to avoid in that case? Is recusing oneself from a discussion at that point, once you’ve identified the conflict, the appropriate step to take in the list of steps that you outlined?

The Chair: Give a very quick answer.

Dr. Chris MacDonald: If you’re talking about a perceived conflict of interest, then presumably there’s nothing to remove yourself from, so recusal doesn’t make sense at that point. Some other form of verbal distancing may be helpful.

The Chair: Thank you.

Ms. Brière, you have six minutes.

[*Translation*]

Mrs. Élisabeth Brière: Thank you, gentlemen, for being here this afternoon.

It’s clear from your CVs that you are quite the experts in your field.

I’d like to follow up on Mr. Barrett’s last question. What’s a better way to define a conflict of interest, or what elements should a definition include?

[*English*]

Dr. Chris MacDonald: I assume that’s for me.

As I outlined in my presentation, again I’m differing from the act because while I think the act is certainly relevant to the operations of the committee, the act is slightly out of sync with the best scholarly work in this area. A conflict of interest is a situation in which a person has a private or personal interest sufficient to at least appear to influence the objective exercise of his or her official duties. That usually has to do with something like making a decision or offering advice.

Mme Élisabeth Brière: Thank you.

[*Translation*]

Most people think they’re able to recognize a conflict of interest, no problem. They think it’s easy, but when they’re asked to define a conflict of interest, they can’t.

Can you tell us why that is?

[*English*]

Dr. Chris MacDonald: I feel you may have been reading some of my work. This is actually a finding from a study I did with a couple of colleagues a few years back, but it’s also common experience. Almost everybody knows that conflict of interest is a problem, but very few people can offer more than a very thumbnail definition. They often can offer an example. They might be able to come up with an example like my judge example.

I think we can point to two things as reasons. One is that conflict of interest is a modern concept. The term “conflict of interest” didn’t appear in the English language until the 1950s and didn’t enter law dictionaries, for example, until the 1970s, so it’s a relatively novel concept.

The other thing is that because it’s rooted in professional and business contexts, it’s not part of the everyday texture of most people’s lives. Most of us grew up with parents who taught us right from wrong, as in “don’t hit your siblings”, “don’t take other people’s stuff”, “clean up your own messes”. Very few people’s parents taught them about conflict of interest. It’s not something that we’re brought up knowing about. We may have some sense that some fairness issues are related to it, but that’s why organizations need to do a lot of work, in some cases highly specific work. If you look at the conflict of interest policies of banks, for example, they offer extremely detailed, extremely specific guidance on how to deal with what for many people are quite novel situations.

[*Translation*]

Mrs. Élisabeth Brière: Thank you.

In a 2002 study you co-authored on conflicts of interest in charitable organizations, you make recommendations for situations where decision-makers can't recuse themselves. The country's top public servant said a few weeks ago that, given the size of the program, not informing the Prime Minister of what was going on was not an option. One of the solutions you recommend is using an honest expert, someone with experience, to ensure impartiality.

Do you think the public service fits that description?

• (1645)

[English]

Dr. Chris MacDonald: One of the standard ways to mitigate the effect of conflict of interest, if you can't make it go away, is to involve more people in the decision-making. If you're the only relevant expert in some field and you need to be part of this adjudicating committee, then, if we can't remove you, what we need to do is bring in additional people so that more people are party to the decision.

No one is going to think that's a perfect situation, but it might be the best we can do in a given situation.

The Chair: You have one minute.

[Translation]

Mrs. Élisabeth Brière: Mr. MacDonald, you mentioned that conflicts of interest are unique from a moral standpoint. Can you talk more about that?

[English]

Dr. Chris MacDonald: That's a dangerous question to ask a philosopher, because I could go on at great length.

The concept of conflict of interest basically has to do with the fact that in modern life we often have people making important decisions on our behalf or advising us on important decisions when we don't necessarily have either the proximity or the knowledge to monitor them, and so we need to be able to trust them, yet all decision-makers, including professionals and political leaders, have rich and complex lives that bring other factors to bear, so there's every chance in all kinds of situations that when you're entrusted with making a good decision on behalf of your employer, on behalf of the public or on behalf of your institution, other factors can intervene. What we want to do in those cases is try to figure out, given the necessity of this role, how we mitigate the challenges that might occur, including things like conflict of interest.

