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1999-2000

Legislative Assembly of Ontario

OFFICE OF THE INTEGRITY COMMISSIONER

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June 19, 2000

**The Honourable Gary Carr,
Speaker of the Legislative Assembly
Room 180, Legislative Building
Queen's Park
Toronto, Ontario
M7A 1A2**

Dear Mr. Speaker:

It is an honour and a pleasure to present the twelfth Annual Report of the Office of the Integrity Commissioner for the period April 1, 1999 to March 31, 2000.

This Report is submitted pursuant to section 24 of the *Members' Integrity Act, 1994*.

Yours very truly

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OVERVIEW

A. AMENDMENTS TO LEGISLATION

(1) *An Act to amend the Members' Integrity Act, 1994 and to enact the Lobbyists Registration Act, 1998*

The Integrity Commissioner's responsibilities were expanded with the proclamation of *An Act to amend the Members' Integrity Act, 1994 and to enact the Lobbyists Registration Act, 1998* on January 15, 1999. The amendments address the powers and duties of the Integrity Commissioner who currently exercises powers and performs duties under the *Members' Integrity Act, 1994*. The amendments refer to the Commissioner's powers and duties "under any other Act", and are required because the Commissioner will have powers and duties under the *Lobbyists Registration Act, 1998*.

Related changes are made to the provisions concerning the personal liability of the Commissioner and the employees in the office and concerning their compellability as witnesses in certain civil proceedings.

That portion of the Act amending the *Members' Integrity Act, 1994* is attached to this Report as Appendix "A".

(2) *Amendments Because of the Supreme Court of Canada Decision in M. v. H., 1999*

In response to the Supreme Court of Canada ruling in M. v. H. (1999), 171 D.L.R. (4th) 577 (S.C.R.), in which s.29 of the *Family Law Act* of Ontario was found to be unconstitutional, Bill 5 - *Amendments Because of the Supreme Court of Canada Decision in M. v. H., 1999* was introduced by the provincial government in October, 1999. Numerous provincial statutes were required to be amended, including the *Members' Integrity Act, 1994*, and the Supreme Court suspended its decision for six months to allow Ontario to address the issues. The Bill received Royal Assent on October 28, 1999, and the portion of the Act affecting the *Members' Integrity Act, 1994*, came into force on November 20, 1999 and is attached to this Report as Appendix "B".

All members will be required to comply with the amendments to the *Members' Integrity Act, 1994* as of September, 2000 when filing their annual Private Disclosure Statements.

B. DISCLOSURE STATEMENTS

Following the provincial election held on June 3rd, 1999, 103 Public Disclosure Statements were filed December 14th, 1999, with the Clerk of the Legislative Assembly in accordance with s.21(6) of the *Members' Integrity Act, 1994*. All members were in compliance with the *Act*.

Members' Public Disclosure Statements are available for examination by the public and copies are available through the Clerk of the Legislative Assembly.

The *Act* provides that every member shall file a disclosure statement with the Commissioner within 60 days of being elected and annually thereafter. Section 34 provides:

"Where the Commissioner ... finds that the member ...has failed to file a private disclosure statement or a statement of material change within the time provided by section 20, has failed to disclose relevant information in that statement ... the Commissioner shall recommend in his or her report,

- (a) that no penalty be imposed;*
- (b) that the member be reprimanded;*
- (c) that the member's right to sit and vote in the Assembly be suspended for a specified period or until a condition imposed by the Commissioner is fulfilled; or*
- (d) that the member's seat be declared vacant."* (emphasis added)

Almost 50% of the members failed to meet the filing deadline imposed by the Integrity Commissioner. This is unacceptable. It is acknowledged that the time after an election is extremely busy for all members, however, the Integrity Commissioner does not make the law. He does have the responsibility for its administration, and members have an obligation to adhere to the mandatory provisions of the *Act*.

Section 27 of the *Act* provides:

- "(1) A member of the Assembly whom this Act requires to do anything within a specified period of time may give the Commissioner a written request for an extension.*
- (2) The Commissioner may, by giving the member a written notice, extend the time by a specified number of days, as the Commissioner considers reasonable and consistent with the public interest.*
- (3) The Commissioner may impose on the extension such conditions as he or she considers just."*

Although discretion is used in permitting extensions for filing purposes, members are advised that a much firmer approach will be taken in the future.

