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Chair: Mr. John Brassard



Standing Committee on Access to Information, Privacy and Ethics

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• (1105)

[English]

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

[Translation]

Welcome to meeting number 99 of the House of Commons Standing Committee on Access to Information, Privacy and Ethics.

[English]

Pursuant to Standing Order 108(3)(h) and the motion adopted by the committee on Wednesday, January 17, 2024, the committee is meeting today for a briefing session with the Conflict of Interest and Ethics Commissioner.

Today's meeting is taking place in a hybrid format, pursuant to the Standing Orders. Members are attending in person in the room and remotely by using the Zoom application.

[Translation]

I would like to remind all members not to put their earpieces next to the microphones, as it causes feedback and potential injury to our interpreters.

I would now like to welcome our witnesses for today.

[English]

First, from the Office of the Conflict of Interest and Ethics Commissioner, I welcome Mr. Konrad von Finckenstein, who is the interim Conflict of Interest and Ethics Commissioner. I would also like to welcome again Lyne Robinson-Dalpe, who is the director, advisory and compliance.

Welcome again, sir, to the committee. You have five minutes to address the committee, and we'll follow that with questions by members.

Go ahead, sir.

[Translation]

Mr. Konrad von Finckenstein (Interim Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Thank you, Mr. Chair.

I hope the microphone is working now. We had problems the last time.

[English]

The Chair: Yes.

[Translation]

Mr. Konrad von Finckenstein: Okay.

Thank you for inviting me to answer your questions about the rules for gifts including vacations and travel under the Conflict of Interest Act.

With me is Lyne Robinson-Dalpe, director of advisory and compliance at the Office of the Conflict of Interest and Ethics Commissioner.

As you all appreciate, the Conflict of Interest Act is guided by four principles.

[English]

The first principle is disclosure. Upon appointment under the act, all reporting public office holders must disclose within 60 days their assets and other relevant information to the commissioner. This forms the basis for the compliance process and will be the source of ongoing conversations throughout the appointment of a public office holder.

The second principle is advice. As part of the compliance process, the commissioner gives confidential advice as to what measures are required to ensure compliance. These measures may vary, but can include public disclosure, divestment, recusal or even a conflict of interest screen.

During the tenure of the public office holders, open discussions and disclosures allow the office to help manage conflicts of interest and safeguard public confidence.

[Translation]

The third principle is confidentiality.

All interactions with the commissioner are confidential and can only be released by the public office holder, not by me.

The confidentiality provision allows public office holders to fully disclose their situation and enables the commissioner to make a decision based upon all relevant facts.

[English]

The fourth principle is transparency. Transparency is a keystone for engendering public confidence. The act strikes a balance between maximum transparency and confidentiality to protect the privacy of public office holders. Redacted versions of relevant disclosures of recusals, gifts or results of investigations are published on the office's website. The office's public registry is the most frequently accessed part of our website.

[Translation]

Let's move on now to the matter at hand, which is the Prime Minister's recent trip to Jamaica, which sparked your request for this information meeting about the rules regarding gifts, including vacations and travel.

[English]

The act defines gifts in subsection 11(1) as follows:

No public office holder or member of his or her family shall accept any gift or other advantage, including from a trust, that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.

Clearly, the granting of hospitality—namely, allowing somebody to use a property without charge—is a gift. However, there is an exception.

[Translation]

However, there is an exception for acceptable gifts in paragraph 11(2)(b), which reads as follows:

11(2) ... a public office holder or member of his or her family may accept a gift or other advantage

(b) that is given by a relative or friend

[English]

Now let's look at the facts in this case. What's in the public domain? I shall try to be as forthright as possible with you, as far as the act allows.

The Prime Minister has stated that he—Mr. Green—is a friend of the family. He has been a friend for over 50 years. He has stayed at Mr. Green's property since he was a child. The Prime Minister has received gifts—one of hospitality—more than once from this friend. He has spoken publicly of this friendship and has sought advice from my office, both through my tenure and through the tenure of my predecessor.

While the act speaks of “advice”, the advice we give is really tantamount to a ruling. Let's not kid around: Public office holders always accept our advice. Advice is given to ensure public office holders are in compliance with the act; if they do not follow the advice, then there will be an investigation.

We have no role to pre-clear gifts from family and from friends under the act, nor do we approve travel destinations. However, we give advice as to whether a gift is acceptable or not. We work to verify the true depth of an asserted friendship. If someone is a friend, if they can offer a gift to a public officer in a personal context, then the gift does not need to be disclosed. The last point is important because subsection 25(5) of the act provides that:

If a reporting public office holder or a member of his or her family accepts...any gift or other advantage that has a value of \$200 or more, other than one from a relative or friend, the reporting public officer holder shall, within 30 days after accepting the gift or other advantage, make a public declaration that provides sufficient detail to identify the gift or other advantage accepted, the donor and the circumstances under which it was accepted.

Now 30 days have passed since the Prime Minister disclosed that he went to Jamaica. Nothing has been published on our website. From the facts that I gave you and the provisions of the law, you can draw your own conclusions as to the advice that I gave and what happened.

I, under law, cannot give you any more, but I've tried to outline for you as clearly as possible the provisions of the law, the facts in the public domain and the situation. I'm bound by the confidentiality of the act, but I will try to answer your questions to the best of my abilities.

Thank you.

• (1110)

The Chair: Thank you, sir, for your opening statement.

Before we begin with our round of questioning, let us note that we have the interim Ethics Commissioner, Ms. Robinson-Dalpe, here for two hours. In the past, what we've done is reset the clock at the top of the hour to allow Mr. Villemure and Mr. Green their additional time. Do I have the consensus of the committee to do the same today?

Some hon. members: Agreed.

The Chair: Okay, good.

We're going to start with our first round of questioning. Mr. Barrett, you have six minutes. Go ahead, please.

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): Good morning. Thank you very much for joining us.

You've said that your office does not pre-approve vacations. That's contrary to the statements that have been made by representatives of the Prime Minister. Specifically, the government House leader said that the vacation was pre-approved. To be clear, do you pre-approve vacations by designated public office holders?

Mr. Konrad von Finckenstein: I just read you the provisions of the law.

I give advice. I give advice, and when asked questions about conflict, we give the answer. The office-holder can describe that advice in whichever way he wants to refer to it. In this case, they called it “pre-clearance”. That's not a term I would have used. What we did was advise him on the propriety of his trip to Jamaica.

Mr. Michael Barrett: The—

Mr. Konrad von Finckenstein: As you know, it's in the public domain that he consulted us and we advised him.

Mr. Michael Barrett: Okay.

The Prime Minister has offered three separate public statements on this matter as to the disclosure to your office. Are you able to share with us if it was the first, second or third version of events that representatives of Mr. Trudeau provided to Canadians? Can you say which one he consulted you on?

Mr. Konrad von Finckenstein: No, I cannot. As I pointed out, it's confidential. I'm not responsible for the spokesman of the Prime Minister and the way he characterizes our interaction.

I can only tell you what happened: They consulted us: we gave advice; they went to Jamaica.

If it had not been an acceptable gift, it would have had to be reported on our website. Thirty days have passed, and nothing has been reported.

Mr. Michael Barrett: Are you satisfied that the gift of the \$84,000 vacation was one from a friend and not from an entity like a corporation or a company?

Mr. Konrad von Finckenstein: As I mentioned, we verify allegations of friendship. We do our research, and the fact is that it was disclosed publicly by the Prime Minister. What we found is coincident with the fact that this is a true friend who has no relations with the Government of Canada.

Mr. Michael Barrett: I appreciate that, but let me be a bit more precise. It's not a question to me if they're friends. The question is, who gave the gift?

I'll give an example. If a prime minister is friends with, let's say, Ted Rogers, and if it's established and been ruled on by your office that a prime minister is friends with this individual, and if that designated public office holder then receives free wireless services from Rogers Communications Inc. in perpetuity as a gift from the friend, and the friend is not incurring the expense and the corporation is forgoing revenue, is that an acceptable gift from a friend?

If it is not, has your office been satisfied in this case that the gift was in fact paid for by Mr. Green and was not just revenue that was forgone by a company that Mr. Green has an interest in?

I ask because I don't see them the same way.

Mr. Konrad von Finckenstein: First of all, I don't answer hypothetical questions, so let's forget that. What you're trying to get at is really whether it has to be the friend himself who is giving that gift or whether it could be an entity that the friend controls. Frankly, it makes no difference if the friend didn't have control over the entity that provided it. In the case here, whether it's Mr. Green or Mr. Green's hotel that gave it, he was the controlling mind. He gave it, so that's what counts. It's the friendship that triggered it.

• (1115)

Mr. Michael Barrett: Then is revenue that is forgone by a corporation that is owned by an individual an acceptable gift?

Mr. Konrad von Finckenstein: It's not a question of....

You are trying to get me into income tax issues here. That is not the issue at all. The issue is whether this gift, in any way, puts forward a situation in subsection 11(1), which I have pointed out, and I read it out to you. It's something "that might reasonably be seen to have been given to influence the public office holder".

Is the effect here, under the complaint, that somebody gave a gift to the Prime Minister, who is his personal friend, that is likely to influence the behaviour of the Prime Minister? That's really the question we're looking at. Whether the gift was given by Mr. Green or by the company that he controls doesn't affect us. We know what the gift was, and it has been publicly disclosed.

Mr. Michael Barrett: Right.

We know now that a gift was given. Initially, the Prime Minister said that he was staying at his own expense, that this was a personal expense he was incurring. Then, when pressed, his story changed. This is what gave rise to concern by Canadians.

Of course, it's not something that you control, as you said—

Mr. Konrad von Finckenstein: It's also totally irrelevant.

If he had paid, there would be no issue. If he accepts it from a friend, it's also okay.

Mr. Michael Barrett: With due respect, sir, if the Prime Minister or his spokesperson lied to Canadians when he said he paid for something, that's what gave rise to the public interest in this issue.

I'm not looking for you to pronounce on the morals of someone who lies or doesn't, but what we don't know is what the Prime Minister told you. That's the challenge that's come forward. We can't take him at his word, because he's given three different versions of events to Canadians. That's, frankly, not acceptable.

The Chair: Thank you, Mr. Barrett.

Ms. Khalid, you have six minutes.

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Thank you very much, Chair.

I would like to follow up on some of the questioning of Mr. Barrett.

I really appreciate, Commissioner, that you've said that if it had not been an acceptable gift, it would have been reported on our website in 30 days. It has been 30 days, and nothing has been reported.

I want to pick up on some of the issues that Mr. Barrett outlined in more of a contextual basis.

The last time you were here, we talked about the strange case of five Conservative MPs who took a lavish trip to London in the summer of 2023. Included in the expenses were \$600 in bottles of champagne, as well as porterhouse steaks, chateaubriand and smoked salmon. It cost over \$6,200 for one night out for dinner. These expenses also included a \$360 Uber ride.

Their expenses and their travel were paid for by an organization that was created by one of the MPs, Mr. John Williamson, who was on this trip with them, except that specific MPs' bills were paid by a Hungarian think tank.

At the time, you said that this would “seem to smell” and that you did not like that situation at all. The Lobbying Commissioner also said that this was an issue of concern. Do you still agree that this did not pass the smell test?