Mrs. Élisabeth Brière: Thank you.

The Chair: Thank you.

The next person is Mr. Fortin. You have six minutes.

[Translation]

Mr. Rhéal Fortin: Thank you, Madam Chair.

Good afternoon, Mr. MacDonald.

In my previous practice, meaning, before I became a member of Parliament, I always thought the golden rule when it came to ethics and conflicts of interest was this: as soon as you start wondering whether you're in a conflict of interest, pull yourself out of the discussion so you avoid the trap.

Isn't that the golden rule when it comes to ethics?

[English]

Dr. Chris MacDonald: I'm not sure I've ever heard it put that way.

We were kind of talking about the gut reaction test, and certainly if you have that kind of gut reaction, that might be reason to pause. That's not necessarily reason to definitively remove yourself from an entire conversation, because it might be that the conflict isn't what it seems or it might be that once the conflict is disclosed, the relevant decision-makers might still want you to be part of the decision-making because of your perspective or insight or expertise.

Certainly, yes, we want to say that people should have enough of a sense of what these issues mean that if it smells like it might be a conflict of interest, their initial reaction should be to put on the brakes, take a step back, talk to the relevant parties and then figure out whether you can go forward.

[Translation]

Mr. Rhéal Fortin: If I think I may have a conflict of interest, it means that, deep down, my conscience is telling me I'm not free to do as I please, I'm limited in what I can do.

Instead of looking at conflict of interest as a broad abstract concept, shouldn't it be applied to each individual? As soon as I think my decision could be influenced, shouldn't I abstain from the decision-making process?

[English]

Dr. Chris MacDonald: Yes and no. To some extent, even if you don't have that intuition—

Mr. Rhéal Fortin: I prefer yes.

Dr. Chris MacDonald: How about maybe?

In part, your own reactions are important if you feel that there's something to worry about. If your own reaction is that there's nothing to worry about, then don't trust your own reactions. Really, at the end of the day, it's the reactions of external stakeholders that we need to worry about the most. What we want decision-makers to have are the kinds of sensibilities that will help them anticipate whether people are going to be worried about a particular situation or not.

• (1650)

[Translation]

Mr. Rhéal Fortin: I'll give you a real-life example.

If I'm considering awarding a contract on behalf of an organization that I run and the company at the heart of the decision hired my mother and paid her hundreds of thousands of dollars, and paid my brother and my spouse tens of thousands of dollars, aren't I in a conflict of interest, objectively speaking?

[English]

Dr. Chris MacDonald: As soon as you're involved in the decision-making process or as soon as there's judgment to be made, you are in a conflict of interest.

Again, the question then is, as I said in my presentation, so far, so good. So far there's nothing blameworthy. The question is, what do you do once you're in that conflict? The conflict is something you can proudly proclaim. I've done it myself in committee meetings. I've said, "No, I have to step away from this. I'm in a conflict." I don't feel bad about that. The thing to feel bad about would be if I mishandled it after that point.

[Translation]

Mr. Rhéal Fortin: Going back to my example, I'd like to know whether you would be comfortable proclaiming that you weren't in a conflict of interest if you had to oversee the funding of an organization that hired your mother, brother or spouse?

[English]

Dr. Chris MacDonald: It would depend on the details, but it sounds like a conflict of interest and so would require recusal.

[Translation]

Mr. Rhéal Fortin: Now I'll turn to my last question.

Before a contract is awarded, the usual process is this: put out a request for proposals, review x number of bids and objectively decide who to award the contract to, usually according to predetermined criteria. Now, in an emergency situation, when a request for proposals isn't put out and objective criteria aren't established for evaluating the bids, isn't it even more important to be on guard for possible conflicts of interest than during the usual process?

[English]

Dr. Chris MacDonald: If we're talking about the inability to do due diligence because we're moving quickly, for example, then sure, we would want to be as careful as possible. For one thing, just practically, we want to say this is an important decision. We don't want something like committee hearings to have to happen. We'd rather get it right from the start, and yes, I would think, as you say, raise the bar, which I would like to see fairly high to start with.