C. CONTINUING EDUCATION

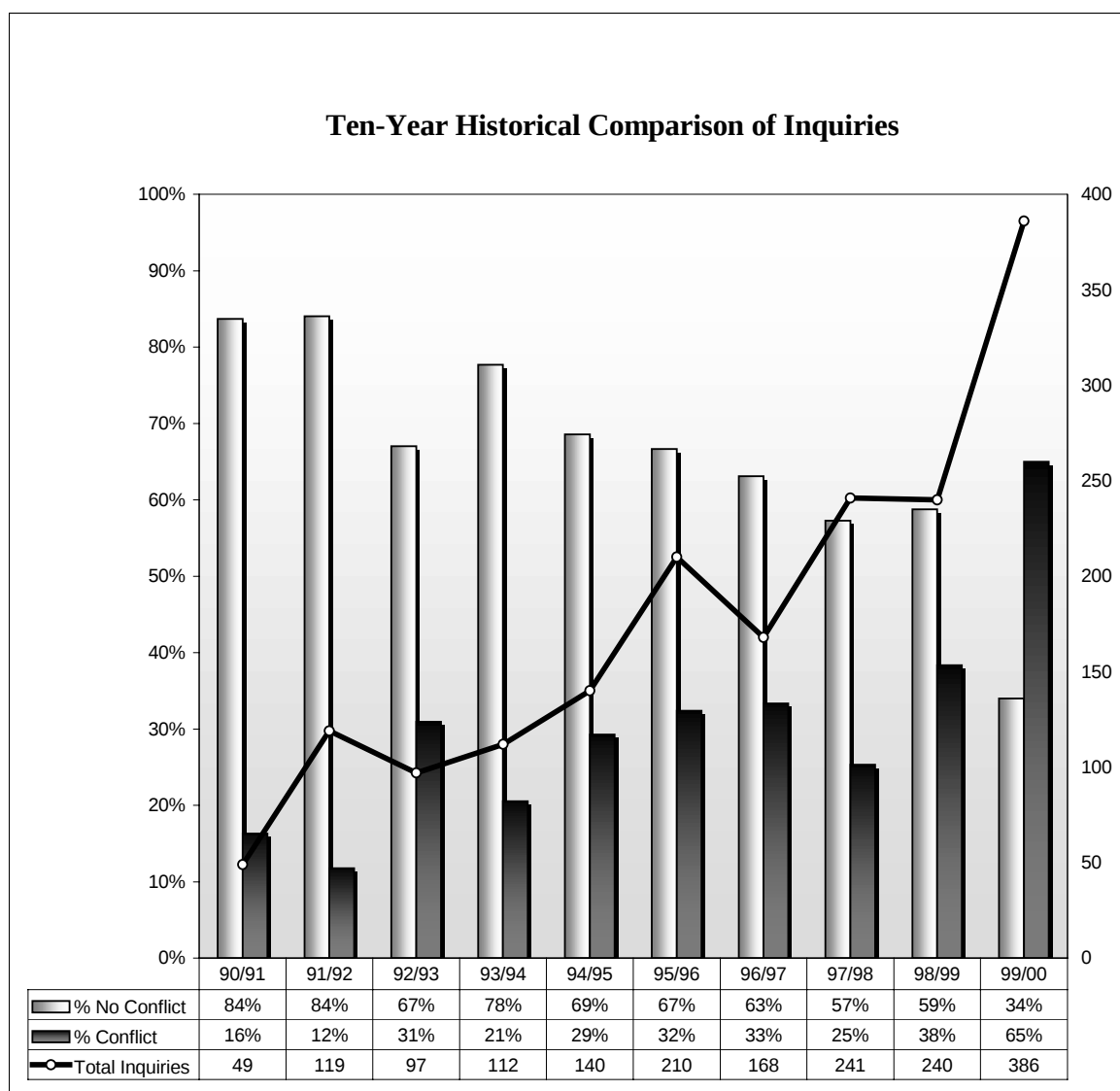
Efforts over the past few years to encourage MPPs and their staff to use the resources of this office for educational purposes resulted in an increase in requests for outreach programs to be conducted for caucus staff, Ministers' staff, MPPs' offices and constituency staff in the months following the election in June, 1999.

The opportunity to repeat these sessions on an annual basis is encouraged and all members and staff are invited to contact this office to make arrangements for a group format which is most beneficial and convenient to them. Knowledge of the *Act* and our office procedures will be mutually advantageous.



INQUIRIES

A. STATISTICS



Not all annual percentages total 100%. The difference represents miscellaneous inquiries which were withdrawn or were not within the Commissioner's jurisdiction.

Inquiries Received April 1, 1999 to March 31, 2000

Received From	Number Received	Conflict	No Conflict	No Jurisdiction
Member	373	131	239	3
Spouse	0	0	0	0
Trustee	0	0	0	0
Caucus	1	0	1	0
Cabinet	1	0	1	0
Committee	0	0	0	0
Former Minister	11	2	9	0
TOTAL	386	133	250	3

As of the election in June, 1999, the number of members elected to the Legislative Assembly was reduced from 130 to 103. Despite this decrease in numbers, inquiries under s.28 of the *Members' Integrity Act, 1994* increased almost 40% over the 1999/2000 fiscal year. The reasons for such increase appear to be twofold.

First, with each election, re-elected and new members bring with them new constituency and Queen's Park staff, many of whom are unfamiliar with the legislation.