Mr. Konrad von Finckenstein: What you're talking about now is sponsored travel by MPs. You have a code of conduct for MPs that specifically accepts sponsored travel. It provides for it. It says, “...a member may accept, for the member and guests of the member, sponsored travel that arises from or relates to his or her position.” Then, if it is more than \$200, it has to be disclosed. That's the provision there.

I have absolutely nothing to say about the amount, the propriety or anything that's there. You have adopted rules by which you specifically said that sponsored travel is okay as long as it is disclosed.

Ms. Iqra Khalid: On that case specifically, did Mr. Williamson consult with your office in advance of taking this trip?

Mr. Konrad von Finckenstein: Again, any consultations that the members of Parliament or elected office-holders have with us are confidential. If he wants to disclose that he talked to us, it's up to him; we would not disclose it.

Ms. Iqra Khalid: Hypothetically, if a member of Parliament reached out to you to consult about whether they were able to accept a paid trip from an organization they had founded, what would your answer have been?

• (1120)

Mr. Konrad von Finckenstein: I'll pass you on to Ms. Robinson-Dalpe, who is the person who will give the answer.

What would you say to a person like that?

Ms. Lyne Robinson-Dalpe (Director, Advisory and Compliance, Office of the Conflict of Interest and Ethics Commissioner): Essentially, under the code, as the commissioner mentioned, there are no exceptions and there are no provisions for members to consult us, and therefore members are at liberty to accept any sponsored travel.

If they come to our office, we would say that there are no acceptability tests in the context of sponsored travel. It is the decision of the member to determine whether or not he or she should accept the sponsored travel, because the code is very specific: There are no acceptability tests under the code.

Some of you may remember that on a few occasions previous commissioners did ask for acceptability tests to be applied under the sponsored travel rules, and the procedure and House affairs committee did not concur with that. Again, it is up to members to make that determination.

Ms. Iqra Khalid: I'm pretty sure that there are provisions in the code that determine who is eligible to sponsor and who is not, but...

Did Mr. Williamson consult with your office about accepting a paid trip from a Hungarian think tank?

Mr. Konrad von Finckenstein: I feel like I'm repeating myself. As I said in my opening statement, one core principle that makes the system work is confidentiality. Therefore, you as office-holders can come to talk to us in full confidence that whatever you discuss with us will not be disclosed. It's up to you to disclose.

I cannot answer the question of whether he came or not and what he said, etc. You will have to ask him.

Ms. Iqra Khalid: I appreciate that. Thank you.

Assuming that this trip we're talking about to London was organized by Canadians for Affordable Energy, since they paid for four out of the five members, did Mr. Williamson consult with you about attending a paid trip sponsored by an organization that he had previously founded? I know you can't answer that question directly, but maybe you can talk about what our rules and the code say about members' affiliations with an organization, especially a foreign organization that is funding a trip for members, and especially such a lavish trip.

The Chair: You have 20 seconds, Commissioner.

Mr. Konrad von Finckenstein: In your instance, the code for the House of Commons has to look at what the principles are. They have to “fulfill their public duties with honesty and uphold the highest standards so as to avoid real or apparent conflicts of interests, and maintain and enhance public confidence and trust in the integrity of each member and in the House of Commons”.

The member would come, lay out the question, ask if it complies with subsection 2(b), which I just read out to you, and ask what the implications are, etc. We would give them advice and say it's up to them, but we would suggest they do A, B, C, or not D, or yes, you can do all of it, whatever the situation is. The member then proceeds as he or she sees fit.

The Chair: Thank you, sir.

The Chair: Thank you, sir.

Thank you, Ms. Robinson-Dalpe.

Ms. Khalid, I gave a little extra time for that answer to happen.

[*Translation*]

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

Mr. René Villemure (Trois-Rivières, BQ): Thank you, Mr. Chair.

Thank you for being with us again, Mr. von Finckenstein.

Ms. Robinson-Dalpe, you always come in good faith, which impresses me every time.

My questions will focus on the public interest.

Ms. Robinson-Dalpe, first of all, when was the last time the code in question was revised?

Ms. Lyne Robinson-Dalpe: Are you talking about the Conflict of Interest Code for Members of the House of Commons or the Conflict of Interest Act?

Mr. René Villemure: I'm talking about the Conflict of Interest Act.

Ms. Lyne Robinson-Dalpe: It was revised in 2013, but there was no change.

Mr. René Villemure: When were the last amendments made to the code?

Ms. Lyne Robinson-Dalpe: The amendments date back to the last election, in 2021.

Mr. René Villemure: Thank you.

Do you think the code needs to be updated or do you think it's fine as it is?

Mr. Konrad von Finckenstein: Legislation and codes always need to be reviewed, reformed and adjusted based on the current situation.

It's now 2024, and it seems to me that a review would be appropriate. The world has changed a lot, and the Conflict of Interest Act and the Conflict of Interest Code for Members of the House of Commons were written before we really understood the digital challenges we face now.

A review would be a good idea.

• (1125)

Mr. René Villemure: That's exactly the direction was I was going with my question. Yes, the code was drafted at a certain time, but the world is changing and so is the social context. If we don't want the code to become a dead tool, we have to keep it alive by updating it regularly.

I have always found it curious that over the years, the concept of friendship has so often been at the heart of discussions, whether with Ms. Dawson, Mr. Dion or you now. We often talk about Mr. Trudeau, but without personalizing the issue, the fact remains that friendship is still a basic element of society. It's not forbidden.

However, in 2024, even if it is permissible to give a gift to a friend—I heard you on that and that's perfectly fine—sometimes we're talking about amounts that may be shocking to people.

Should there be a maximum amount?

Mr. Konrad von Finckenstein: There's no maximum set out in the act or the code. However, in situations where, as you say, it's an exceptional gift, like a \$1-million Ferrari, for example, I always have the option of launching an investigation on my own initiative, if I have reason to believe that there's a problem. Even very rich friends don't give each other gifts like that. So I can launch an investigation in truly exceptional cases, such as the gift of a Ferrari, for example. However, the act does not set out any maximum amount.

Mr. René Villemure: In fact, the act doesn't set out an amount. So for the benefit of the members who read the act and consult you

for your confidential opinion, would it be wise to set a maximum amount, even if it's high? That would be better than nothing.

Mr. Konrad von Finckenstein: There are other codes elsewhere that set a maximum amount. First, you asked whether the act should be amended, and perhaps we could do that. Parliament could then decide on an acceptable maximum amount.

Mr. René Villemure: Do you think other sections of the act should be reviewed?

Mr. Konrad von Finckenstein: As I said the last time I was here, there should be a provision to appoint an assistant commissioner to make decisions if there is no commissioner or if the commissioner is absent, for example for health reasons.

Otherwise, a number of other elements would warrant revisions or amendments. In other acts, such as the Bank Act and the Patent Act, there is a mandatory review every five or ten years. It would be very helpful to have a periodic review like that in the Conflict of Interest Act.

Mr. René Villemure: If you have any other suggestions, could you submit them in writing to the committee?

Mr. Konrad von Finckenstein: Yes.

Mr. René Villemure: Thank you very much.

Your term is coming to an end. It will be in March, I believe.

Mr. Konrad von Finckenstein: Yes.

Mr. René Villemure: Is your mandate in the process of being renewed?

Mr. Konrad von Finckenstein: That's a decision that will be made by the Privy Council and the Prime Minister. It's not my decision to make.

Mr. René Villemure: In other words, that decision hasn't been made yet.

Mr. Konrad von Finckenstein: That's correct.

Mr. René Villemure: Okay, thank you very much.

Earlier, you were talking about assessing the acceptability of gifts. Is that correct?

• (1130)

Mr. Konrad von Finckenstein: Yes, that's correct. I talked about it when we talked about extraordinary gifts.

Mr. René Villemure: Okay. Thank you very much.

The Chair: Thank you, Mr. Villemure.

For your information, the Conflict of Interest Code for Members of the House of Commons was reviewed by the Standing Committee on Procedure and House Affairs in 2022.

[English]

The revised code that came from PROC was concurred in by the House in March 2023. I just wanted to make sure that everybody understood the timeline of where we're at.

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

Mr. Matthew Green (Hamilton Centre, NDP): Thank you very much. I would like to welcome you both back.

As you know, I have a line of questioning that is often very rapid, and if I interject to bring my time back, it's certainly not personal. I do have some questions that may feel personal at times. I'm going to put it to you that the questions are not intended that way.

I want to begin on the topic of sponsored travel. This was certainly an issue that I raised back in October in referencing the earlier testimony regarding Stephen Ellis, Rosemarie Falk, Philip Lawrence, Shannon Stubbs, and John Williamson. For me, this committee can hopefully come to a recommendation to eliminate sponsored travel. I'm going to state that.

There's ambiguity on the topic of what is material and what is not material, what is accepted, what is not accepted, who is funding what, what is being done indirectly that can't be done directly, and I reference our ongoing conversations around foreign interference and the impacts that it has on our democracy. When I hear you talk about what is lavish in terms of material, I'm from Hamilton Centre and I would put it to you that \$3,400 for champagne and wine is lavish and \$1,000 for a steak dinner is lavish, and I think it's completely unacceptable in the context of the work that we do.

What I would propose to this committee right off the bat, for those who are interested in actually changing the page on these ongoing sagas of what I think are scandals that take away from the legitimacy of our democracy, is the elimination of sponsored travel and its replacement with two international travel credits on our MOB, free of any kind of idea of influence, whether foreign, corporate, or otherwise. This would allow us to do our work in international diplomacy in a clear and transparent way.

On the topic of clarity and transparency, I've heard you refer to the confidential nature of the consultations, Mr. von Finckenstein. Do you believe that we could contemplate at this committee a process that is more transparent, perhaps one that would include, for the purpose of the public good, a public disclosure of requests to your office on the content of people's inquiries, or is it your opinion that confidentiality is a cornerstone of your office and is required in order for you to be able to do your work correctly?

Mr. Konrad von Finckenstein: It's the latter. I hate to say it, but I really can't see how you can.... When you come to me with a conflict of interest, you basically disclose to me your personal relationship, your financial involvement, your familial situation, or whatever it happens to be, and you'd be surprised how complicated the lives of some people are. You don't want to share that with the public. You don't want me to disclose it, etc. What we have here is that we give you advice and you follow it. Those things that can be disclosed, or must be, are disclosed, but they're disclosed in redacted form. If we don't have that confidentiality, people won't disclose. All it would mean is that I would be forever investigating, which is not good for the people who—

Mr. Matthew Green: I would put to you an adage of my old football coach: "Chances are, if you have ask, you ought not to be doing it."

As complicated as things are, the point is that we're in positions of trust to make decisions that could be complicated by externalities, like influence. We're dealing with that right now in a very significant way with foreign interference.

In my mind, there ought to be a way to consider disclosures that might not have the degree of information that you're suggesting but would give the public an understanding of the types of muddled relationships that tend to happen on the Hill. I think about the revolving door that happens between the PMO and lobby groups, and the relationships that happen there. We just referenced sponsored travel.

You know, there's a lot of work at this committee that I don't enjoy. I don't enjoy the political mud-throwing and muckraking that happens here, or the full outrage, quite frankly. I say that because, as much as my Conservative friends want to make this an issue here today, I would put to you that an \$80,000 trip is an issue for my constituents in Hamilton Centre, but let's think about Stephen Harper's \$45,000 trip to a baseball game and Broadway. These things happen.

