



**CONFLICT OF  
INTEREST COMMISSIONER**

The Honourable H.A.D. OLIVER, Q.C.

**ANNUAL REPORT**

**1997-98**

September 11, 1998

The Honourable Gretchen Brewin  
Speaker of the Legislative Assembly  
Room 207, Parliament Buildings  
Victoria, British Columbia  
V8V 1X4

Madam Speaker:

I have the honour, pursuant to section 15 of the *Members' Conflict of Interest Act* [RS Chapter 28], to present my first Annual Report as Commissioner of Conflict of Interest.

Yours truly,

H. A. D. Oliver  
Conflict of Interest  
Commissioner

# ***TABLE OF CONTENTS***

	<i>Page</i>
<b>COMMISSIONER'S OBSERVATIONS</b>	<b>1</b>
<b>PUBLIC PERCEPTION</b>	<b>3</b>
<b>THE COMMISSIONER'S OBJECTIVES</b>	<b>4</b>
<b>COMMISSIONER'S DUTIES</b>	<b>5</b>
<b>DISCLOSURE OF MEMBERS' INTEREST</b>	<b>7</b>
<b>Filing of Disclosure Statements</b>	<b>7</b>
<b>Revision of Disclosure Forms</b>	<b>8</b>
<b>REQUESTS FOR COMMISSIONER'S OPINIONS</b>	<b>8</b>
<b>Private Consultations</b>	<b>8</b>
<b>Commissioner's Opinions and Recommendations</b>	<b>9</b>
<b>Referred Questions by MLAs</b>	<b>10</b>
<b>Referred Questions by Members of the Public</b>	<b>13</b>
<b>Referred Questions by Executive Council</b>	<b>13</b>
<b>Referred Questions by Legislative Assembly</b>	<b>13</b>
<b>Non-Jurisdictional Inquiries</b>	<b>13</b>
<b>SPECIAL ASSIGNMENTS</b>	<b>15</b>
<b>MEMBERS' CONFLICT OF INTEREST ACT PROPOSED AMENDMENTS</b>	<b>15</b>
<b>AN ACADEMIC ANALYSIS</b>	<b>16</b>
<b>PUBLIC EDUCATION</b>	<b>17</b>
<b>PROSPECTIVE CANDIDATES</b>	<b>17</b>
<b>RELATIONS WITH COLLEAGUES IN OTHER JURISDICTIONS</b>	<b>17</b>
<b>OFFICE OPERATIONS</b>	<b>20</b>
<b>APPENDIX A - <i>Members' Conflict of Interest Act</i></b>	

## COMMISSIONER'S OBSERVATIONS

This sixth Annual Report of the Commissioner covers the period August 7, 1997 to August 6, 1998. It is my first report as Commissioner and is intended to cover my first year in office as well as certain matters which occurred subsequent to the presentation by the Honourable E.N. (Ted) Hughes, Q. C. of his last Annual Report (1995-96) on January 17, 1996.

Mr. Hughes was appointed as Acting Commissioner in December, 1990 and was appointed to a five year term as Commissioner of Conflict of Interest on May 23, 1991. His appointment was rescinded by OIC on March 26, 1996. On that date Mr. David Mitchell was appointed as Acting Commissioner: his appointment was rescinded on April 2, 1996 when Mr. Hughes was once more appointed as Acting Commissioner and served in that office until his resignation on June 30, 1996. The office remained vacant until July 19, 1996 on which date Mr. Hughes was re-appointed as Acting Commissioner and continued to serve until March 26, 1997.

The office remained vacant until May 8, 1997 when Dr. J. Peter Meekison was appointed as Acting Commissioner.

The appointment of an Acting Commissioner under section 14 of the *Members' Conflict of Interest Act* terminates immediately after the expiry of 20 sitting days after the date of appointment and accordingly, Dr. Meekison was re-appointed to further terms on June 13 and July 18, 1997. Dr. Meekison's appointment was rescinded by OIC on August 7, 1997 (the date of my appointment).