Secondly, the increase of outreach programs conducted by this office has raised with MPPs and their staff, their awareness to conflict of interest issues and the desire to properly discharge the responsibilities which they have assumed.

B. GENERAL

Section 28 the *Members' Integrity Act, 1994*, states:

"28 (1) A member of the Assembly may request that the Commissioner give an opinion and recommendations on any matter respecting the member's obligations under this Act and under Ontario parliamentary convention.

(2) The Commissioner may make such inquiries as he or she considers appropriate and shall provide the member with an opinion and recommendations.

- (3) *The Commissioner's opinion and recommendations are confidential, but may be released by the member or with the member's consent*
- (4) *The member's request, the Commissioner's opinion and recommendations and the member's consent, if any, **shall be in writing**. ...” (emphasis added)*

It is of increasing concern to note that of the 386 inquiries made to this office in the past fiscal year, 192 or 50% were verbal only. As a rule, it is more expedient to initially respond verbally to inquiries on the undertaking that a written inquiry follow immediately. However, failure to put the inquiry in writing is not in keeping with the *Act* or with the procedure established by this office. On occasion, there has been a substantial factual discrepancy between the verbal inquiry and the written confirmation. A written opinion based on all the facts provided to the Integrity Commissioner may well protect the MPP from allegations of a conflict of interest which may arise in the future.

In future, unless telephone requests for an opinion are confirmed immediately in writing, it may become necessary to apply a strict interpretation of the *Act*. This position is one which we would be unhappy to take, but which we will be forced to take unless we receive better cooperation in solving this problem. The risk of misunderstanding must be eliminated and the members' cooperation is respectfully requested.

C. *SELECTED INQUIRIES UNDER SECTION 28*

The following summarized inquiries reflect advice provided by the Commissioner in the past fiscal year. These examples are not exhaustive, are abbreviated due to space limitations, and do not represent every type of issue which may arise in a member's day-to-day activities. The summaries are intended to raise the awareness of members and their staff and bring to their attention potential problematic issues with the expectation that this office will be contacted for advice and guidance. In view of the confidentiality requirements under s.24(2) of the *Act*, it should be remembered that each inquiry has its own particular factual situation and that the opinion is based on that set of facts.

INQUIRY NO. 1

Issue:

An organization was denied funding from the Alcohol and Gaming Commission on the basis it was not a charitable organization, however, it was granted charitable status at the federal level. The organization asked an MPP/Minister to write the Commission to determine what measures the organization could take to reestablish its eligibility for funding.

Opinion:

Any MPP, including a Minister or Parliamentary Assistant, or staff person, is entitled to make inquiries of any government agency, board, or commission for information with respect to the status of a matter, and the policies and procedures of that agency, board, or commission.

However, parliamentary convention prohibits all Ministers from personally appearing or advocating on behalf of a private party with any agency, board, or commission. In addition, parliamentary convention prohibits Parliamentary Assistants, Ministerial staff and Parliamentary Assistant staff from appearing or advocating on behalf of a private party with any agency, board, or commission which falls under the jurisdiction of the Minister's or Parliamentary Assistant's responsibilities.

Ministers always wear the cloak of ministerial responsibility. There is no way that their actions, or those of their staff, whether verbal or written, and whether in the member's position as an elected member of the Legislature or as a Minister or Parliamentary Assistant, can be considered by the recipient as other than actions by a Minister or Parliamentary Assistant, and thus could reasonably be considered as attempting to influence a decision.

Although the Alcohol and Gaming Commission does not fall under this Minister's jurisdiction, it is inappropriate for the Minister to write to the Alcohol and Gaming Commissioner. Correspondence should be addressed to the Minister responsible.

INQUIRY NO. 2

Issue:

A constituent suffered from a disease, treatment for which is not covered under the Ontario Health Insurance Plan. The constituent's MPP, being a Minister, spoke directly to the Minister of Health and the matter was referred to an individual at OHIP for consideration. The OHIP representative is now requesting a meeting with the constituent's MPP/Minister. Is it appropriate for the MPP to meet with OHIP?

Opinion:

As OHIP requested the meeting, meeting with OHIP does not place the MPP in violation the *Members' Integrity Act*.

INQUIRY NO. 3

Issue:

An MPP/Minister inquired as to whether an announcement by the Minister is appropriate to place on the MPP's website, along with announcements by other Ministers.

Opinion:

The MPP's website informs the constituency of various items which would be of interest and it is acceptable to include the Minister's announcement as long as it follows the normal format of other ministerial announcements.

INQUIRY NO. 4

Issue:

A constituent requested the intervention of the MPP with respect to an extension of the limitation period for making an application to the Criminal Injuries Compensation Board. The member was concerned that such activity would be seen as interference with the judicial process.

Opinion:

The decision of the Board had been unsuccessfully appealed twice and the next level of appeal is the Divisional Court, Ontario Court of Justice.