[Translation]

Mr. Rhéal Fortin: If I was able to limit my involvement in the process—in other words, participate in the decision as to whether X or Y is a good idea, in this case, setting up a program, but not participate in the decision regarding who to award the program administration contract to—wouldn't that be the least I could do to avoid a conflict of interest like the one before us?

[English]

Dr. Chris MacDonald: It sounds like what you're describing is a course of action. One key thing about ethics is there is very seldom a point in time at which a decision is made and it's final. I receive some information and I make an initial judgment. Some more information is received. I get further into conversations. What we want to see is at what points along that timeline would the relevant individual have the relevant information to say, "Okay, I'm definitely out of this."

[Translation]

Mr. Rhéal Fortin: Very well.

Madam Chair, do I have enough time to ask Mr. Czerny a quick question?

[English]

The Chair: I'm sorry, Mr. Fortin. You have already taken almost seven minutes.

[Translation]

Mr. Rhéal Fortin: Thank you, Madam Chair.

[English]

The Chair: Thank you.

We'll move on. Mr. Green, you have six minutes.

Mr. Matthew Green: Thank you.

I'm going to put some direct questions to you, Mr. MacDonald, and I'm going to ask if you could try to provide some direct answers.

We've had, over the last couple of hours, in fact weeks, plenty of opportunities to kind of unpack what's been transpiring here. The previous witness made a statement that the system is the scandal. With the previous witness, I also began the line of questioning around avoidance and anti-avoidance clauses, specifically section 18, which says,

No public office holder shall take any action that has as its purpose the circumvention of the public office holder's obligations under this Act.

I'm stuck on this, because we've had in previous reports.... If I recall correctly, the Prime Minister, in a previous finding of guilt, said that it wasn't a private plane because it wasn't fixed wings; it was a helicopter. It was this type of legal finagling where the ethics are separated from the actual word of law, aside from the spirit of the law.

I look particularly at the contribution of awards. You brought up something, which I think the other witness did as well, around the culture of ethics—the ethical culture—and the behaviour and the habitual pattern of ethics breaches and violations. I'm wondering if you can comment on this particular aspect as it relates to this idea of sole-sourced contracting, which in the private sector would be a thing and I'm sure you can find a parallel.

We have seen that over the last few years, in fact four or five years, there is this idea of knowing that the law says the threshold is x and delivering a contract at a dollar under x , or having a big project scope broken up into small contracts in order to be under the radar. Yet, when it comes to this massive project, it has been made clear that cabinet determines when the transfer payment programs are the most appropriate policy instrument. Cabinet also determines the objectives and outcomes to be achieved by means of a transfer payment. This is the idea of setting up programs and processes outside of typical procurement, so it's not sole-sourced, it's not a contract, it's a contribution agreement.

In your philosophical opinion, would you care to comment on whether or not setting up these types of boondoggles in this way are in fact in themselves a violation under section 18 in the anti-avoidance clause?

• (1655)

Dr. Chris MacDonald: Am I in favour of boondoggles? I think you're going to need to talk to a lawyer at some point about interpretation of legislation at that level, and about the differences in particular kinds of legal agreements. That's just beyond my expertise. I'm not a lawyer, so I'm not sure I have the expertise to answer that.

No one is in favour of boondoggles once you call them that, but—

Mr. Matthew Green: Okay, so I'll set that aside and say, hypothetically speaking, you are putting together a conflict of interest act that clearly lays out all of the parameters that we've talked about over the last hour here, and then it seems that there's an appearance or a habit of conducting your business in a way that circumvents the parameters of the act itself. Are, by design, the systems of procurement as they've been laid out not an example of avoidance related to this act?

Dr. Chris MacDonald: I'm not sure that I have enough of a grasp of the details of the particular case to know whether that's an act of avoidance. All legislation requires interpretation, that much is clear, so there's no amount of written.... A classic problem with the relationship between ethics and law is that laws can never be complete enough to outline all the things that might be forbidden, which is in part, of course, why we have the Conflict of Interest and Ethics Commissioner and an ethics committee.