Upon the recommendation of an all party committee of the Legislature (Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills) to the House and upon motion of the Premier, seconded by the Leader of the Opposition and passed unanimously, I was appointed as Commissioner of Conflict of Interest for the Province of British Columbia for a five-year term with effect from August 7, 1997. I am honoured to have been selected to succeed the Hon. E.N. (Ted) Hughes

who, after a distinguished career at the Bar and as a Justice of the Court of Queen's Bench of Saskatchewan and following service to this province as Legal Specialist, Constitutional and Administrative Law, and then as Deputy Attorney General, in effect created and shaped the office of Conflict of Interest Commissioner. He brought to that office his own exemplary integrity and that outstanding ability and personal commitment which has served him so well in the many public and quasi-public offices he has filled during his career. Whilst holding the office of Conflict of Interest Commissioner for British Columbia, he also served in a similar capacity for the Northwest Territories and presently holds the office of Conflict of Interest Commissioner for the Yukon. He has, for many years been much sought after nationally and internationally to explore, explain and exemplify ethical standards of conduct in public life.

It had been my privilege to serve with Ted Hughes as a Bencher of the Law Society of British Columbia and as a Governor of the British Columbia Law Foundation: to me, Ted Hughes personified ethical public conduct and it was with considerable trepidation that I contemplated the task of trying to fill his shoes. Prior to my own appointment I had, for almost half a century, served as an advocate (first in England, then in Canada) and latterly as a Judge, first of the County Court and then of the British Columbia Supreme Court, and held a number of public and quasi-public offices dealing with many aspects of our justice system and with questions of ethical conduct by lawyers, judges and other professionals and by persons active in different aspects of public life.

I am very conscious of the fact that the effective functioning of government in any parliamentary democracy must be firmly founded in the respect in which the members of the general public hold their government in general, and their elected representatives in particular.

## **PUBLIC PERCEPTION**

There can be little doubt that in the eyes of many members of the public, politicians in general are viewed as figures of somewhat dubious probity. That perception may be based on largely fallacious reasoning:

1. There have been numerous recent scandals involving politicians in Third World countries but also in Great Britain, the United States, France, Italy, and elsewhere: the public makes no such fine regional distinctions, to many of them a politician is a politician is a politician.
2. To the media, an honest politician (or 75 honest politicians) is not news: a dishonest or unethical, politician is news. The merest allegation of irregular conduct by an elected politician must always be expected to generate an inordinate amount of media coverage and is likely to distort the general public image of all elected politicians. This is not to say that media coverage does not have an important part to play. Investigative journalists have played a major role in promoting public accountability on the part of elected representatives: a well informed electorate is one of the most essential components of a democratic society -- but a misinformed electorate is not a well-informed electorate. For the politician is seen as a member of a powerful and privileged elite and it is fashionable to level frequently ill-considered criticism and attacks on elected politicians as on members of the professions, leaders of commerce, industry, and organized labour, police officers, members of the judiciary, senior officers of the armed forces, members of the clergy, and generally at those believed to be part of "the establishment". No public figure must regard themselves as immune from public criticism -- and this applies especially to those who are the elected or appointed servants of the public who pay their wages -- no one, on the other hand, who does their job honestly and conscientiously should be subjected to unwarranted and at times vicious public attack as part of the general iconoclastic spirit of the day.

3. Politicians should not complain of the failure of the public to hold them in that repute to which they should be entitled if they themselves contribute to the development of a general spirit of disrespect by occasionally exaggerated or unjustified accusations of offences and unbridled personal attacks upon each other, especially in the privileged but publicly televised environment of the parliamentary body to which they have been elected.

These and many other factors must be considered in assessing the esteem in which the elected politician is held by the public in general. It is the task of the Conflict of Interest Commissioner to do what he can to assist each member in raising the public perception of the integrity of the Legislative Assembly and of each of its members to that high level which in the Province of British Columbia it ought to occupy.

## **THE COMMISSIONER'S OBJECTIVES**

My office routinely receives annual reports from Conflict of Interest Commissioners and Ethics Commissioners throughout Canada and in the United States and elsewhere. I view with admiration the statistical break-down of the functions of some of these offices and the voluminous reports of formal inquiries and public hearings conducted by many of the Commissioners.

It is not my aim -- nor was it the aim of Commissioner Hughes -- to impress readers with an imposing array of public hearing reports. Clearly, in my view, the ideal situation would be one where there would never again be a need for a single inquiry and where public hearings had become a historical curiosity. I am a great believer in what might be termed preventive medicine. I incline to the view that almost without exception, men and women offer themselves for public office moved by a wish to be of service to their fellow citizens, and by a desire to give something back to society.