Although the Legislature and the judiciary are both branches of the provincial government, they are separate and independent and in accordance with parliamentary convention, any encroachment in either direction is strictly forbidden. Our democratic system of government is composed of three branches—Legislative, Executive and Judicial. Each is supreme within its own jurisdiction. A court case is a judicial proceeding with specific provisions for appeals. Legislators should never communicate with a judge or other judicial officer with respect to a matter which is or which has been before the courts.

The MPP may wish to consider advising the constituent to seek legal counsel. For the MPP to do anything further may be interpreted as attempting to influence or interfere with the process, contrary to the *Act*.

INQUIRY NO. 5

Issue:

A constituent has requested assistance from an MPP/Minister with respect to the successor companies to Ontario Hydro and a billing issue.

Opinion:

The *Electricity Act, 1998* is Schedule A to the *Energy Competition Act, 1998*, S.O. 1998, c.15, the Act which creates or authorizes the creation of the five successor corporations to Ontario Hydro, including:

- (1) Independent Electricity Market Operation (“IMO”) to ensure fair and open market access and to oversee GENCO and SERVCO.
- (2) Ontario Electricity Generation Corporation Inc. (“GENCO”) to own and operate the generation facilities.
- (3) Ontario Electric Services Corporation (“SERVCO”) to own and operate the transmission and distribution systems through subsidiaries of the Corporation.
- (4) Ontario Electricity Financial Corporation to manage the provincial guaranteed debt of the former Ontario Hydro.

- (5) Electrical Safety Authority to oversee the installation and inspection of electrical equipment.

Sections 6 and 51 of the *Energy Competition Act* specifically state that the IMO, GENCO and SERVCO are not “agent(s) of Her Majesty for any purposes, despite the Crown Agency Act.” Therefore, IMO, GENCO and SERVCO are not public office holders.

It was the Commissioner’s opinion that approaching GENCO and potentially SERVCO, to seek a status report and pursue a solution for the constituent is considered an activity under s.5 of the *Members’ Integrity Act, 1994*, and does not place the member in a conflict of interest.

INQUIRY NO. 6

Issue:

An MPP/Minister was asked to write a letter of support with respect to the Ontario Timeship 2000 millennium exhibition.

Opinion:

Normally, an MPP/Minister should write letters of support to the Minister responsible for the program. However, the criteria for applications in this regard require a letter of support from the local MPP.

The MPP/Minister may, therefore, write the letter of support on constituency letterhead.

INQUIRY NO. 7

Issue:

A constituent requested the use of an MPP’s constituency office for a conference call between a recipient and a payor of child support and a lawyer representing the Ministry of the Attorney General to discuss outstanding support issues.

Opinion:

As the constituent is not represented by counsel, the MPP may assist the constituent as requested. Such action is considered an activity under s.5 of the *Act*.

INQUIRY NO. 8

Issue:

An MPP has been asked to write a letter of support for a nomination to the Order of Ontario.

Opinion:

As the member is not a member of the Executive Council, a letter of support is considered an activity under s.5 of the *Act* and does not place the member in violation of the *Act*.

INQUIRY NO. 9

Issue:

A constituent has had major difficulties with the Family Responsibility Office and the MPP's office has been assisting the constituent for a long time. The constituent has now advised that she has retained counsel to pursue the matter further. Should the MPP continue to work on behalf of the constituent?

Opinion:

As the constituent has now retained counsel to act on her behalf, any further involvement by the MPP or staff may be interpreted as an attempt to interfere with or influence the process, contrary to the *Act*.

INQUIRY NO. 10

Issue:

A student was suspended by his school and subsequently reported to police authorities and arrested. At the request of the student's father, the MPP made attempts to contact various authorities, including the principal, the District School Board, the police and the Crown Attorney, all of whom were reluctant to comment. The MPP was advised that a civil action was anticipated by the School Board and the student's father may be the subject of a police investigation.

Opinion:

The father may wish to consider retaining a lawyer, as there is nothing further the MPP should do to assist the constituent. The matter is before the courts and a civil suit is being considered by the School Board. Any further action may be interpreted as an attempt to interfere with the School Board and the judicial processes, contrary to the *Act*.

INQUIRY NO. 11

Issue:

A constituency assistant advised that the constituency office was in the midst of a Toy Drive and advertising and posters had already been sent to various locations within the community. The flyers indicated that a drop-off box would be situated in various locations within the riding, including the constituency office.

Opinion:

Such action was inappropriate as solicitation of donations is improper by any MPP as it may be interpreted as the MPP exercising improper influence upon proposed donors. In addition, allowing the constituency office to be used as a drop-off point is inappropriate as it is not considered one of the duties or responsibilities of an MPP.