My question to the witnesses, through you, Mr. Chair, is this: In relation to substantively changing the code, what would your recommendations be to avoid our having to do this *Groundhog Day* of scandal—whether it's Liberals, Conservatives or what have you—and finally put an end to it and provide clarity to a code that would provide an equal weight of what is legal and ethical?

I would put to you that the code, as it's written now, provides legal opportunity and legal cover through your advice. It's certainly not ethical, at least not on the face of it.

In your opinion, what are some ways for us to gain some kind of value out of this study, beyond the media circus, and actually improve the legislation?

• (1135)

Mr. Konrad von Finckenstein: Well, if you look at the code, to which you are subject as a member of Parliament, you see that it says, "to avoid real or apparent conflicts of interests". This is a very well known concept in law that judges apply all the time to determine whether the parties before them are conflicted or not.

Strangely enough, that wording is not used in the act. The act has only a definition of what a conflict of interest is; it does not use the words "real or apparent conflicts". You could put those in there anywhere—they have a jurisprudential meaning—and people would know how to apply them and how to advise you on whether something was not a conflict but rather an apparent conflict, and a rational man on the street looking at that would say, "This isn't right."

Mr. Matthew Green: Would you agree that both are damaging to our democracy?

Mr. Konrad von Finckenstein: Absolutely.

Mr. Matthew Green: Excellent. Thank you.

The Chair: Thank you, Mr. Green.

Again, I remind committee members that any review of the code is done through the procedure and House affairs committee. We can make recommendations—

Mr. Matthew Green: That's my recommendation.

The Chair: —but ultimately it's up to them to review what's in the code, as they did in 2022—

Mr. Konrad von Finckenstein: If you'll allow me, Mr. Chair, I have just one item of information.

Our office has produced a guideline for the application of the code, which has to be approved by a committee of the House—a procedural committee—in order to help you live with the code, administer it and understand how we interpret it and how we try to be helpful before you even talk to us.

The Chair: Thank you, sir.

We'll now go to the second round.

Mr. Brock, you have five minutes. Please go ahead.

Mr. Larry Brock (Brantford—Brant, CPC): It's Mr. Berthold.

[*Translation*]

The Chair: It's now Mr. Berthold's turn. I apologize.

Mr. Berthold, you have five minutes.

Mr. Luc Berthold (Mégantic—L'Érable, CPC): Thank you very much, Mr. Chair.

Mr. von Finckenstein, thank you very much for your answers.

The dates are very important, because a number of statements made by the Prime Minister and the Prime Minister's Office changed along the way.

On December 22, the Prime Minister's Office said that the Trudeau family would cover the cost of their stay. On January 4, the office changed that to say that the Trudeau family stayed at a facility owned by a family friend for free. On January 10, according to the most recent version of events revealed by the Prime Minister's Office, the Prime Minister and his family stayed with family friends for free.

So we can see that the statements made by the Prime Minister's Office have changed over the weeks.

Did you speak to or participate in the discussions with the Prime Minister about this \$84,000 Jamaica trip?

Mr. Konrad von Finckenstein: I did not speak with the Prime Minister or anyone in his office.

Mr. Luc Berthold: I have here—

Mr. Konrad von Finckenstein: It was the advisers in my office who spoke with people in his office.

• (1140)

Mr. Luc Berthold: We have here a statement by Steven MacKinnon, the new Leader of the Government in the House of Com-

mons, dated January 8, 2024. He said that the Prime Minister followed all the rules and spoke to the Ethics Commissioner to have his travel plans approved.

But you're saying that this discussion never took place.

Mr. Konrad von Finckenstein: No, no, I said I didn't speak personally—

Mr. Luc Berthold: Okay, but that's exactly—

Mr. Konrad von Finckenstein: You're asking me whether I personally spoke with the Prime Minister or with people from his office, which I did not do. Members of my office spoke with people from the Prime Minister's Office. I think that's what the statement was referring to, that the Prime Minister's Office had contacted the commissioner's office.

Mr. Luc Berthold: No.

Mr. Konrad von Finckenstein: The statement isn't as clear as you would have liked. However, that's exactly what happened.

Mr. Luc Berthold: The translation I have here is quite clear. We can check that. We can focus on the words, but as far as I know—

Mr. Konrad von Finckenstein: I can't answer—

Mr. Luc Berthold: Mr. von Finckenstein, your answer to the question is that you didn't speak to the Prime Minister personally about this situation.

Mr. Konrad von Finckenstein: Yes.

Mr. Luc Berthold: When was your office first informed or when did you receive a request from the Prime Minister's Office for you to look into this trip?

Mr. Konrad von Finckenstein: Ms. Robinson-Dalpé, can you answer that question?

Ms. Lyne Robinson-Dalpé: The request came to us in December, so before the Prime Minister left for this trip.

Mr. Luc Berthold: Was it before December 22?

Ms. Lyne Robinson-Dalpé: Yes, it was before that.

Mr. Luc Berthold: Okay. So it wasn't discussions between your office and the Prime Minister's office that, in your opinion, changed the version of public statements.

Ms. Lyne Robinson-Dalpé: As the commissioner said, I can't read between the lines. The only thing I know is that the Office of the Commissioner was consulted in advance and before he left.

Mr. Luc Berthold: Mr. von Finckenstein, in the context of your special relationship with members, in which confidentiality must be respected, how important is it to you to speak directly to the members involved? As we've seen, the Prime Minister has twice been found guilty of violating ethics rules. Unfortunately, he suffered virtually no consequences.

Wouldn't it make sense for that relationship based on trust and confidentiality with members to begin with the commissioner himself?

Mr. Konrad von Finckenstein: A member of my team is assigned to every individual subject to the law. If any individual wants to speak to me personally, be they a minister, an MP or the prime minister, I will speak to them, of course. I'm available.

However, it's up to the individual to say if they want to further the discussion or if they're happy with the conversation they had with the person assigned to deal with their issue.

Mr. Luc Berthold: As you know, words really matter in discussions about conflicts of interest and ethical breaches. The fact that the Prime Minister or someone from his office said that his trip was pre-cleared gives Canadians a false sense of security. If the person says they consulted the Ethics Commissioner and got advice, that's not the same thing at all.

We're here because someone in the PMO said your office pre-cleared this trip. I'd like you to tell us again, in French, that this is not how your office operates.

The Chair: Mr. Berthold, the answer will have to be very brief.

Mr. Konrad von Finckenstein: It is clear that that was a statement by the Prime Minister's spokesperson.

What we do is give advice. The PMO consulted us about this trip, and we gave advice. The Prime Minister took the trip. Nothing was reported on our website. There doesn't necessarily have to be a report if it is a gift from a friend, as the deputy minister said.

The Chair: Thank you, Commissioner.

Thank you, Mr. Berthold.

[*English*]

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

Mr. Parm Bains (Steveston—Richmond East, Lib.): Thank you, Mr. Chair.

Thank you, Commissioner and Ms. Robinson-Dalpé, for coming out today.

Just to close the matter on the Prime Minister's trip, I think you said you give advice. He was preadvised. We understand that. The advice you give is “tantamount to a ruling”, and members always follow the advice you give. You mentioned that. If it had not been acceptable, it would have been reported in 30 days. It's been 30 days, and nothing has been reported on your website, and you've indicated that.

Do you believe this matter is closed?

Mr. Konrad von Finckenstein: As far as I am concerned, there is nothing further. As I said, if there had been something that needed to be disclosed, it would have been disclosed.

We were advised and we gave advice. The Prime Minister obviously took the advice and followed it. What he or his spokesman says publicly is not under my control, and I have no comment about it. I explained to you how the process works and how it has worked.

• (1145)

Mr. Parm Bains: The response came from your office. You said, “We give advice”, and that's your office—

Mr. Konrad von Finckenstein: Yes.

Mr. Parm Bains: —and you're responsible for your office, just as the Prime Minister is responsible for his office.

Mr. Konrad von Finckenstein: That's right.

Mr. Parm Bains: Ultimately, this matter is basically closed.

Mr. Konrad von Finckenstein: As far as I am concerned, it is.

Mr. Parm Bains: Okay.

I want to go back to another question.

I know that you said that there is no limit on the commercial value of a gift. How do you factor the commercial value of a gift into your interpretation of the act to determine whether the acceptance of a gift or other advantage was permissible under section 11? If you're looking at commercial—

Mr. Konrad von Finckenstein: You're quite right that there is no value stated in the act, and it doesn't come into play.

What I discussed with Mr. Villemure was a really exceptional circumstance. Would you do something if you couldn't use it? There has to be a limit. There has to be a societal limit, an ethical limit of how far you can go.

I said, “Well, there isn't one”, but if it was an absolutely extraordinary gift—like a million-dollar car or something like this—what I can always say is that this is so unusual that I have trouble accepting that really good friends give each other million-dollar gifts. Let's have an investigation. Let's have some more information in here, with sworn statements, etc.

It may be that it was was gift, and we will say, “Yes, it was a gift. Never mind”, or maybe it said that it was characterized as a gift, but there was more to it. However, that is an exception and has never happened, and hopefully it never will.

However, just in order to answer forthrightly Mr. Villemure's question, I would say that in such a case I think I would probably look into it further.

Mr. Parm Bains: Okay.

I want to go back into something Mr. Green brought up about sponsored travel. Again, we're talking about ethics here.

Does it matter? Do you look into who is sponsoring the travel and what their background is? Would you go so far as to—

Mr. Konrad von Finckenstein: I don't look at it at all, because it's expressly accepted under the code.

Now, if you're worried about public trust and confidence, etc., maybe you want to change it and you want to put some restrictions or some limitations on it. That's up to you to decide. You impose the codes upon yourselves. I have nothing to do with it.

Mr. Parm Bains: It's a code that we impose upon ourselves. Ultimately who we want to relate ourselves to, who the sponsor is and what they are involved in reflects upon who we are travelling with or what the think tank is or what policies they try to push forward or whichever lobby group they are. That's ultimately on us, right?

Mr. Konrad von Finckenstein: If you impose such a restriction on yourselves, then you have to be very careful to specify what exactly is acceptable and what is not. In terms of monetary limit or political leanings or whether it's foreign or domestic or whatever, what are the criteria according to which this sponsored travel would have to be judged?

Mr. Parm Bains: Just for my final question, has the Leader of the Opposition ever reached out to you for any advice before travelling?

Mr. Konrad von Finckenstein: Again, if he has, it's up to him to disclose and not for me to say whether he has or hasn't.

Mr. Parm Bains: Okay. Thank you.

Those are all the questions I have.

The Chair: Thank you, Mr. Bains.

Thank you, Commissioner.

[*Translation*]

Mr. Villemure, you have the floor for two and a half minutes.

Mr. René Villemure: Thank you very much, Mr. Chair.

I really appreciated your earlier reference to a reasonable person. I think we can agree that a reasonable person would be interested in a Ferrari.

Mr. von Finckenstein, the advice you give complies with the code, right?

Mr. Konrad von Finckenstein: Yes.

Mr. René Villemure: In general, is it within your purview to say that a proposed act complies with the code but may be unethical? Would you go so far as to say something like that?