There may be some who enjoy the prestige and influence which elected office carries with it, but I believe that those who seek public office in the hope of illicit financial gain or improper personal benefit are few and far between.

I would like to think that our recent relative freedom in British Columbia from conflict of interest based scandals in public office -- when compared to other jurisdictions worldwide -- is due to an increasing regard for high ethical standards by those elected to represent their fellow citizens, rather than to the visible presence of a public watchdog in the form of a conflict of interest commissioner. In any event, I dislike the term "watchdog" and prefer to see myself in the role of guide dog.

## **COMMISSIONER'S DUTIES**

The Commissioner's duties are spelled out in the *Members' Conflict of Interest Act*. The Commissioner is required to:

- Receive and review members' confidential financial disclosure statements.
- Meet each member (and the member's spouse if available) annually to ensure adequate disclosure, and to advise on the member's obligations under the Act, and to make recommendations to the member.
- Prepare and file with the Clerk of the Legislative Assembly public disclosure statements in respect of each Member.
- Provide, on written application by a member, formal opinions and recommendations relating to the member's obligations under the Act or under section 25 of the *Constitution Act*.
- Receive complaints by MLAs of alleged contravention of the Act or of section 25 of the *Constitution Act* by other members.
- Receive complaints by members of the public of alleged contravention of the Act or of section 25 of the *Constitution Act* by any member of the Legislative Assembly.

- Provide opinions upon request to Executive Council as to compliance with the Act or section 25 of the *Constitution Act* by any member of Executive Council or any Parliamentary Secretary.
- Provide opinions upon request to the Legislative Assembly as to compliance with the Act or section 25 of the *Constitution Act* by any member of the Legislative Assembly.
- Undertake, at the request of the Lieutenant Governor in Council or the Legislative Assembly, special assignments that the Commissioner considers appropriate.
- Conduct inquiries.
- Report opinions to the Speaker.
- Recommend penalties, in the event of any contravention, to the Legislative Assembly.
- Report annually on the affairs of the Office of Conflict of Interest.

The function which takes up most of my working hours is the one involving frequent informal consultation, discussion and advice. I continue by all means possible -- as did Commissioner Hughes before me -- to encourage every member, when in the slightest doubt as to how best to approach some problem, with a view to avoiding even the barest possibility of a suggestion of conflict or apparent conflict of interest, to discuss the matter with me on a confidential basis so as to enable us jointly to consider all available options, leaving it to the member to decide for herself or himself which (if any) of the various options present the most desirable method of achieving the member's objective.

This very informal consultation process is made use of increasingly by members of all parties and appears to be a very effective means of attaining the object for which my office was established.

I wish to add this word of caution: informal discussions are intended to assist members in clarifying their thinking on some issue. Any tentative views expressed by the Commissioner during such discussions may not be referred to or relied upon by the members as constituting approval of some course of action. It is only formal opinions in writing provided by the Commissioner pursuant to the provisions of the *Members'*

*Conflict of Interest Act* which will constitute an expression of the Commissioner's considered opinion which members may safely rely upon as formal determinations under section 18(5) of the Act.

## **DISCLOSURE OF MEMBERS' INTEREST**

### **Filing of Disclosure Statements**

On March 31, 1998, seventy-five Public Disclosure Statements were filed with the Clerk of the Legislative Assembly in accordance with section 17 of the *Members' Conflict of Interest Act* and all members were in compliance.

Section 16 of the Act reads as follows:

Every member must, within 60 days of being elected, and after that annually, file with the commissioner a confidential disclosure statement in the form prescribed by the regulations.

Following the filing of the members' disclosure statements, which are confidential documents, the Commissioner is required to prepare a public disclosure statement containing all relevant information provided by the member (and by the member's spouse if the spouse met with the Commissioner) in respect of the member, spouse and minor children. It is that public disclosure statement which is filed with the Clerk of the Legislative Assembly and which is available for inspection by any person without charge, during normal business hours.

As required by law, I met at least once with each member and the member's spouse (when available), following receipt of the Member's confidential disclosure statement to assist me in the preparation of the Public Disclosure Statement pursuant to section 17.

These meetings took place in Victoria, Vancouver, or in members' constituency offices throughout the province in the interest of efficiency, convenience and economy of time and expense.

I found the vast majority of members extremely cooperative in assisting me in the preparation of the public disclosure statement. I should say, however, that in this present age where many, perhaps most, spouses are independently employed outside the family home, relatively few spouses are available for interview by the Commissioner.