Mr. Matthew Green: I guess I'll put it to you in a more direct way.

You've referenced—I think it's even on your site—in a round-about way, the Nixon test: What did you know, when did you know it and what did you do about it?

If we have found time and time again—"The Trudeau Report", "Trudeau II Report", now we're in the third scenario, and it's the same thing with Morneau—that there is this culture of ethical permissiveness, what would be your recommendation to help offset that, through way of consequence? There's really no consequence. We've determined that there's no experiential learning, that we don't have to have training modules. We have findings of fact that they've been in breach and yet there's been no learning.

If you're entering into, hypothetically, a conversation with the House of Commons, what would be your recommendations to offset these ongoing breaches and this culture of ethical permissiveness?

Dr. Chris MacDonald: Without attaching myself to any particular description of what's gone on, we all know there's a very serious challenge quite generally worldwide when it comes to elected political leaders because they can't be censured in quite the same range of ways that we would in the public sector. When I'm teaching my students business ethics, the list is there. It has to do with someone having the relevant authority and it's less clear with an elected—

• (1700)

Mr. Matthew Green: Okay, less abstract. I've got 30 seconds left. I'm going to put it to you this way. Are there any places around the world that have legal criminal repercussions for government corruption when it is deemed to be such?

Dr. Chris MacDonald: For corruption? Absolutely, they can be found in all kinds of places.

Mr. Matthew Green: Do you believe our code of conduct is strong enough or is in keeping with the parameters you put out in your work? Is it up to date?

Dr. Chris MacDonald: I think there's room to improve the Conflict of Interest Act but I haven't compared it internationally. It stands in need of some revision just on the face of it, without comparing it internationally.

Mr. Matthew Green: Do you think all employees—

The Chair: That's your time, Mr. Green. Thank you.

Mr. Matthew Green: I'm from Hamilton, and we deserve 30 seconds extra.

The Chair: I can appreciate that you're from Hamilton. I gave you an extra 20 seconds.

Moving on to the next round, members have five minutes for questions, starting with Mr. Gourde.

[*Translation*]

Mr. Jacques Gourde: Thank you, Madam Chair.

My question is for both witnesses, so they can each answer, beginning with Mr. MacDonald.

There's one thing in this whole affair that bothers me. When you run for office, you're telling Canadians that you're the best choice for them. Canadians are the ones who decide, but elected officials have a responsibility. That responsibility is even clearer at a ministerial level, because the decisions flow from the Prime Minister and ministers.

The Minister of Finance and the Prime Minister knew they had a conflict of interest. They admitted that they should have recused themselves. They admitted to their mistake. The finance minister even repaid more than \$40,000 because the media got wind of the story and he felt obliged to do so. He has some responsibility.

What bothers me the most is that the Prime Minister pinned the blame on public servants. He said public servants advised him to make the decision he did. The Prime Minister seems to be forgetting that he is the one who should have made the decision. It was his responsibility. He is the one Canadians elected to make the tough decisions.

This wasn't a tough decision, in my view. I'll give you an example of a tough decision. When we sent the military into Afghanistan, we knew there would be fatalities. We voted to do so in the House, knowing that Canadians would die because of our decision. That's a tough decision. Refusing to recuse yourself when you know that your family is in a conflict of interest and that you, personally, may have a conflict of interest is not a tough decision. It's a judgment call.

Mr. MacDonald, did the Prime Minister deny his responsibility in the face of this easy decision?

[English]

Dr. Chris MacDonald: Without being able to quote the Prime Minister directly, every individual under the act clearly has responsibilities to recuse himself when the decision at hand meets the relevant criteria. It complicates things a little that the act differentiates between family members and relatives, and family members are limited to the nuclear family, so I'm not sure how the commissioner, for example, would interpret this.

You're right to the extent there's no escaping having to make the decision to recuse oneself. That part goes with the role and the terms of the act.

[Translation]

Mr. Jacques Gourde: Could the other witness please answer?

Mr. Robert Czerny: Mr. Gourde, I have to apologize. I came prepared to give members an overview of managers' working conditions when they are called upon to participate in the decision-making process. I'm not prepared to discuss the details of this case. In order to comment, I would need to know all the details, and the information would have to be reliable. I'm not in that position. I admire and appreciate your reaction to this situation.