Mr. Konrad von Finckenstein: The definition of “conflict of interest” in the Conflict of Interest Code for Members includes the words, “improperly further”.

What does “improperly” mean? It's actually just a reference to ethics. That's the only way I can interpret it.

• (1150)

Mr. René Villemure: In the view of the Office of the Conflict of Interest and Ethics Commissioner, that complies with the code?

Mr. Konrad von Finckenstein: Yes.

Mr. René Villemure: Based on your prior experience, do you think something can be legal while also being unethical or unjust?

Mr. Konrad von Finckenstein: No, that's contradictory.

Mr. René Villemure: If it's legal, it's ethical.

Mr. Konrad von Finckenstein: I don't see how something can be both legal and unethical. The way we write legislation, I think it's impossible for the two to coexist.

However, we're talking hypotheticals here. I'd rather you provide an example of a case in which you think there's a legal issue, but not an ethical one.

Mr. René Villemure: I might be able to do that in two and a half minutes, but I certainly understand what you're suggesting.

Anyway, from an ethics point of view, you're saying the situation complies with the code.

Mr. Konrad von Finckenstein: My colleague is pointing out that we just give advice. We don't judge. We give advice, and, in that context, we say there are ethical aspects that are unacceptable.

The Chair: Thank you, Commissioner.

Mr. René Villemure: Regardless of your advice, a person might lack judgment.

The Chair: Mr. Villemure, your time is up.

Mr. René Villemure: Thank you.

[*English*]

The Chair: Thank you.

Mr. Green, you have two and a half minutes. Go ahead, please.

Mr. Matthew Green: Thank you very much.

I think there are some really important points being made around the nature of disclosures.

You mentioned that it takes 30 days for a disclosure to happen. It's inferred that if a disclosure wasn't made, everything is okay.

Through you, Mr. Chair, is it the testimony today that it's completely up to us to self-report? Is the whole code of conduct around this a process of self-reporting?

Mr. Konrad von Finckenstein: It's a code of conduct, but it starts with the assumption that you're an honest person and you want to avoid conflict. If you are in a situation where you find difficulty, you come to us—

Mr. Matthew Green: Directly to the question, is it required to self-report?

Mr. Konrad von Finckenstein: I'm sorry. To answer your question, you asked whether it's about self-correcting. Obviously, if there's a problem, we expect you to self-correct—

Mr. Matthew Green: It's not “self-correct”; it's “self-report”. There's a difference. Specifically for you, sir, you say that if it's not 30 days, then there isn't a problem. My question to you is, how do you know?

I'm not saying this as an indictment of you—

Mr. Konrad von Finckenstein: No, no—

Mr. Matthew Green: —but I'm saying that we have a scenario in which, in your time, there have been plenty of complaints and very few deep investigations that have resulted in any substantive findings.

That's not an indictment of you; I'm saying that it's an indictment of the code, the process and the systems in place for how we hold each other accountable.

What I'm taking from this is that if I don't report it, you would never really know. Would you, yes or no?

Mr. Konrad von Finckenstein: No, that's not quite it.

You come to me with a problem and I say to do as I say. You can accept this item, but if it's over \$200, you have to report it. If you don't report it, I'll start an investigation.

Mr. Matthew Green: If I do report it—

Mr. Konrad von Finckenstein: If you do report it, the world knows, and your electors are the judge of whether that's a proper gift for you to accept or not.

Mr. Matthew Green: Yes, and we contemplated this scenario in which I talked about the absurdity of the current legislation, under which I can't accept an \$800 bottle of champagne, but somebody can send a limo to my house, pick me up and fly me across the country, and we can drink the \$800 bottle of champagne together and that's okay. That's what's absurd about what we're talking about here today.

I want to put this last question to you.

Is it your opinion that if we eliminated sponsored travel, your work would be a lot easier in terms of dealing with perhaps more important issues after this grey area of self-reporting and ambiguity around limitations had been eliminated?

The Chair: Give a very quick response.

Ms. Lyne Robinson-Dalpé: Certainly administering sponsored travel in the same way as gifts is an issue that has been raised in the past for previous commissioners and even myself and my team. That would be applying an acceptability test to make sure that the individuals offering the sponsored travel are not placing the member of Parliament in a conflict of interest situation.

• (1155)

The Chair: Thank you, Ms. Dalpé. Thank you, Mr. Green.

We're going to conclude this round with five minutes for Mr. Brock and then five minutes for Ms. Damoff. Then we'll reset for six-minute rounds.

Go ahead, Mr. Brock, for five minutes.

Mr. Larry Brock: Thank you, Mr. Chair. Thank you, witnesses, for your attendance today.

I'm going to start by offering a comment about the level of hypocrisy that I've heard from some of the Liberal and NDP members. It reminds me of the proverb that those who live in glass houses shouldn't be throwing stones.

In particular, Ms. Iqra Khalid accepted sponsored travel in 2017 to the United Arab Emirates, and the value was \$8,518. The leader of the NDP, Jagmeet Singh, and three staff, went to Las Vegas, paid for by United Steelworkers, and the value totalled \$7,919. In November 2022, Mr. Singh and two staff travelled to Germany for just under \$28,000. One can only imagine the drink and the food

that was consumed at those locations. I just throw that out for commentary.

Going back to you, sir, you indicated that generally there's no value in terms of gifts from a friend that would cause you to be concerned, save and except if the trip was truly lavish—your words—or “extraordinary”, or different or truly “unusual”, such that an investigation could launch.

I want to talk about the estate that Justin Trudeau and his family stayed at. It's called the Frankfort suite. This location has units ranging from \$700 to \$7,000 a night U.S. Far be it for the Prime Minister to actually care about the taxpayer and stay at a unit at \$700 a night; he had to go to the maximum at \$7,000 a night.

The website says:

Originally a fortified residence dating back to the 17th century, Frankfort is perhaps the most desirable north coast villa in Jamaica.

The property offers six en suite bedrooms. Three bedrooms are located in the main building and three in the beach-side villa known as the “School house”. The main house and School house overlook a spectacular three hundred foot, powdery white sand beach, widely hailed as the best stretch of private beach in Jamaica. The modern luxurious swimming pool overlooks—

Chair, could we have some decorum, please, from Ms. Khalid? She's laughing.

Ms. Iqra Khalid: Is that from me specifically? Everybody in this committee is—

Mr. Larry Brock: Show some respect.

Ms. Iqra Khalid: Oh, come on.

The Chair: Mr. Brock, I'm stopping your time.

Mr. Brock has the floor.

Ms. Iqra Khalid: I have a point of clarification, Chair. My name is pronounced “Iqra”, not “Igra”. That's just for Mr. Brock's reference.

The Chair: Okay.

Mr. Brock has the floor. I would ask that everybody be quiet and show some respect for Mr. Brock. I expect the same to happen for everybody who has the floor.

Mr. Brock, I've stopped your time. I actually stopped it late.

Mr. Larry Brock: Thank you.

The Chair: I'm going to give you a little bit of runway here, and then I'll start your time again.

Mr. Larry Brock: Thank you.

I'm going to back up in light of how I was rudely interrupted by colleagues.

The main house and School house overlook a spectacular three hundred foot, powdery white sand beach, widely hailed as the best stretch of private beach in Jamaica. The modern luxurious swimming pool overlooks the ocean and eight person hot tub. A large gazebo sits adjacent to the swimming pool which comfortably seats twelve for outdoor dining.

This 5,082sqft...villa is within it's own private compound comprised of two buildings.

Now let's talk about amenities. It sleeps 12 people. There is an eight-person jacuzzi and a beachfront, as I mentioned. It is fully staffed, sir, with butlers, a cook, gardener, housekeepers and a laundress. There is golf and a spa on site.

That doesn't include, sir, the food, entertainment and recreational activities that probably came at an additional cost. Certainly, this is probably not an all-inclusive vacation. A location like that probably has an additional amount that one would have to pay. We don't know what that amount is. You, sir, probably don't know what that amount is.

You don't think that all of those circumstances, sir, raise it to the level of something that is extremely lavish, extraordinary and unusual?

I can tell you, notwithstanding what the Prime Minister had to say to Marieke Walsh from The Globe and Mail, and doubled and tripled down on in the House and to other reporters, that this wasn't a vacation that was shared by other ordinary Canadians over the Christmas break. Canadians have been suffering with affordability issues caused by this particular Liberal government after eight years of its mismanagement and waste.

In those circumstances, Canadians view this as absolutely truly extravagant and luxurious. In those circumstances, sir, does not the public opinion weigh in on your particular analysis?

I get the impression that the issue—

• (1200)

The Chair: Mr. Brock, we're past the time.

Mr. Larry Brock: I'm sorry.

The Chair: I'm not going to allow you to answer, because we have to keep a tight timeline, Commissioner. If you feel like you want to answer at some point, then you can do that.

I'm going to move to Ms. Damoff next, please.

Ms. Damoff, you have five minutes.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): Thank you.

I want to thank you both for being here today.

On a point of clarification, I just looked at Ms. Khalid's travel claim for that trip. Her meals were \$200 for her trip, which is quite a difference from the meals for the Conservative MPs who went to the U.K. The five of them spent what I would call truly lavishly, with a \$6,200 dinner and a \$600 bottle of champagne. Her meals for her whole trip didn't even cover the cost of one bottle of champagne.

On that, Conservative MP John Williamson's trip was sponsored by the Danube Institute. It's a right-wing Hungarian think tank. I did a quick check of their Twitter feed; they reposted one tweet that said, "Budapest is China's greatest friend within the EU...." There's another one that says, "Note that South Africa is undergoing a slow, steady, semi-genocidal purification of its white citizens." This is the organization that paid for Mr. Williamson's travel to the U.K. At their \$6,200 dinner, we don't know if there was lobbying of the MPs by this organization.

I completely agree with my colleague Mr. Green about putting sponsored travel onto the members' office budgets, but my concern is with the changing of the sponsored travel rules. Now sponsored travel can only be done by organizations that are not lobbying Canadian MPs. I'm quite concerned about foreign interference coming in here. You're going to have foreign entities like the Danube Institute sponsoring Canadian MPs not just as a way to get around our sponsored travel rules but also as a way to influence Canadian elected officials.

I'm wondering what your thoughts are on the dangers of foreign interference when it comes to these types of travel.

Mr. Konrad von Finckenstein: Well, you know, first of all, sponsored travel is dealt with by the code that you impose upon yourselves. It is up to you to change it. Of course you want to deal with it. If you do that and you want to update it, you want to also deal with what you perceive and what you feel are current attempts to influence Canadian public opinion and elected officials. If you feel that provisions like that are necessary, you can certainly put them in. Whether you put them in as part of sponsored travel or as a whole separate thing is an issue.

All we are dealing with is what your code deals with and what the act has as its goal: to give Canadians public confidence that their elected officials and their appointed officials are acting in good faith and not according to private interests or foreign interests. How you express it and what devices you use are up to you.

We have right now, as you know, a public inquiry into foreign influence, and maybe it's necessary to deal with foreign influence both in terms of sponsored travel and in terms of other travel in the code and the act. I don't know. This is essentially a decision for you to make. I think it would be useful if you did it, but that's my personal opinion. I have no opinion as the commissioner.

• (1205)

Ms. Pam Damoff: I wanted to touch briefly on confidentiality.