As the matter was brought to the attention of the Integrity Commissioner at the earliest opportunity, and as the flyers had already been printed and distributed, there was nothing further the MPP could do. It was the Commissioner's opinion this was an error in judgment made in

good faith. The MPP understood the inappropriateness of such action and undertook to take all steps necessary to prevent this from occurring in the future.

INQUIRY NO. 12

Issue:

Does an MPP require a stamp to witness documents as a Commissioner?

Opinion:

Section 1 of the *Commissioners for Taking Affidavits Act* specifically provides that by virtue of the office of a member of the Legislative Assembly, an MPP is a Commissioner for taking affidavits and a stamp is not required.

However, MPPs cannot sign as a Notary Public unless the MPP has specifically obtained such signing authority.

INQUIRY NO. 13

Issue:

A constituency assistant, with the knowledge of his MPP, was a member of an outside organization, however, unknown to the MPP, the constituency assistant assumed the role of public and media spokesperson during a public demonstration over a controversial issue. The MPP expressed concerns over the public nature of the individual's involvement and a perceived conflict with the assistant's responsibilities as a constituency assistant with the community, the organization and its activities, and asked the assistant to cease acting as a spokesperson for the organization. The constituency assistant declined, arguing that he was acting as a private citizen and not representing the MPP's office. The staff person was placed on a leave of absence while he continued in the public role.

Opinion:

In 1990/91, the former Commissioner, The Honourable Gregory T. Evans, stated in his Annual Report:

“The frequently suggested standard is that a legislator should not engage in conduct which would appear to be improper to a reasonable, non-partisan, fully informed person. The problem with such an ‘appearance standard’ is that there are few, if any, ‘reasonable, non-partisan, fully informed persons’. ‘Perception of impropriety’ is an individual subjective viewpoint, which I doubt many would accept as proper criteria for measuring the behaviour of legislators.”

Perception is for the electorate. The Office of the Integrity Commissioner deals with the facts.

Although the *Members' Integrity Act, 1994* covers MPPs only, the actions of constituency assistants may place the MPP in a conflict of interest situation. The Integrity Commissioner has provided opinions to MPPs on many occasions with respect to the outside activities of

constituency assistants and how they affect their MPP. In this regard, the general advice provided includes two conditions:

- (1) The MPP approves of the activity; and
- (2) The outside activity is not conducted during normal constituency business hours and is not conducted in the constituency office.

However, MPPs may wish to consider contacting the Integrity Commissioner for an opinion on individual circumstances.

The actions of the constituency assistant were high profile, and may be misinterpreted by the constituents, i.e. the MPP supporting one side of the conflict over the other. Elected Members of Provincial Parliament have a duty to represent all constituents.

It was the Commissioner's opinion that the MPP took the steps necessary to comply with not only the spirit of the *Act*, but also to avoid placing himself in violation of the *Act*. If the assistant refused to comply with the request of the member, he may be entitled to dismiss the assistant, however, we do not express an opinion on employer/employee relationships.

INQUIRY NO. 14

Issue:

An MPP submitted an article for a national publication and was offered payment for same.

Opinion:

Accepting remuneration for an article relating to the MPP's work is inappropriate as such activity is considered part of the MPP's responsibilities of office. The remuneration should either be refused or treated as a donation sent directly by the publication to a charitable organization. An income tax receipt should not be accepted by the MPP.

INQUIRY NO. 15

Issue:

An MPP inquired as to the appropriateness of offering airline bonus points, acquired through business as an MPP, to enable winners of a community contest within the riding to fly to Toronto.

Opinion:

Section 6(5) of the *Members' Integrity Act, 1994*, states:

"A member who receives promotional awards or points from airlines, hotels and other commercial enterprises as the result of travel for which he or she is reimbursed by the Government of Ontario shall not use them for personal purposes."

The use of bonus points acquired through business as an MPP may only be used for the MPP's business. In this respect, the points may be transferred to Queen's Park or constituency office staff to conduct business, however, transfer of points to private individuals may place the member in violation of s.6(5) of the *Act*.

INQUIRY NO. 16

Issue

A constituent requested that an MPP/Minister write a letter of support with respect to a tender, to the Chief Executive Officer of a private company on behalf of another private company within the MPP's riding.

Opinion:

Although the MPP is a Minister, the letter of support is to a private company and may be written on constituency letterhead. Such activity falls under s.5 of the *Act*, "...an activity in which members of the Assembly normally engage on behalf of constituents."

INQUIRY NO. 17

Issue:

A lobby firm has requested a meeting with a Parliamentary Assistant to participate in a survey on behalf of an undisclosed stakeholder of the Parliamentary Assistant's Ministry.

Opinion:

The Parliamentary Assistant may meet with the representative from the lobby firm directly, however, it would be inappropriate to participate in the survey when unaware of the Ministry stakeholder, as there is no control over the use of the responses to the survey.