My task would also be made easier if all members were to ensure that their confidential disclosure statements are filed on or before the last day of each calendar year: I realize that members' public duties may cause unavoidable delay -- but when, in a few cases, that delay extends to a period of almost three months, the commissioner's ability to perform his duties with all due dispatch is, thereby, impaired beyond acceptable limits.

### **Revision of Disclosure Forms**

I have examined the public disclosure statement forms which have been in use for some years, and have formed the impression that they could be improved upon. That view is shared by many members to whom I have spoken. Once the existing stock of old forms has been used up, I hope to introduce a more "user friendly" form of disclosure statement with which I hope that both the members and I will feel more comfortable.

## **REQUESTS FOR COMMISSIONER'S OPINIONS**

### **Private Consultations**

There has been a very large number of these, some quite short and dealing with very basic issues, others more detailed. All were informal, oral, and confidential. I hope that

no member will ever feel that any problem is so minor that the member does not "wish to trouble the Commissioner" with it. I can assure members that that will never be my attitude and that I am convinced that these informal consultations have in the past lead to the avoidance of what might have become unpleasant, major problems. I wish to encourage all members to request my assistance wherever possible: if the member has to ask himself whether or not something is really a problem he should discuss with the Commissioner, the answer is probably "yes". I will continue to be available to all members for this purpose seven days a week and 24 hours a day by telephone, by fax, by mail, or in person.

### **Commissioner's Opinions and Recommendations (Section 18 of the Act)**

These requests, too, have been many and include a number originally addressed to the Acting Commissioner prior to my appointment. The opinions rendered are confidential in nature unless released by or with the consent of the member. They have dealt with such varied problems as the position of MLAs who are members of professions, the proper manner of reporting changes in investment, the operation of satellite constituency offices, the necessity of disclosing the results of a successful visit to a casino, the private interest of executive assistants or constituency assistants, limitations on members who are on leave of absence from their private employment, the participation of members in certain committees, the appointment of former members of Executive Council and of the Legislature to various public bodies, the payment of members' travel expenses by charitable foundations when traveling on behalf of such foundations, the acceptance of complimentary season passes to a variety of sporting events, the writing and publishing of literary works, the acceptance by members of fees for public speeches, the participation by members in debates relating to changes in professional regulatory legislation, the professional and financial activities of members' spouses, the writing by members of letters of recommendation and letters of reference, and numerous other matters.

A question having been raised on the floor of the House relating to the conduct of a member of the Liberal Caucus in allegedly making an irate telephone call to a public

servant in connection with a private matter and in subsequently writing in connection with the same matter to another public servant, using his Legislative letterhead, the Leader of the Official Opposition requested an opinion concerning the member of his Caucus. This was not a "Referred Question" pursuant to section 19, but a request for a confidential opinion. I rendered a confidential opinion to the Leader of the Official Opposition which the Leader, with the consent of the member, subsequently released to the media. In that opinion I reported that the member had subsequently expressed the view that his letter should not have been sent on official stationery (with which view I concurred) but nevertheless stated that in my view the member was not in breach of the conflict of interest prohibition contained in section 3 of the Act. I concluded that the member's telephone calls amounted to an improper exertion of influence but was also of the view that these had occurred in the heat of the moment without prior planning or consideration and could best be described as injudicious conduct, at the very low end of the scale of severity. The member made it clear to me that he realizes that his conduct was unwise and expressed his regrets.

### **Referred Questions by MLAs (Section 19(1) of the Act)**

1. Re: The Hon. Paul Ramsey, MLA

On March 16, 1998, Mr. Gordon Campbell, MLA for Vancouver-Point Grey, wrote to me requesting an opinion regarding compliance with the provisions of the Act by the member of the Legislative Assembly for Prince George North, the Hon. Paul Ramsey. That letter contained the following:

I submit that there are reasonable and probable grounds to believe that Mr. Ramsey has a real or apparent conflict of interest in regard to a \$4,000 contribution made by Canadian Woodworks Limited to his recall defense campaign. Mr. Ramsey's conduct as member of Treasury Board and Cabinet is in question in light of the fact that a \$4 million government loan was made to that same company only one day after the campaign contribution was received.

In addition, I believe there are compelling grounds to believe that Mr. Ramsey may have breached sections 3, 4, 5, 7(1), and 10(1) of the *Act*.