Before coming in, I heard Mr. Barrett talking about how he feels that the Prime Minister's documents should be released and that it's a matter of public interest for them to be released.

I feel that it's a foundation of your office that our conversations as MPs or cabinet ministers or as the prime minister be kept confidential. I'm wondering what your thoughts are on that, and if you think the system could even work if people knew that the documents were going to be released to the public.

Mr. Konrad von Finckenstein: Well, I don't think it would.

A bit of a parallel is solicitor-client privilege. If you come to me as a solicitor, I defend you. Let's say you have been charged with something. Everything you tell me is in confidence. I will actually know the unvarnished truth about what happened. I will then try to use that knowledge to defend you.

It's the same thing here. You come and say, "This is my situation." You are confronting this issue or this thing is starting to be a political problem or a financial problem, and you say, "What do I do?" I tell you the provisions of the act related to what you can do and what you can't do. You then do what you feel.

You don't have to take my advice. Usually you do, because it's the safest plan. If you think I am overly cautious or that this is something you can weather and you want to go ahead, that's your decision, but the system wouldn't work unless you have this cornerstone whereby you and I exchange everything. You tell me the truth, and I will give you the honest opinion of how to handle it.

Ms. Pam Damoff: Thank you.

The Chair: Thank you, Commissioner.

Thank you, Ms. Damoff.

[*Translation*]

That wraps up the first round of questions.

We'll now begin the second round of questions. Each member will have six minutes.

I would also ask Mr. Villemure to chair for a few minutes.

[*English*]

Mr. Barrett, you have six minutes. Then you're next, Madame Fortier. I wanted you to prepare for your questions. That's why I didn't ask you.

Go ahead, Mr. Barrett.

Mr. Michael Barrett: You spoke about a public office holder who received a gift that was truly lavish. The example you gave was that of a Ferrari. That would be exceptional, and you would initiate an investigation.

Mr. Konrad von Finckenstein: Well, not quite. The way it was posed to me is that there is a legal gift. It's a gift. It's from a friend—

Mr. Michael Barrett: Sure—

Mr. Konrad von Finckenstein: — and by definition, we have established that truly it is a friendship, but the gift is so exceptional in value that it is enough for me to invoke my powers and say that I have reason to believe that this cannot be true. Therefore, I could start an investigation, yes.

Mr. Michael Barrett: With that, this is the second year that this gift has been given, to our understanding, with the value bordering on \$200,000, for which we're now in the ballpark of buying a Ferrari. That was the example that was given. It's the context for Canadians on what is exceptional and what is reasonable.

It's \$84,000 in accommodations alone. We're not challenging the question of the cost of flights and security; this is strictly \$84,000 in accommodations in the form of a gift, and it's the second year in

a row. For an \$84,000 vacation in a single year, if that doesn't rise to the level of exceptional, do two gifts of \$84,000, even from a friend, rise to the level of exceptions in the Canadian context?

Mr. Konrad von Finckenstein: I'm sorry; it's not a Canadian context, because the context here is two friends. The Greens and the Trudeau are friends. They have been friends since Mr. Trudeau was a child. He has visited his place. Mr. Green has visited Canada. He's been at 24 Sussex. He's been at Harrington Lake. He is the godfather of one of his brothers. There is a true lengthy friendship here. These are people who have means—

Mr. Michael Barrett: With due respect, sir—

Mr. Konrad von Finckenstein: I'm sorry; you asked me a question. Let me finish it.

• (1210)

Mr. Michael Barrett: Sir, to the point of my question, you spoke about the gift being exceptional, notwithstanding the friendship. You said that if one friend gives the public office holder a Ferrari, that would be enough to initiate an investigation. Here we have two gifts that exceed \$80,000. The median Canadian household income is \$70,000, and the Canadian context is absolutely relevant. Could it be seen to influence a friend?

Mr. Green is a corporate millionaire, so of course they have interest in government policy and any actions the government is going to take. Any one of the facts in isolation is just that, but we need to look at the whole picture here, and these are consecutive years with gifts worth tens of thousands of dollars—in fact, tens of thousands of dollars more than the average Canadian household earns in a year. That's exceptional.

Mr. Konrad von Finckenstein: Let's start off with your basic error: You're putting those two years together. We advise on the specific gifts in each year on its own. It's not cumulative and you can't add them up, so let's talk about the gift of this year. That's what we're talking about, the gift for this year.

I don't know what the value is. When I said a Ferrari, I said a million dollars, which you forgot. I specifically used that figure because it was so outlandish. What we have here is clearly a generous gift, but it's between people who are friends. I don't see why, just because they're well off, they can't exchange gifts. That's what they're doing here.

The Greens have come to Canada and they've stayed at Harrington Lake. They've travelled around the world, apparently. These are all public statements by the Prime Minister, not by me—

Mr. Michael Barrett: Right.

Mr. Konrad von Finckenstein: —so you know them.

You may think it's improper or not, and that's obviously what an elector might think, but is it enough for me to have reason to believe that there is something here that needs to be investigated? No, it's not.

Mr. Michael Barrett: Right. I would point out that it's not public knowledge if there's been an exchange of gifts of this value, but certainly on the acceptance of a gift of that value, there's been no claim by the Prime Minister that he offered gifts of values of a similar nature, and the hospitality that you mentioned is of course all at Canadian taxpayers' expense.

We talked about last year's gift. In the context of this year's gift, did you review that gift in making your decision?

Mr. Konrad von Finckenstein: I wasn't here last year. I didn't make last year's decision.

Mr. Michael Barrett: But did you make this year's decision.

Mr. Konrad von Finckenstein: This year's decision was made by somebody in my office on the basis of the facts disclosed by the Prime Minister. We came to the conclusion, obviously, that this was something.... We give advice; whatever the advice was, I can't tell you, but the consequence of the advice was that nothing was published on our website, about which you can infer whatever you want to infer.

Mr. Michael Barrett: The last question that I have for you is this: Do you deem it relevant that the foundation named for Mr. Trudeau's father received a sizable donation from the Greens in the context of the gift that Mr. Green also gave to Mr. Trudeau? Do you see those two as related, the gift to the Trudeau Foundation from Mr. Green and the gift to Mr. Trudeau from Mr. Green?

The Chair: Give a very quick response, sir.

Mr. Konrad von Finckenstein: I don't see what one has to do with the other. We are talking about gifts received by Mr. Trudeau. Things received by the Trudeau Foundation are not a gift to Mr. Trudeau.

Mr. Michael Barrett: Well, \$180,000 to his family's charity foundation is related.

[*Translation*]

The Chair: Ms. Fortier, you have six minutes.

Hon. Mona Fortier (Ottawa—Vanier, Lib.): Thank you, Mr. Chair.

Mr. von Finckenstein and Ms. Robinson-Dalpé, thank you for your work and for being with us today.

I've had the privilege of talking to your advisors, and I really appreciate the work your office does.

You were very clear about several issues, and you seem to be saying the same thing over and over, so I'd like to keep exploring some other issues we've touched on.

A week or two ago, when we had an emergency meeting about this issue, one of my concerns was about Mr. Barrett's motion. The motion, which was rejected, was about the production of documents.

I'd like us to benefit from your knowledge and experience along with your opinion on confidentiality.

Opening that Pandora's box has consequences, of course, but I'd still like to know your opinion on the impact of these provisions on

confidentiality in the Conflict of Interest Act and on your and your office's ability to do your work.

● (1215)

Mr. Konrad von Finckenstein: As I told your colleague, confidentiality is essential to making the system work. The current system is based primarily on people's good faith. People explain the problem, and we try to find a solution. Then we give advice, and people follow it. In every case, the act requires that some of the information be made public. The rest is confidential.

One purpose of the Conflict of Interest Act is to ensure that an individual is not in conflict of interest. Another is to encourage experienced people who have the necessary skills to seek and accept public office, and another is to facilitate exchanges between the private and public sectors.

We have two goals: to facilitate exchanges between the public and private sectors. With respect to the trip in question, our job was to ensure there was no conflict of interest. That is possible only if the interaction between our office and the individual is completely confidential.

Hon. Mona Fortier: I certainly understand that it's a major risk, as you said.

Without that protection, MPs and their chiefs of staff wouldn't consult you and wouldn't go see you.

Do I understand correctly?

Mr. Konrad von Finckenstein: Yes, that's right.

Hon. Mona Fortier: In this context, do you have suggestions or comments about how to strengthen that aspect of the Conflict of Interest Act or the Conflict of Interest Code for Members of the House of Commons? Should the act or the code be strengthened? We often wonder if we should open the door to exchanging confidential information. That came up in committee two weeks ago.

I just want to know your thoughts on that.

Mr. Konrad von Finckenstein: The current system doesn't really set out sanctions. The consequence is exposure. If someone does something that's a conflict of interest or a violation of the act, it'll be publicly exposed on our website. We'll inform the Prime Minister or the Speaker of the House of Commons. It's up to them to decide what the consequences should be.

Naturally, we'll also inform Canadians, who can make up their own minds about the consequences of a conflict of interest. It's not up to us to decide what the punishment should be. Our job is to expose the situation.

Hon. Mona Fortier: I think you've been very clear. Thank you for that.

I'll go to another question. Earlier, you briefly touched on how, in 2024, digital factors impact how we function as MPs. That also affects how you operate.

If we were to amend the act, would you have any specific recommendations to give us, given this trend? When the act was written, the digital realm wasn't as big a factor.

Mr. Konrad von Finckenstein: To be honest, I didn't think I was here to suggest amendments to the act, but I can send you some suggestions in writing. I believe the impact is significant. There are also unexpected consequences. We want to avoid that. That said, I'd like to reflect on this some more before making suggestions.

• (1220)

Hon. Mona Fortier: Great.

The purpose of today's meeting was not only to look at how the act is now, but also to give ourselves the opportunity as the year begins to amend the act and the code. We may be able to fix some things.

Thank you very much.

The Chair: Thank you, Ms. Fortier and Commissioner.

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

Mr. René Villemure: Thank you very much.

Commissioner, as of today, have you talked to representatives of the Prime Minister's office about the possibility of an appointment or reappointment?

Mr. Konrad von Finckenstein: Those are confidential conversations.

Mr. René Villemure: Okay. I'll take that as a "yes".

Have you been consulted about a possible successor?

Mr. Konrad von Finckenstein: No.

Mr. René Villemure: Recently, Democracy Watch issued a harsh judgment about your work and said that several files had been buried or shelved. I don't like to judge things based on one side of the story, so I'd like to hear your response to the Democracy Watch allegations, which list at least eight cases that were shelved and a few more that were buried.

Mr. Konrad von Finckenstein: Of course, I read that criticism.

The Democracy Watch organization does not understand my position and how my office operates at all.

First of all, if there is no conflict of interest in a given case, that is none of our business. We look into cases where people want an investigation. If we find nothing to indicate a possible conflict of interest, we do not start an investigation. We had a total of eight cases like that.

Four of those cases were about Mr. Grewal, who was an MP, but who has not been for about five years. Why investigate someone who is not an MP? In the other cases, we conducted a preliminary analysis and determined there was not enough evidence to launch an investigation.

We are currently conducting two investigations, on Ms. Verschuren and Mr. Ouimet regarding Sustainable Development Technology Canada.

They also talk about changes I made. What did I do?