INQUIRY NO. 18

Issue:

A constituent hotel owner was having problems with the Liquor Control Board of Ontario regarding charges against him and a personality conflict with the Inspector, and requested the MPP, also a Minister, to look into the matter.

Opinion:

The constituent was represented by counsel and it is the responsibility of counsel to bring evidence to the attention of the Alcohol and Gaming Commission at the scheduled hearing. Any involvement of the MPP/Minister may be interpreted as an attempt to interfere with or influence the process before the Commission, contrary to the *Act*.

INQUIRY NO. 19

Issue:

Are Members of the Legislative Assembly permitted to play Ontario Lottery Corporation games?

Opinion:

The Ontario Lottery Corporation does not restrict MPPs from playing the games based on the random chance principle. When an MPP, Ontario Lottery Corporation employee or retailer wins a major prize, an “Insider Win Policy” consisting of an internal audit process is undertaken.

Members are, therefore, entitled to participate in games under the Ontario Lottery Corporation.

INQUIRY NO. 20

Issue:

A Minister’s assistant was asked by a political party of a foreign government to write a newspaper column with respect to the “Common Sense Revolution”, its political agenda, and his personal observations, and in return receive an honourarium.

Opinion:

The column would be political in nature and would bear no relationship with the assistant’s public duties as an assistant to the Minister. Acceptance of payment for same does not place the Minister in contravention of the *Members’ Integrity Act, 1994*, on the following conditions:

- (1) The Minister is aware of the activity and agrees with it.
- (2) The work is performed on the assistant’s personal time.
- (3) The work is not performed at the Ministerial Office.

INQUIRY NO. 21

Issue:

What are the limitations placed on constituency assistants with regard to participation in provincial election activities?

Opinion:

Constituency assistants are entitled to participate in provincial election activities on the condition that such activities are conducted after normal working hours, and they are not conducted from the constituency office.

INQUIRY NO. 22

Issue:

An MPP, in his capacity as a Parliamentary Assistant, inquired as to the appropriateness of requesting a review of a Request for Proposal (RFP) before released publicly, to ensure that it adhered to the government’s policies. A Ministry employee suggested that such request was inappropriate and perhaps a violation of the *Members’ Integrity Act, 1994*.

Opinion:

The Parliamentary Assistant was not advocating on behalf of a constituent and did not intend to use the information to influence the RFP selection process.

One of the “issues to consider” contained in the “general Principles” of the RFP states:

“The Minister may be called upon to answer questions regarding the process and criteria used to select the successful proponent.”

On this basis, it is important that the Minister or Parliamentary Assistant be aware of the contents of the RFP and approve of same.

The Parliamentary Assistant is entitled to make a request to review a draft RFP to ensure it complies with government’s policies. Unless specifically set out otherwise, such action is considered a responsibility of the offices of the Minister and/or Parliamentary Assistant.

INQUIRY NO. 23

Issue:

An MPP was asked by constituents to make a public statement with respect to the proposed relocation of a private rehabilitation centre for federal inmates when an application in this regard was before the Ontario Municipal Board (“OMB”).

Opinion:

As the matter was before the OMB, it would be inappropriate for the MPP to make a public statement, as such action may be interpreted as an attempt to interfere with and/or influence the process at the OMB, contrary to the *Members’ Integrity Act, 1994*.

INQUIRY NO. 24

Issue:

A Minister was asked to sponsor and participate on a personal basis in a hospital fundraiser.

Opinion:

The Minister may financially contribute to the project on a personal basis, however, it is inappropriate for his name to appear on the brochure which is intended for fundraising purposes. As an MPP and a Minister, the solicitation of donations, even on a personal basis, is inappropriate. Ministers always wear the cloak of ministerial responsibility and such solicitation may be interpreted as exercising influence upon the proposed donor.

INQUIRY NO. 25

Issue:

An MPP has been asked to meet with a constituent, represented by counsel, with respect to ongoing litigation involving a local school.

Opinion:

Although the Legislature and the judiciary are both branches of the provincial government, they are separate and independent and in accordance with parliamentary convention, any encroachment in either direction is strictly forbidden.

As long as the issue is before the courts and the constituent is represented by counsel, there is nothing the MPP can do to assist the constituent. The MPP should take the steps necessary to avoid involvement in any way.

INQUIRY NO. 26

Issue:

A constituent pleaded guilty to a *Highway Traffic Act* charge, however, he felt the police had made numerous errors in the report of the accident. He would now like to appeal the fine assessed by the court, and has asked the MPP to assist him.

Opinion:

The constituent is entitled to contact the court office to inquire as to the procedure which must be followed, or retain a lawyer. As this is a legal matter, it is inappropriate for the MPP or constituency assistant to act on his behalf.

INQUIRY NO. 27

Issue:

A constituency assistant was approached by a landlord with respect to a tenant's non-payment of rent. Shortly thereafter, another constituency assistant of the same office was approached by the tenant with respect to the same dispute.