Mr. Jacques Gourde: Let's get back to my question.

Generally speaking, senior officials provide advice to ministers and the Prime Minister, and to us, if we ask for it.

With the tools and information they have, they do their best to explain the options available to us. This was a political decision, however. The decision was up to cabinet, including the finance minister, Mr. Morneau, and the Prime Minister. They didn't recuse themselves. When the Prime Minister and the Minister of Finance are in favour of doing something, it's pretty hard for the other ministers to object.

Was there really a conflict of interest or, worse, an abuse of power?

• (1705)

Mr. Robert Czerny: Unfortunately, I have to say again that I'm not in a position to comment. I will say, though, that I would be very surprised to see a deputy minister say to a minister, "you're in a conflict of interest, but I advise you to go ahead anyways." That wouldn't happen.

Mr. Jacques Gourde: It's not the deputy minister's job to tell the minister that they have a conflict of interest. The minister should realize it themselves. If they can't see it on their own, then, they don't deserve to be minister. It's as simple as that. Ethics and conflicts of interest go to the heart of politics. Canadians put their trust in politicians. If that bond of trust is broken, our democratic system falls apart.

Do you agree?

Mr. Robert Czerny: I think it's a good question, and I'd say you answered your own question.

[English]

The Chair: Thank you very much.

We're turning it over, then, to Mr. Dong, who is sharing his five minutes with Ms. Zahid.

Mr. Han Dong: Thank you, Chair.

My first question is for Mr. MacDonald. It was a very interesting presentation, by the way. I took the point, and it's a very important one, that a situation of conflict of interest, or even a perceived one, will shake the public's confidence in the system.

We heard our previous presenter calling for more detailed and stricter rules around conflict of interest. Do you agree that we need more rules, or perhaps stricter penalties on conflict of interest, Mr. MacDonald?

Dr. Chris MacDonald: I think the rules can always be made clearer. I'm not sure more rules are better. I think, in many kinds of situations in the private and public sectors, we find not so much that there weren't enough rules, but that people either didn't know how to apply the rules, or the culture of a particular organization encouraged not following the rules. It's not so much that you need more rules.

That being said, I've already signalled that I think the Conflict of Interest Act deserves some attention and some tuning up. That might involve more rules, but it looks to me like there's nothing in the current case that couldn't be dealt with under the rules as they are.

Mr. Han Dong: Perhaps the more experiential training you mentioned might help.

Mr. Czerny, in your view, what's the difference between a perceived and an actual conflict of interest? Should that be legislated in the code? How is that going to affect a government's decision-making?

Mr. Robert Czerny: I'm aware that there are instances of codes at other levels of government in Canada that do set out a prohibition against the appearance of conflict of interest. In other words, they do not only cover the fact that a decision was taken that can be shown to have been in conflict of interest, but they also say that the appearance of conflict of interest is something that a public official is obliged to avoid—

Mr. Han Dong: Should a perceived conflict of interest and an actual conflict of interest be treated the same way?

Mr. Robert Czerny: I would guess that the consequences of that would be that the failure to reveal and to manage properly a conflict of interest would.... Yes, that has to be sanctioned or managed in some fashion. It's not only the actual that needs to be addressed by the legislation.

• (1710)

Mr. Han Dong: Thank you.

I'll hand it over to my colleague from Scarborough Centre.

Mrs. Salma Zahid: Thank you to both of the witnesses.

My first question is for Mr. Czerny.

Given your experience in organizational ethics, what are the key elements of creating an ethical culture and developing ethical judgments? What would you say, based on your experience?

Mr. Robert Czerny: As I said in my opening remarks, there's been a very solid evolution and development of these sorts of elements that contribute to that. I don't think I can name any, other than those I named before.

There have to be explicit expectations. Those expectations have to be announced and reinforced throughout the organization by communications, by training and by constant dialogue. We all have to be aware that the world keeps changing, situations keep changing and people keep changing. Ethics isn't something like mathematics, in which once you know your times table, you don't have to keep relearning it every few years. This is something quite different from that.