First, I said that if a reporting public officeholder leaves a department, the limitation period before joining another department is not necessary. If you want to leave the position of Deputy Minister of

Transport and now you want to work at the Department of Agriculture, that's fine, congratulations. There is no conflict of interest. You know how departments work. I was told that was illegal and asked why I did it. I did it because there is no conflict of interest.

One of the other changes I made has to do with reporting public office holders' controlled assets, which can be problematic. For 10 years, the maximum amount of controlled assets was set at \$30,000. I said that because of inflation, we would double the maximum amount and set it at \$60,000.

Finally, we once had a rule requiring people who worked part time for a Canada Energy Regulator committee to sell their shares in open-ended mutual funds and exchange-traded funds. Why? Where was the conflict of interest?

If a person has shares in an open-ended mutual fund, how could they be in a conflict of interest? I don't know who created that rule. Now, if a person wants to have those kinds of shares, they can.

Those are the things I did that Democracy Watch considers very bad. I will not give them the pleasure of repeating all the qualifiers they used.

• (1225)

Mr. René Villemure: Thank you very much, Commissioner.

That helps with understanding the allegations that were made, and so on.

Of course not every interest is a conflict of interest. It's important to understand that.

Mr. Konrad von Finckenstein: Exactly.

Mr. René Villemure: I have less than one minute left, and I want to come back to my previous question, which we did not have a chance to discuss.

When someone consults you, you give an opinion and the person can decide whether or not to take it into account. If you observe a lack of judgment from that person, do you intervene? For example, I could say that Mr. Trudeau's trip was legal, which is the case. I agree. At the same time, it might have been a lack of judgment. Let's say there was such an allegation, would you advise that person to...

Mr. Konrad von Finckenstein: In a case like that, not in Mr. Trudeau's, but in general, we would tell the person that what they are doing is legal, but it could have consequences on a political level. If the person still wants to go ahead, they can, but I'm required to tell them that, in my opinion, it will cause problems. It is up to the person to make that decision.

Mr. René Villemure: You would go up to that point.

Mr. Konrad von Finckenstein: Yes. It goes without saying that I'm required to explain to the person that it could cause problems.

Mr. René Villemure: Thank you very much, Commissioner.

The Chair: Thank you to Mr. Villemure and the Commissioner.

[English]

Now we have Mr. Green for six minutes. Please go ahead.

Mr. Matthew Green: I'll try to ask the question differently from the way my friend from the Bloc asked it.

Under section 44 of the Conflict of Interest Act, the commissioner is required to examine a matter raised by a request from a parliamentarian “who has reasonable grounds to believe that a public office holder or former public officer holder has contravened the Act”, unless the commissioner determines that the request is either frivolous, vexatious or is made in bad faith.

I take from your testimony, and I'm going to use your inference, that you view this matter to be closed. With that being said, do you consider the request for the investigation into this to be frivolous, vexatious or in bad faith?

I'm just quoting the code.

Mr. Konrad von Finckenstein: No. Obviously, I do not impute bad faith to anybody.

Mr. Matthew Green: Okay.

With that being said, I think what we've discovered here is that many people, whether it's Trudeau and his trip to the Bahamas under the Aga Khan...

I have to say this to you, Mr. Chair, and I do apologize, and I do apologize to my colleague MP Khalid, because I did make a comment that I think elicited her response earlier. When the context was described, I couldn't determine whether they were describing Storn-away or, worse, a plantation, which is more likely, given when it was built. I certainly hope the Prime Minister isn't spending his time in Jamaica at a former plantation, but I digress.

I think what has been determined is that when people get into these positions of power, they lose touch with the everyday Canadian. What I'm hearing from the testimony is that it's incumbent on us as MPs to create a higher standard, with clear definitions, recognizing that terms like “friends” are not clearly defined. There's too much ambiguity.

With that, and to ensure that we don't run out of time, Mr. Chair, I'm going to ask for unanimous consent for a motion, and if there is not, the members can take this to a vote.

I move:

That the committee send a letter to the Standing Committee on Procedure and House Affairs and the Board of Internal Economy with the following recommendation:

That the travel points system used by members of Parliament be amended to allow two special travel points to be used for international travel for parliamentary purposes, and that the Conflict of Interest Code for members of the House of Commons be amended to explicitly ban sponsored travel.

If we can get one thing from this S.O. 106 request that resulted in this study, hopefully it would be that.

I'm going to seek unanimous consent. If not, then I would invite the members to go on the record about whether they support the gravy train or they don't.

● (1230)

The Chair: Thank you, Mr. Green.

I'm going to ask Mr. von Finckenstein to just hold for a second while we deal with this.

Madam Clerk, you've distributed this to the committee, so let's just hang on a second, please. Let me just read it.

In relation to what we're dealing with today, I'm going to allow the motion to be submitted by Mr. Green as written. Mr. Green has asked whether we have unanimous consent to approve the motion he has moved, so I'm going to seek—

[Translation]

Mr. Luc Berthold: Mr. Chair, could I get a copy of the motion in French, please?

The Chair: You don't have one?

Mr. Luc Berthold: No, I don't have it in French.

The Clerk of the Committee (Ms. Nancy Vohl): I sent it to you.

Mr. Luc Berthold: Did we get it?

The Chair: It was sent to you by email, Mr. Berthold.

Mr. Luc Berthold: Thank you.

The Chair: Thank you.

[English]

I'm going to ask whether we have unanimous consent, and because the motion has been moved, it would be open for debate.

Let me seek unanimous consent first of all. Do we have unanimous consent to adopt the motion?

I'm not seeing consent.

Ms. Iqra Khalid: You have consent, Mr. Chair. I just want to add a little bit to it. That's all.

The Chair: It's open for debate at this point, so I'm going to open the floor for debate on Mr. Green's motion.

Again, sir, I'm going to ask that you stay. Perhaps we'll dispose of this quickly. If not, then I am going to dismiss you. However, if you could just hold on for a second, that would be great.

Ms. Khalid, you have the floor. Go ahead on the motion.

Ms. Iqra Khalid: Thank you very much, Mr. Chair.

I agree 100% with Mr. Green. I think this is an excellent motion for us to present.

My only concern is that when we prepare this letter, all members of this committee will be able to review it and provide amendments or edits to that letter before it is sent over to PROC. This would be just to ensure that everyone's viewpoints, including those of the NDP and the Bloc, are taken into consideration with this letter.

Thanks, Mr. Chair.

The Chair: The request from Ms. Khalid is to review and edit the substance of the letter if this motion is adopted.

Go ahead, Mr. Barrett.

Mr. Michael Barrett: Mr. Chair, my initial concern is that there are going to be costs or changes added to members' budgets for this. We wouldn't want to give the idea that we're just looking to have an increase to members' budgets and that there's a further requirement for an increase to the consolidated revenue fund.

I'd look for some precision from the mover for this to be included in the current budget envelope if that's the intent. If so, that should be reflected in the wording of our recommendation to the Board of Internal Economy and to PROC.

The Chair: I appreciate the point, Mr. Barrett. The way I'm reading the motion now is that it's asking the committee to send a letter with consideration for these changes to be made by both the procedure and house affairs committee and the Board of Internal Economy, so I don't see any financial obligations associated with this motion at this point. It would be up to both PROC and the board to determine if they do decide at some point, whenever that point may be, to accept this committee's recommendation based on what Mr. Green has proposed.

I'm going to ask Mr. Green if that is an accurate assessment of what his motion proposes today.

Mr. Matthew Green: That is absolutely accurate, Mr. Chair. This is for their consideration.

Obviously, this is a MOB situation, because travel credits come out of the central fund, but this would have to be duly studied and reported on.

What I'm asking this committee to do, Mr. Chair, is to move beyond the political ambulance chasing and start to provide a political legislative remedy to close the gaps on this situation. I'm not interested in coming back under another government and going back through the list of sponsored travel dating back to pre-Confederation. What I want to do is hopefully use the time here judiciously to ensure that we're actually providing legislative responses. We've heard them today. They've said that this is up to us, so let's do that now.

• (1235)

The Chair: Thank you, Mr. Green.

Mr. Barrett is next.

Mr. Michael Barrett: Yes, that's fine.

The Chair: Okay, we have a motion on the floor that we are now going to vote on.

Ms. Pam Damoff: I just have another question.

The Chair: I'm sorry. I honestly didn't see you. Go ahead, Ms. Damoff.

Ms. Pam Damoff: Thank you.

I support this motion. In fact, you and I have spoken about this, Mr. Green.

My only question is this: Should there be some oversight on these international trips? Our MOBs already allow us to have two trips a year to either Washington or New York City. Most MPs don't even take advantage of that, so it's not like every MP is suddenly going to be travelling internationally. Our trips are reported publicly, so it would be very public and accountable. With the way it's worded right now, I guess I just wonder if there's an ability to have some kind of oversight on the international travel. Maybe we don't need it in this motion, but I am very supportive of what you're proposing.

Mr. Matthew Green: May I respond?

The Chair: Please respond to Ms. Damoff, Mr. Green.

Mr. Matthew Green: Thank you very much, Mr. Chair.

This is a very simple motion that refers this matter to PROC and the Board of Internal Economy for legislative consideration. I'm not even suggesting that we have to be prescriptive, which is why I'm not interested in getting into unanimous consent around word-smithing. I think if we send this as it is, we have identified the issue that has happened at this committee.

I'm putting this marker down because it's plausible that within the next 12 months, something like this can happen again. We need to do what we're tasked to do as a committee, which is review the issue. We've heard quite clearly in testimony where our current Conflict of Interest Act lies and where the sponsored travel gaps are. They are significant. On the sponsored travel issue, this is it.

We need to come back to the gifts, for sure, and have a clear position. I do believe that ethics potentially could be non-partisan. Potentially, we can find common ground to say that this needs to end. That's what I'm proposing here today.

Thank you.

The Chair: Thank you, Mr. Green.

We've had some discussion on this and some clarification on exactly what the motion proposes. Rather than a recorded vote, I'm going to go back to seeking consensus on this with the caveat, as Ms. Khalid pointed out, that committee members will be able to review and edit the letter if need be.

Do we have consensus on this?

I'm seeing nods from Mr. Barrett, Mr. Villemure, Mr. Green and Madame Fortier.

(Motion agreed to)

The Chair: Thank you, Mr. Green.

All right, I am going to go to—

Mr. Konrad von Finckenstein: Can I answer the question that Mr. Green posed to me?

Voices: Oh, oh!

The Chair: We didn't forget about you, sir.

Mr. Matthew Green: I still have three minutes.

The Chair: I know you do. I'm going to go to the commissioner to start.

There are two minutes and 51 seconds—

Ms. Pam Damoff: I have a point of order.

The Chair: Go ahead.

Ms. Pam Damoff: You have always been quite vocal that we should put timelines on when we do things. Right now it just says it's going to come back to us.

Could we just put...? It doesn't have to be in the motion.

The Chair: I'll have it to you by the end of the week.

Ms. Pam Damoff: Okay. Thanks, Chair.

The Chair: By the end of the week I'll have something for the committee members. That's no problem.

Mr. Commissioner, go ahead with the response. Just remind me what the question was.

Mr. Matthew Green: I had referenced that under subsection 44(3) of the Conflict of Interest Act, the commissioner is required to examine the matter raised by a request from a parliamentarian who has reasonable grounds to believe the public office holder or former public office holder had contravened the act.