Opinion:

As both parties have approached two different individuals in the same office, it has placed the MPP and his office in conflicting roles. The MPP and staff should not become involved with either party, as such action may be interpreted as a violation of the *Members' Integrity Act, 1994*.

INQUIRY NO. 28

Issue:

A letter from a law firm with respect to a Statement of Arrears signed by the MPP as a Commissioner, on behalf of a constituent, advised that the Statement contained inaccuracies. The letter suggested that the constituent had deliberately mislead the MPP with the intent to disparage another constituent's reputation.

Opinion:

Section 1 of the *Commissioners for Taking Affidavits Act* specifically provides that by virtue of holding the office of a member of the Legislature Assembly, the member is a Commissioner for taking affidavits. In such cases, the MPP is simply a functionary to administer an oath to the deponent and it is the deponent who is swearing as to the truth of the contents of the Affidavit.

INQUIRY NO. 29

Issue:

A Community Millennium Committee mistakenly placed a Minister's name on a public brochure that could be used to imply more than moral support for the Committee's efforts.

The Minister's name appeared as a result of his attendance at the news conference announcing the millennium celebrations, and the local Riding Association provided funding towards the celebrations.

Opinion:

The Minister's name appearing on the brochure was inappropriate as there was no financial contribution to the project, either personally, as MPP or as Minister. However, the MPP advised he was not aware of this until after the brochure had been printed and distributed.

Placing such information on the brochure was an error in judgment, however, the MPP's office demonstrated good faith by contacting this office at the earliest opportunity to report the matter and it was the Commissioner's opinion that the MPP took the appropriate steps to avoid any further misrepresentation.

INQUIRY NO. 30

Issue:

A local bar owner was charged by the Liquor Control Board of Ontario, and has requested the local MPP to provide a letter of reference addressed to him.

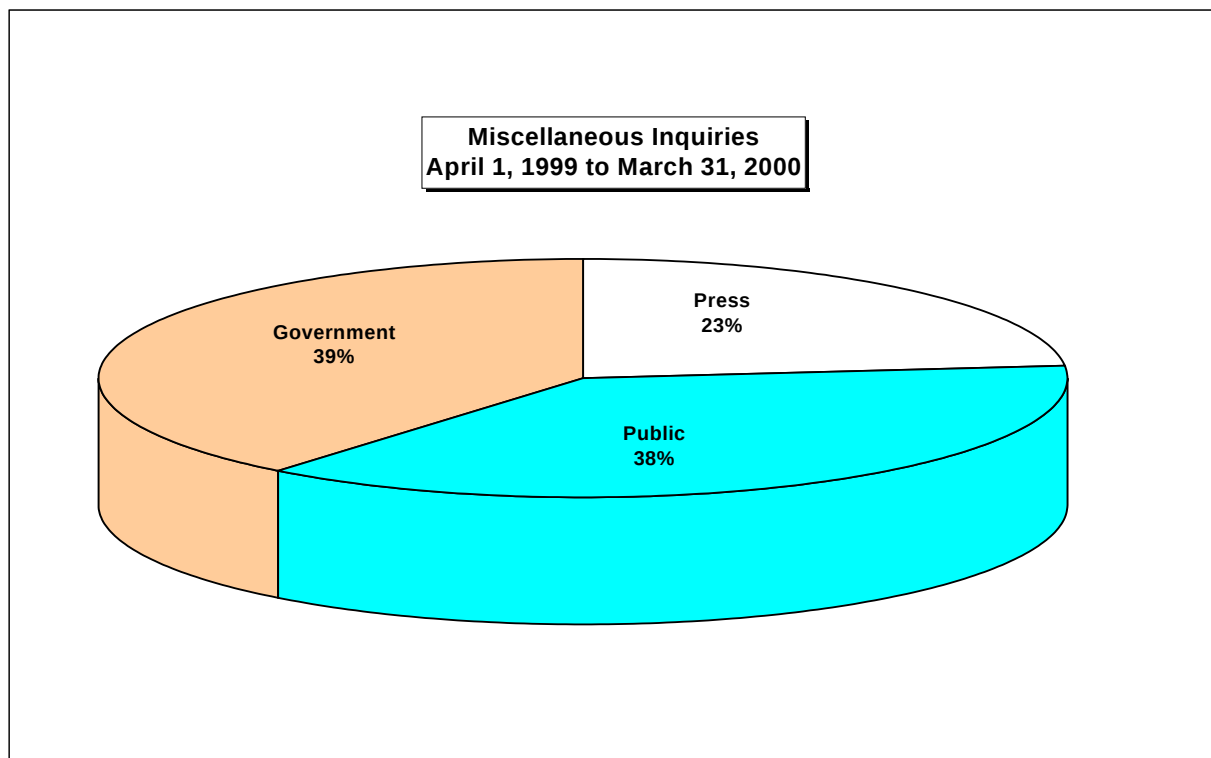
Opinion:

A letter addressed to the constituent is inappropriate as the MPP has no control regarding the destination of the letter. In addition, it is inappropriate for the MPP to write a letter without full knowledge of the facts of the case. If the constituent wishes the MPP to appear as a character witness, a subpoena should be issued.