Beyond that are all the situations of providing for procedures and offices and so forth, internal to either an organization or a neutral third party, that allow people to seek advice or to raise concerns that they feel it would be too awkward to raise directly with their colleagues or superiors.

All of that is important, but I think the main point is the consistency of the culture, such that those at the top are the ones who are most visible and who end up leading and cascading the ethical culture through the organization. That would be my number one.

The Chair: Thank you so much, Mr. Czerny.

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

Mr. Damien Kurek: Thank you very much, Madam Chair.

I appreciate both of our witnesses appearing before us this afternoon.

I appreciate that Mr. MacDonald mentioned "trust" and that Mr. Czerny alluded to that as well. It's absolutely fundamental in the functioning of a society. Citizens need to have trust in their institutions and in the public office holders, because that affects every aspect of the information and the decisions they make. It's not just about a conflict of interest; it's the reputation of an institution that is incredibly important.

Mr. Czerny, with your experience in the public service, I'd be very curious to hear your input. The excuse the Prime Minister has given is that the public service made this non-partisan recommendation, and they simply had no choice but to follow it. In my experience, that's certainly not how briefing notes are written. That's not how proposals are brought forward. I'd be very curious about whether you have any comments on the Prime Minister's defence that this was something that was totally hands off, that it was handed to him and that was that.

Mr. Robert Czerny: I'm afraid I really can't comment. I wasn't inside in any of these processes. You're giving your well-educated reading of the situation. You're reading the signals, and everybody else can too, but I can't add to that.

Mr. Damien Kurek: Sure. I appreciate that, and I appreciate the honesty.

This question is for Mr. MacDonald. The Prime Minister has implied that he did not need to speak with the Ethics Commissioner because his wife was cleared by the Ethics Commissioner with regard to her work with WE prior to the fact. Do you think he still

should have spoken to the Ethics Commissioner about WE and the Canada student service grant when he first became aware of it?

Dr. Chris MacDonald: Certainly had I been lucky enough to have my opinion asked for several months earlier than this, I probably would have told the Prime Minister that, yes, this is the kind of situation you want to keep more than an arm's length from and in which you want to go to some lengths to do your best to make sure this is handled very cleanly.

This is a good example of the difference in the Conflict of Interest Act. It differentiates between siblings, on the one hand, and family, on the other. Those are relatives. You're going to want to say, "Well, look, you might be able to say that a sibling's participation in WE Charity puts me outside of the requirements of the act, but because of the importance of the situation, I want to go a little above and beyond." And certainly that's what I would have recommended to the Prime Minister, even if it wasn't risking clear violation of the act.

• (1715)

Mr. Damien Kurek: I appreciate that.

Mr. MacDonald, at the finance committee the Clerk of the Privy Council implied that there are some decisions that are simply too big for the Prime Minister or the finance minister, for example, to be recused on. I would be curious to know your view on that, and then I will ask the same question of Mr. Czerny.

Dr. Chris MacDonald: I guess in the abstract that seems plausible to me. There may be questions that prime ministers and senior cabinet ministers get involved in, questions of the highest order, such as acts of war and things like that. It may well be that in the abstract, some of those are absolutely essential, even if there's a conflict of interest. Then you'd start to look for mitigating strategies. Certainly, though, I would think the list would be relatively short.

Mr. Damien Kurek: With your understanding of the ethical questions before us, regarding the questions around the Canada summer student grant, would you feel that this is one of those cases where it's just simply too big a question?

Dr. Chris MacDonald: I'm not sure I'm very well qualified to comment on that. I certainly have seen well-informed commentators on both sides, someone who said, no, this was a very, very central piece of public policy during the COVID-19 era and therefore the Prime Minister had to be involved, but I also think there were very respectable opinions on the other side. It doesn't seem like a clear case.

Mr. Czerny, would you have—

The Chair: Mr. Kurek, I'm so sorry, that is your time.

Moving on to the next round, we have Madam Shanahan for five minutes.

Mrs. Brenda Shanahan: Thank you, Chair.

Thank you so much to our two witnesses today for giving us a broader framework to work with. It certainly is very educational.