I referenced the letter exchange that happened between our friend here from the Conservatives and the commissioner. I put to him, based on the act, that they must do this unless “the Commissioner determines that the request is frivolous or vexatious or made in bad faith”.

My question is, which one did he pick?

Mr. Konrad von Finckenstein: My answer is you are looking at the wrong section of the act. There is no inquiry there for Mr. Barrett. Mr. Barrett sent me a letter and asked me a couple of questions. I answered the questions.

The portion that you invoked, subsection 44(3), which talks about frivolous, bad faith, etc., only applies if there has been a formal inquiry from a member of Parliament. I have answered it in the negative. It's not the situation that's before us.

• (1240)

Mr. Matthew Green: Okay.

The Chair: Mr. Green, you have two minutes left, just to update you.

Mr. Matthew Green: That's perfect.

That's important for clarity, because I was not part of the Standing Order 106 meeting. I wasn't clear about the urgency of this, yet

here we are, wanting to be clear that it was just a general inquiry that was made and not a formal inquiry.

Mr. Konrad von Finckenstein: I think Mr. Barrett has put the letter on his website, has he not? You can see it. It's in the public domain.

Mr. Matthew Green: Okay.

The Chair: The letter has been distributed to members of the committee as well.

Mr. Matthew Green: I do have the letter here.

Mr. Michael Barrett: Mr. Chair, the commissioner said that it's posted. People can like it and share if they want more.

Mr. Matthew Green: I appreciate that.

The Chair: Mr. Green has the floor.

Mr. Matthew Green: I'm going back to the issue of sponsored travel.

Even though that motion has passed, I think it's important to note that the topic brought up around foreign interference is an important one. I'm going to actually put in abeyance my partisan attacks. I won't name names, but there are multiple records of people who have taken travel sponsored by organizations, and they're individuals who have no real track record. Some of these trips are so expensive that I'm led to wonder, as an average person from Hamilton Centre, how they pay for them.

Ms. Robinson-Dalpe, when you're reviewing these trips, are flags ever raised when it comes to things like foreign interference when it comes to the price tags attached to these trips, versus people's reasonable ability to pay?

Ms. Lyne Robinson-Dalpe: Essentially, as we mentioned before, when we receive disclosures of sponsored travel, it's the members themselves who fill out the declaration. We review it to make sure that all necessary information and all supporting documents that are required under the code have been provided. In those cases, if all required information is provided, we make full disclosure of that.

It's in the public domain. All the information is there. We also prepare a list of sponsored travel every year. That way, the population of Canadians can see where it comes from and who provided it and then make their determination.

Mr. Matthew Green: Has sponsored travel ever been the subject of an inquiry by the RCMP or CSIS as it relates to MP travel as part of an ongoing investigation—

The Chair: Answer very quickly.

Mr. Matthew Green: —into foreign interference? Has that ever happened?

Ms. Lyne Robinson-Dalpe: Not that I'm aware of.

Mr. Konrad von Finckenstein: [*Inaudible—Editor*]

Mr. Matthew Green: I will note for the record, sir, that you gave her a look that would seem to kind of guide the answer.

My question was for Ms. Robinson-Dalpé. Is it something you can answer or is it something you're not aware of? There's a difference.

Ms. Lyne Robinson-Dalpé: It's definitely something I'm not aware of.

The Chair: You're going to get your last two and a half minutes—

Mr. Matthew Green: Oh. I forgot about that. I'm sorry. I thought it was my last...

The Chair: It's perfect timing.

[*Translation*]

Mr. Berthold will take the floor next; then it will be Mr. Kelloway. They will each have five minutes. Then, it will be Mr. Ville-mure and Mr. Green, and they will each have two and a half minutes.

Mr. Berthold, you have the floor.

Mr. Luc Berthold: Thank you very much, Mr. Chair.

I'll be rather quick.

Mr. von Finckenstein, it is convenient for the Prime Minister's Office or for a minister to use your name or your position as Ethics Commissioner to justify what seems to be indefensible in public. It's enough to say a request was made of the Conflict of Interest and Ethics Commissioner, who preapproved the trip. Some ministers are ready to say whatever it takes to defend their prime minister, who, by the way, was found guilty twice of breaching the Conflict of Interest Act.

We had a little exchange earlier about Mr. Steven MacKinnon's statements. I went to check them; I can send you the audio clip if you want. In a press conference on January 8, Mr. MacKinnon said the following: "The Prime Minister followed all the rules; he spoke to the Ethics Commissioner to have his travel plans preapproved."

Is that correct?

Mr. Konrad von Finckenstein: That is the interpretation of the Prime Minister's spokesperson.

Mr. Luc Berthold: It is not an interpretation, he did say that.

Mr. Konrad von Finckenstein: That is his interpretation of what happened. Someone from the Prime Minister's Office spoke to a member of the Commissioner's Office and we gave our advice, that's all.

Mr. Luc Berthold: So when Mr. MacKinnon said the Prime Minister spoke to the Ethics Commissioner, that was not correct.

Mr. Konrad von Finckenstein: We did not speak personally, no. That's certain.

• (1245)

Mr. Luc Berthold: Thank you very much.

I was a little confused. I listened to your earlier exchange with my colleague Michael Barrett about Ferraris. I'd like to try to understand it a bit better. The gift of a \$200,000 Ferrari could trigger an investigation by the Ethics Commissioner. However, when Mr. Barrett said that Mr. Trudeau's successive holidays were the

equivalent of about \$200,000, you suddenly talked about a \$1 million amount, easily achieved in the case of one Ferrari.

Mr. von Finckenstein, how can the public know where the limit is? What is acceptable? What is the required amount to trigger an investigation by the Ethics Commissioner when receiving a lavish gift, be it a car or a holiday in a luxury resort? Is it \$200,000 or \$1 million?

I heard you talk about it with my colleague earlier, and you lost me a little.

Mr. Konrad von Finckenstein: I apologize for using a Ferrari as an example.

What I was trying to say is that the rules are clear: if it is a gift from a friend, it is acceptable.

What I said is that, ultimately, if something is completely beyond the pale—I'm talking about an amount so excessive it raises questions—I can always self-initiate an inquiry as Commissioner. I'm mandated by the Conflict of Interest Act.

Mr. Luc Berthold: It's based on the person's means. In my case, if one of my friends offered me an \$84,000 vacation, it would be deemed excessive because I could never afford it on my own.

Mr. Konrad von Finckenstein: Obviously, circumstances must be taken into account: the amount of the gifts, the friendship, the situation and all that. When necessary, the Act allows me to self-initiate an inquiry.

Mr. Luc Berthold: So you could have deemed it necessary...

Mr. Konrad von Finckenstein: That's my...

Mr. Luc Berthold: ...according to the facts.

Mr. von Finckenstein, I have another question to ask you before wrapping up, because time is running out fast.

When you talked with my colleague earlier, you said that after analyzing a file, you give your legal opinion, but you can also provide a judgment.

It's possible to judge the way a gift may be perceived. However, if you don't speak directly with the Prime Minister or with members, how is it possible to give that bit of friendly advice?

Furthermore, was this type of advice provided to the Prime Minister's Office about the Prime Minister's Jamaican vacation?

The Chair: Please answer very quickly.

Mr. Konrad von Finckenstein: As you know, I cannot talk about the advice we provided. I answered your colleague very clearly on that matter.

To give the best possible opinion, we will talk about the legal aspect, but also about the ethical aspect of the situation.

The Chair: Thank you, Commissioner.

[*English*]

Mr. Kelloway, you have five minutes. Go ahead, please.

Mr. Mike Kelloway (Cape Breton—Canso, Lib.): Thank you, Mr. Chair, and thanks to the folks, the commissioner and others, who are there today.

I think I have five minutes, Chair, or is it two minutes?

The Chair: It's five minutes.

Mr. Mike Kelloway: I have a couple of things.

I have a question, Commissioner, about a couple of things I want to highlight, given that we're towards the end of this session today.

What I heard today was the commissioner confirming that the PM stayed with a friend with no connection to government. The commissioner is not investigating, and there's nothing new to investigate. The commissioner said the matter is closed.

I also found it interesting, as a number of folks talked about today, and you mentioned, that your advice is tantamount to a ruling. It certainly appears that a ruling was made by you and your office, which I appreciate.

The question I have is this: Can you reassure Canadians that your office is immune to political interference of any sort? I think that's an important question and an equally important answer, if we can get that from you.

• (1250)

Mr. Konrad von Finckenstein: I can unreservedly say yes. I don't see why it would be in the interests of any of the people who work for me to do anything but their duty and try to interpret the law and apply it. There's absolutely nothing.... They are selected very carefully. They are trained. It's very clear that what we do is help people avoid conflict of interest. That's why it's there. We do that regardless of what political side or who was involved.

What we are trying to do is exactly as the act says: facilitate interchange between the public and private sector. That can only happen if there's no conflict of interest.

Mr. Mike Kelloway: Thank you, Commissioner.

I also want to say that what I like that came out of today's meeting was that we actually, as a committee, discussed some solutions. I want to thank MP Green for that in terms of doing a deeper dive with respect to a legislative response through, no doubt, vigorous debate and discussion.

For Canadians watching at home, I think that's what you want. You want the ability to decipher interesting political discussion, and in some cases political exchanges, but you want to look at solutions. I appreciate MP Green putting that forward and our passing that motion today.

Commissioner, I think it has been mentioned a couple of times, and I think you mentioned, that you will provide a written response with recommendations on how you can strengthen your office. I want to make it clear that this is something you're going to provide in some detail.

Mr. Konrad von Finckenstein: I only indicated my willingness to do so. I didn't realize that there's a formal request for me to provide such a thing.

For that, I think the point was raised by your colleague Madame Fortier, and I said yes—that if anybody wants our advice, we can do that. It has been done in the past, but I'm not aware that either this committee or any other government body has asked me for advice on how to improve the act or the code.

Mr. Mike Kelloway: That's fine, Commissioner. I appreciate that very much.

How much time do I have left, Mr. Chair?

The Chair: I'm sorry, Mr. Kelloway, but you have just over a minute.

Mr. Mike Kelloway: Really?

Voices: Oh, oh!

Mr. Mike Kelloway: I'm going to give you something you haven't had today, Mr. Commissioner: the gift of time.

I appreciate that we've looked at this from a variety of perspectives, but at the end of the day, I think we have an end result in relation to the Prime Minister's travel. What I think we've indicated as a committee is that we need ways to look at getting some latitude with respect to exercising the MOBs and having some oversight when it comes to international travel, not just for one political party but also for all political parties.

With that, I yield the floor.

The Chair: Thank you, Mr. Kelloway.

You still have 29 seconds.

Mr. Mike Kelloway: You can have my 29 seconds, Mr. Chair, if you like.

The Chair: Wonderful.

[*Translation*]

I am letting you know that, pursuant to the motion moved by Mr. Green, we will have another two-and-a-half minute round of questions for everyone.

Mr. Villemure will start. He will be followed by Mr. Green, Mr. Brock and Mr. Bains.

Mr. Villemure, you have the floor for two and half minutes.

Mr. René Villemure: Thank you very much, Mr. Chair.

Mr. von Finckenstein, at the start, you outlined four principles, including confidence, confidentiality and transparency.