C. MISCELLANEOUS INQUIRIES

During the reporting period of this Report, 128 miscellaneous inquiries were received from all levels of governments, the public and the media.

A variety of questions were raised including inquiries with respect to the actions of various government agencies and employees; conflict of interest guidelines for government agencies; complaints with respect to MPPs from members of the public; general policies and procedures of the Office of the Integrity Commissioner and requests for copies of the Annual Report.



REFERRED QUESTIONS

The Office of the Integrity Commissioner is pleased to report that during the past fiscal year, no questions were received or inquiries conducted under s.30 of the *Members' Integrity Act, 1994*.



FINANCIAL INFORMATION

A. 1999/00 STATEMENT OF EXPENDITURES

Salaries and Benefits	\$238,683.80
Transportation and Communications	5,763.40
Services	5,658.29
Supplies and Equipment	<u>7,121.07</u>
	<u>\$257,226.56</u>

B. PUBLIC SECTOR SALARY DISCLOSURE ACT, 1996

This statement is provided under the *Public Sector Salary Disclosure Act*. The Commissioner is the only employee in the Office of the Integrity Commissioner receiving a salary in excess of \$100,000 during the period, January 1, 1999 to December 31, 1999.

<u>Employee</u>	<u>Payment</u>	<u>Taxable Benefits</u>
Robert C. Rutherford	\$139,573.43	Nil



APPENDIX “A”

An Act to amend the Members’ Integrity Act, 1994 and to enact the Lobbyists Registration Act, 1998

Members’ Integrity Act, 1994

- 1. (1) The *Members’ Integrity Act, 1994* is amended by adding the following section:**
 - 23.1 The Commissioner may exercise the powers and shall perform the duties assigned to him or her under this Act and any other Act.
- (2) Section 25 of the Act is repealed and the following substituted:**
 25. No proceeding shall be commenced against the Commissioner or an employee in his or her office for any act done or omitted in good faith in the execution of intended execution of the Commissioner’s or employee’s duties under this Act or any other Act.
- (3) Section 26 of the Act is amended by striking out “this Act” in the fifth line and substituting “under this Act or any other Act”.**

APPENDIX “B”

An Act to amend certain statutes because of the Supreme Court of Canada decision in M. v. H.

Members’ Integrity Act, 1994

36. (1) Section 1 of the Members’ Integrity Act, 1994 is amended by adding the following definitions:

"household", when used with reference to a person, means,

(a) any individual who belongs to the person’s family,

(b) the person’s same-sex partner, and

(c) any adult who is related to the person’s same-sex partner, shares a residence with the person and is primarily dependent on the person or same-sex partner for financial support; ("ménage")

"same-sex partner" means a person who is the member’s same-sex partner within the meaning of Part III of the Family Law Act, but does not include a person from whom the member is separated, whether or not support obligations and property have been dealt with by a separation agreement or court order. ("partenaire de même sexe")

(2) Subsection 15 (1) of the Act is amended by striking out "family" in the fifth line and substituting "household".

(3) Subsection 20 (2) of the Act is amended by,

(a) striking out "spouse" in the second line of clause (a) and substituting "spouse or same-sex partner";

(b) striking out "spouse" in the second line of clause (b) and substituting "spouse or same-sex partner"; and

(c) striking out “spouse” in the second line of clause (c) and substituting “spouse or same-sex partner”.

(4) Subsection 20 (3) of the Act is amended by striking out "spouse" in the third line and substituting "spouse or same-sex partner".

(5) Subsection 20 (4) of the Act is amended by,

(a) striking out "spouse" in the sixth line and substituting "spouse or same-sex partner"; and

(b) striking out "family" in the eighth line and substituting "household".

(6) Subsection 21 (4) of the Act is amended by,

(a) striking out "family" in the second and third lines of paragraph 3 and substituting "household"; and

(b) striking out "family" in the third line of paragraph 4 and substituting "household".

(7) Subsection 22 (1) of the Act is amended by striking out "family" in the fifth line and substituting "household".

(8) Subsection 22 (2) of the Act is amended by striking out "family" in the seventh line and substituting "household".

Commencement and Short Title

Commencement

68. (1) Subject to subsections (2) and (3), this Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Same

(2) Sections 25 (Family Law Act amendments) and 69 (Short title) come into force on November 20, 1999.

Same

(3) Every provision of this Act that has not come into force under subsection (1) or (2) by March 1, 2000 comes into force on that day.

Short title

69. The short title of this Act is the *Amendments Because of the Supreme Court of Canada Decision in M. v. H. Act, 1999*.