Mr. MacDonald, you brought up COVID-19. It is a thing and it is happening. For my part, it's been a very intense session with all the new programs that have been rolled out in various ways and forums.

In a context like that, or we can think of another example, thinking about conflict of interest, is that something that is affected by the situational context in which the decision-makers are acting? There's especially this idea that good people can honestly believe they're doing good things and not necessarily be aware or have some sort of cognitive bias about what they're doing.

Dr. Chris MacDonald: Certainly, this is the kind of situation where one of the standard difficulties for senior leaders and other kinds of decision-makers in organizations is the feeling of "My mission comes first: I've got to get this thing done." Sometimes, or often, that is entirely well intentioned. There's the perception that they're trying to get something important done. Of course, that is precisely why we have things like the Conflict of Interest Act, as reminders that we need to take a moment and say that it's not just what we get done but how we get it done.

That's what makes this kind of complicated and interesting from an educational point of view. Thinking that a mistake was made here doesn't require thinking that the decision-makers were bad people, and thinking that things went perfectly in this case doesn't require thinking that the people involved were angels. It's a lot more complicated.

I have the luxury of saying "interesting", because it's interesting from an academic point of view, but it's challenging for you folks.

Mrs. Brenda Shanahan: Certainly, that's why this committee is meeting. Our motion before us is looking at the safeguards that are in place exactly for these kinds of situations, because we do want to do better. It's important to realize that even in the case of a perceived conflict of interest versus an actual conflict of interest, it's the trust in our institutions that is important.

Mr. Czerny, with regard to the public service, in the context of a perceived versus an actual conflict of interest, do you think there are things we can do as a committee that would help the federal public service do a better job of avoiding those situations? Do you think we need a thicker rule book?

• (1720)

Mr. Robert Czerny: I think the general reaction on the rule book is, the thicker it is, the less useful it is, because you want people to make ethical decisions. The more you complicate life, you end up pretending you have perfect or almost perfect foreknowledge of all the permutations that can arise, and that you've got rules and sub-rules to deal with each one of them. Then it's more or less a mechanical process, expedited nowadays by using keywords, for example, and you find the right sub-sub-sub-rule for the extremely rare circumstance, that nevertheless, despite its rarity, you were able to anticipate.

You can tell from my involved sentence with long words, I don't think a lot more rules are necessary. I think that people operate better and more maturely when they're challenged to understand prin-

ciples, and then go through enough iterations of applying those principles. We can look, for example, at the kinds of simulations that Mr. MacDonald talked about. They should be very rich simulations and not just a few sentences about "if this arises, what do you do; if that arises, what do you do". They should be the sort of thing that a good playwright would give you in a one-act play. You do a lot of those, and then you become sophisticated in how to think of principles and ideals. Then you'll come up with the best possible answer.

It's a grey world, and it's not as if at the end of this somebody else has the correct answer and is going to check whether you got it or not. No, you have to have a really good answer and really plausible reasons why you brought it up, and somebody else has to do a darn fine job of coming up with a better scenario than you did.

The Chair: Mr. Czerny, thank you very much.

Moving on then to our last two questioners, Mr. Fortin, you have two and a half minutes.

[*Translation*]

Mr. Rhéal Fortin: Thank you, Madam Chair.

Mr. MacDonald, you said earlier that I had a duty to avoid placing myself in a conflict of interest, a duty to disclose if I did have one and, in that case, a duty to recuse myself. According to you, I am duty-bound to take those three steps when it comes to a conflict of interest.

Let's say I have a conflict of interest like the one before us and an adviser tells me not to worry about it because the decision I'm about to make is the right one. Let's assume that's the case in the scenario before us. In other words, the public service is telling me not to worry about it and to award the contract to WE Charity.

Does that exempt me from my duty to avoid the conflict of interest, disclose it and recuse myself?

[*English*]

Dr. Chris MacDonald: Technically, the rightness of the decision is not relevant. I mean, it matters, but it doesn't negate the requirements.

[*Translation*]

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

Mr. Czerny, do you agree with Mr. MacDonald, or do you have a different answer?

Mr. Robert Czerny: Yes, Mr. MacDonald is correct. There is always a process that has to be followed, and you have to have a good reason to avoid a step.