How do you manage the difficult balance between confidentiality and transparency?

Mr. Konrad von Finckenstein: That's the hardest part.

I understand your need, and that of the public, to know what's going on as soon as possible, but on the other hand, I don't want to ruin people's private lives. That is why we have provisions such as disclosure dates for certain facts and redacted documents, for instance.

As I told my colleagues and my staff, it's necessary to be as transparent as possible under the Act. However, the legislation is clear. The centre of everything we do is confidentiality. A person who comes to consult us to get our opinion must be certain that everything they disclose will remain confidential.

• (1255)

Mr. René Villemure: In other words, confidentiality is the foundation, while remaining as transparent as possible.

Mr. Konrad von Finckenstein: Exactly.

Thank you for your eloquence.

Mr. René Villemure: Thank you very much.

My colleagues talked earlier about statements reported in the papers, for example.

As Commissioner, are you concerned about the fact that your statements are somewhat distorted or, let's say, reported untruthfully?

Mr. Konrad von Finckenstein: I worked in the public sector for 39 years. I'm used to it.

Mr. René Villemure: That's exactly what I thought.

I have the floor for about 50 seconds.

Earlier, I raised the point about the title of Conflict of Interest and Ethics Commissioner, in the sense that we talk a lot about conflicts of interest. However, I get the impression we only talk about conflicts of interest and very little about ethics. I find it surprising, because the word is in fact in the title.

What's that about?

Mr. Konrad von Finckenstein: The word "ethics" is in the name of the act itself, but not mentioned in the act at all.

It is, however, the meaning of the word "ethics" we must use to carry out the act, to carry out its provisions. In my opinion, that is why the word is in the title. There is, however, no exact provision...

Mr. René Villemure: That's right.

Mr. Konrad von Finckenstein: There are no exact examples of what is ethical. It's more or less implied.

Mr. René Villemure: That's interesting.

It's like advertising a car for sale to sell pickles. The word is in the title, I know, it's the act. However, it's not part of the day-to-day management.

Mr. Konrad von Finckenstein: It's important to note that it's a concept we understand, but have a hard time defining.

The Chair: Thank you, Commissioner.

Thank you, Mr. Villemure.

[English]

Mr. Green, please go ahead for two and a half minutes.

Mr. Matthew Green: Thank you very much.

That was spoken like a true ethicist. I know my friend Mr. Villemure had a very accomplished career prior to this and is certainly a value added to the committee.

I'm still looking at the gaps in the legislation.

I've heard time and again that the advice.... I want to make it clear. There was a reference to client-solicitor privilege, yet you've admitted, I think—I've taken this from your testimony, at least—that you're simply providing advice and are not quasi-judicial in terms of the way you investigate these matters outside of formal complaints, as we've learned today. You said it depends on whether or not a friend provides the gift, yet I'm referencing subsection 2(3) of the Conflict of Interest Act, where the term "friend" is not actually defined.

In your opinion, would this be a glaring oversight in legislation that again leads to too much ambiguity about whether somebody ought to be considered a friend or an interest?

Mr. Konrad von Finckenstein: This is really a question of drafting. If you try to define "friend", you're automatically limited. Is this a friend or not? People will try to decide whether they fall under or out of the definition. If you just put "friend" and give the discretion to the commissioner to decide it, then if need be, it can go further to the courts in terms of a judicial review.

You set out the concept and you hope that in the administration of the act, it becomes clarified. That's usually how we do it in Canada.

The U.S. does exactly the opposite. It will define it extremely narrowly—

Mr. Matthew Green: But there can't really be a judicial review of your work, can there?

Mr. Konrad von Finckenstein: Yes. There can be a couple of cases on this.

One of them is the assessment of friendship as a matter of fact. It should be measured not only by considering the closeness of the bond between the office-holder and the individual, but also against more objective indicators.

Mr. Matthew Green: Then if the people who are watching, who I'm sure are glued to their televisions right now, had a complaint, or if this had been an official complaint put by my friend Mr. Barrett to you and you decided it wasn't worth pursuing, a member of the general public could take that decision and apply for a judicial review. Is that how the process works?

Mr. Konrad von Finckenstein: If I make an error, yes, you can have judicial review. If the decision I made—

Mr. Matthew Green: How would they possibly know if it's a client-solicitor privilege and you don't have to disclose anything?

The Chair: That's enough.

Quickly answer that question, please.

Mr. Matthew Green: I think it's an important question.

Mr. Konrad von Finckenstein: I can't answer that.

I said it's akin to solicitor-client privilege because it's advice. That's all we're doing.

The whole idea—

Mr. Matthew Green: Can you provide a written answer?

• (1300)

Mr. Konrad von Finckenstein: Why don't I give you [*Inaudible—Editor*]? That would be easiest.

The Chair: I would appreciate that, just for the sake of time.

I assure you, Mr. Green, that the only one glued at this hour to these proceedings is my mom in Barrie.

Go ahead, Mr. Brock. You have two and a half minutes.

Mr. Larry Brock: Thank you, Chair.

Commissioner, what I described to you earlier in my first round was a super-luxurious vacation by any imagination. A luxurious vacation or a gift is not defined in the act. It's fair to say that you're applying a subjective lens as to what you deem to be super-luxurious, which would require an investigation, as opposed to an objective standard that the Canadian public views as clearly luxurious.

On the Ferrari issue—

The Chair: Excuse me, Mr. Brock.

I'm having a tough time hearing Mr. Brock. Could we keep the conversations down, please?

I'm sorry, Larry. I didn't mean to....

Mr. Larry Brock: Thank you.

Did you stop my time, Chair?

The Chair: I did. Go ahead.

Mr. Larry Brock: You provided the example that if someone gave the Prime Minister a Ferrari, clearly you would flag that. There would be an investigation into a Ferrari, anywhere in the neighbourhood of \$200,000, but two consecutive yearly vacations to this ultraopulent villa, totalling well over \$200,000, do not qualify.

Is that accurate, sir?

Mr. Konrad von Finckenstein: No.

Mr. Larry Brock: That's not accurate.

Mr. Konrad von Finckenstein: That's not what I said.

First of all, I said “million”, not \$200,000. Secondly, I said in such a situation, I could, if I wanted to, step in and have an investigation. I did not say I would. I just said if—

Mr. Larry Brock: That would be your subjective standard as to what is luxurious. Is that correct?

It's not defined in the act, sir.

Mr. Konrad von Finckenstein: Of course it's not defined. It's a discussion. I had a discussion to start an investigation. When there

is a situation that gives me reason to believe that something has been done here that amounts to a conflict of interest—

Mr. Larry Brock: I have to move on. I have one minute left.

This is on the issue of the communications from the Prime Minister and the Prime Minister's Office. I'm not asking about content. I'm asking about delivery.

Was it delivered via email, text, telephone or a memo? I believe your earlier evidence was there was perhaps a phone call. I don't know what the duration was, but can you clarify that, sir?

It is extremely important that the public understand what details were provided to you by the Prime Minister's Office. Please answer that.

Mr. Konrad von Finckenstein: Honestly, I don't know the answer. Do you, Lyne?

Mr. Larry Brock: Will you table that answer?

Mr. Konrad von Finckenstein: My colleague can answer you.

Ms. Lyne Robinson-Dalpé: It was by email.

Mr. Larry Brock: It was by email. Was it one email or more than one?

Ms. Lyne Robinson-Dalpé: It was an exchange, so I—

Mr. Konrad von Finckenstein: We can provide the—

Mr. Larry Brock: You were asking questions. Is that why there was an exchange?

Ms. Lyne Robinson-Dalpé: I cannot tell the content, but there was a back-and-forth.

Mr. Larry Brock: Were you asking questions? I'm not asking about the questions themselves.

Ms. Lyne Robinson-Dalpé: We were asking for clarification, which might be—

Mr. Larry Brock: How many emails went back and forth?

Ms. Lyne Robinson-Dalpé: I don't recall—

Mr. Larry Brock: Was it the Prime Minister's Office or the Prime Minister himself?

The Chair: Thank you, Mr. Brock.

Mr. Larry Brock: Can she answer that?

The Chair: Answer quickly, please.

Mr. Larry Brock: Was it the Prime Minister's Office or the Prime Minister?

Ms. Lyne Robinson-Dalpé: As the commissioner mentioned before, it was with the Prime Minister's Office.

The Chair: Thank you, Mr. Brock.

Mr. Bains, go ahead, please, for two and a half minutes.

Mr. Parm Bains: Thank you.

Commissioner, just to confirm, this issue with the Prime Minister's travel is closed, right?

Mr. Konrad von Finckenstein: Yes.

Mr. Parm Bains: There was another question raised today that I am a bit interested in. It was with regard to the issue of foreign actors. There could possibly be the potential for abuse related to travel, maybe travel sponsored by a foreign entity or actors who may wish to gain some leverage over MPs.

Do you share this concern at all in relation to, for example, a Hungarian think tank or something like that?

Mr. Konrad von Finckenstein: Any kind of foreign influence is something that is concerning.

What we do about it is a very difficult question to answer, but we would want to make sure that a decision in Canada is made by a Canadian and is not influenced by foreign factors.

Mr. Parm Bains: Is this something you've come across? Have you looked into this type of matter?

Mr. Konrad von Finckenstein: No, it's not part of our work.

Mr. Parm Bains: Is this part of this office's role in any way?

Mr. Konrad von Finckenstein: If somebody has a conflict of interest because he or she is being influenced by a foreign actor, of course it would be a concern to us.

Mr. Parm Bains: If a complaint were to be brought forward of this nature, would you look into that matter?

• (1305)

Mr. Konrad von Finckenstein: If the complaint was well-founded and it met the threshold, yes, we would look into it.

Mr. Parm Bains: Is this an area we should maybe examine with respect to the code or the act?

Mr. Konrad von Finckenstein: This whole issue of foreign influence has many aspects, and this is one of them. As I mentioned before, we have a national inquiry right now on the question of lobbyists, etc. I think you want to look at it holistically and not just within the aspect of foreign travel under the Conflict of Interest Act.

Mr. Parm Bains: Could an element of foreign influence or something of that nature with respect to sponsored travel be something we could visit?

Mr. Konrad von Finckenstein: It could be part of any future amendments to the Conflict of Interest Act, yes.

Mr. Parm Bains: Thank you for that.

The Chair: Thank you, Mr. Bains.

That concludes our meeting for today.

Commissioner, I want to thank you for taking the time. I know it was on relatively short notice, but you made yourself available to the committee. I want to thank you for that.

[*Translation*]

Ms. Robinson-Dalpé, thank you for being here today.

Before I adjourn the meeting, Ms. Fortier has some bad news for us.

Ms. Fortier, I invite you to address the committee.

Hon. Mona Fortier: Thank you, Mr. Chair.

My brief stint on the committee will probably end today, or very soon, because I'm joining the whip's team. Obviously, there will probably be some new faces at the committee. I just wanted to say farewell to the team and thank the clerk and analysts for their work.

The Chair: Thank you, Ms. Fortier.

[*English*]

Again, Commissioner, thank you on behalf of the committee and Canadians.

That concludes our meeting for today. Thank you to our clerk, our analysts, and our technicians.

We'll see you all Thursday, when the Privacy Commissioner will be here before the committee.

The meeting is adjourned.

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