• (1725)

Mr. Rhéal Fortin: Ethically speaking, if the person with the conflict of interest is the model for his or her colleagues at the table, doesn't that person have an even greater duty to be on guard for possible conflicts of interest precisely because they are an influencer, a model for their colleagues? In keeping with our previous scenario, let's say the person is the Prime Minister of Canada and those at the table are the members of cabinet.

Mr. Robert Czerny: Mr. Fortin, we both have white beards.

Mr. Rhéal Fortin: Yes. That's not what I was hoping to hear.

Mr. Robert Czerny: Certain people have gravitas, regardless of their official position. Yes, generally speaking, the big boss has more influence than the little boss.

Mr. Rhéal Fortin: In that case, shouldn't you be more careful when it comes to a conflict of interest?

Mr. Robert Czerny: Yes, as I am.

[English]

The Chair: Mr. Fortin, that's your time. Thank you.

[Translation]

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

[English]

The Chair: Mr. Angus, you have two and a half minutes.

Mr. Charlie Angus (Timmins—James Bay, NDP): This has been fascinating, Mr. MacDonald. I think the issue of your saying that ethics is a situation is very profound because whenever government gets in trouble, they really demand that we have to be coming into the room as the body hits the ground and the smoke is leaving the gun. Even then, they say, "Well, you didn't actually see it happen, so you're not sure." So we have to trust in the act.

The part of the act I'm interested in is section 6, about the public office holders recusing themselves and making a decision whether they "reasonably should know that, in the making the decision, he or she would be a conflict of interest." It's the "reasonably knowing" part.

The situation we're in is Mr. Bill Morneau was flown to some very exotic places by WE, to the tune of at least \$40,000; and I think he paid back more than \$51,000, so maybe it's close to \$100,000, when the gift limit is \$200. His daughter gets hired by WE, as he's making announcements in his riding about WE getting contracts.

Mr. MacDonald, would you say that would meet the test that someone should reasonably know that those kinds of gifts would put him in a conflict of interest?

Dr. Chris MacDonald: I'm not fully versed in the details of that case and the extent to what was given back, were they gifts or some other form of financial transaction.

Mr. Charlie Angus: So, it's between \$40,000 and \$90,000. Would that put you in a perceived conflict of interest based on the act, in your reading of it?

Dr. Chris MacDonald: It's not just the dollar amount that's relevant. Certainly that is a scale that is enough to raise eyebrows. The details of the transaction are going to affect whether it falls into the relevant subsection of the act.

Mr. Charlie Angus: I think that's the question, because section 5 says that "Every public office holder shall arrange his or her private affairs in a manner that will prevent the public office holder from being in a conflict of interest."

This is what the Prime Minister was found guilty of when he took his trip to billionaire island, that section 5 that he should have reasonably known...and kept his private affairs in order.

So, with the fact that Craig Kielburger was a max donor to Justin Trudeau; the fact that the Kielburger brothers did political ads for Justin Trudeau; and the fact that after he became Prime Minister, they hired his mother and brother to the tune of close to \$500,000 and told their board that they were not paying anybody, would you not think that would mean, under the section 5 test—

The Chair: Mr. Angus, that's your time.

Mr. Charlie Angus: —that the Prime Minister should reasonably understand that he needs to have his private affairs in order so as not to put himself in the conflict of interest he's found himself in?

The Chair: Mr. Angus, we're going to have to let that question hang there. I'm sorry.

Ladies and gentlemen, Mr. MacDonald, Mr. Czerny, thank you so much for coming and being with us here today. We appreciate your time. Again, thank you so much for your patience with us at the beginning of this discussion.

With that, I'm going to suspend just for two minutes while we switch over to our next witness. Thank you.

• (1725)

(Pause)

• (1805)

The Chair: Hello, everyone. We are going to go ahead and call for the adjournment of the meeting.

The clerk is going to do her best to work with Ms. Dawson to bring her back tomorrow, if possible. If not, of course it will be for the next earliest time that we are able to.

For now I am going to go ahead and adjourn the meeting, and I will see you back here tomorrow.

Thank you, everyone.

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