An opinion would be helpful in this regard to ascertain whether Mr. Ramsey used his office, influence or inside information to further his private interest and obtain a cash benefit that has resulted in a real or apparent conflict of interest.

I conducted a series of interviews in Victoria, Vancouver and Prince George, and after careful consideration of all the circumstances, I found that the Hon. Paul Ramsey, MLA had not contravened the *Members' Conflict of Interest Act* but was motivated by a legitimate desire to avoid a major loss of employment in Prince George. I reported my opinion to the Speaker.

2. Re: The Hon. Cathy McGregor, MLA, the Hon. Corky Evans, MLA, and the Hon. Glen Clark, MLA

On May 11, 1998, I received an application by Mr. Michael de Jong, MLA for Matsqui, with respect to alleged contraventions of provisions of the *Members' Conflict of Interest Act* by the Hon. Cathy McGregor, MLA (Kamloops), the Hon. Corky Evans, MLA (Nelson-Creston), and the Hon. Glen Clark, MLA (Vancouver-Kingsway). In his letter, Mr. de Jong makes the following four allegations:

1. The actions of the Members for Kamloops, Nelson-Creston and Vancouver-Kingsway, as disclosed herein, constitute a violation of Section 3 of the Act insofar as these members exercised an official power or performed an official duty in the execution of their office as either a private Member or Member of the Executive Council at the same time they knew that in the performance of the duty of exercise of the power there was the opportunity to further their private interest contrary to Section 2(1) of the Act.
2. The actions of the Members for Kamloops, Nelson-Creston and Vancouver-Kingsway, as disclosed herein, constitute a violation of Section 3 of the Act insofar as there is a reasonable perception which a reasonably well informed person could properly have, that the Members' ability to exercise an official power or perform an official duty as either a private member or member of the Executive Council, must have been affected by their private interests contrary to section 2(2) of the Act.

3. The Members for Kamloops, Nelson-Creston and Vancouver-Kingsway, in their capacity as either a private member or a member of the Executive Council, used their office, as disclosed herein, to seek to influence a decision, to be made by another person, to further their private interest contrary to section 5 of the Act.
4. The Member for Kamloops has violated sections 10 and/or 11 of the Act insofar as those sections prescribe a specific procedure for a private member and member of the Executive Council to follow in the event that a matter arises with respect to which the member has a conflict of interest or apparent conflict of interest. The Member for Kamloops failed to follow the prescribed procedure even after determining in her own mind that an apparent conflict of interest existed.

This complaint relates to what has become known as the Six Mile Ranch case and, in effect, alleges attempts on the part of the three members named to influence the Agricultural Land Commission into granting approval of the Six Mile Ranch project which had previously been refused.

After reviewing the evidence, I rendered the following opinion:

After careful consideration of the able submissions made to me by Mr. Michael de Jong, MLA (complainant), and of counsel for the three respondent members, I have concluded that each of the four counts advanced in the complaint was based on a misapprehension of the requirements of the statute: there can be no conflict of interest under the *Member's Conflict of Interest Act* without it being shown that the member in question had a "private interest" to further or pursue. I am satisfied that none of the three members whose conduct is impugned had such a private interest and that there is, accordingly, no basis upon which I ought to proceed to conduct an inquiry.

This is not the forum in which suggestions that an independent commission was "leant upon" may (absent the existence of a private interest) be pursued, nor need I concern myself with the interesting question of the circumstances in which it is appropriate for Cabinet to invoke the provincial interest pursuant to section 40 of the *Agricultural Land Commission Act* which is already the subject of an ongoing inquiry chaired by a distinguished agricultural scientist.

I reported my opinion to the Speaker.

**Referred Questions by Members of the Public (Section 19(2) of the Act)**

Requests received under this heading generally related to matters beyond my statutory jurisdiction and resulted from a misapprehension on the part of complainants of the limits of the scope of my authority. In each case, appropriate explanations were provided to complainants who were, whenever possible, referred to other offices believed to be able to assist.

**Referred Questions by Executive Council (Section 19(3) of the Act)**

Numbers of these requests for opinions were from time to time submitted and dealt with forthwith or with minimal delay.

**Referred Questions by Legislative Assembly (Section 19(4) of the Act)**

None were submitted.

**Non-Jurisdictional Inquiries**

The Conflict of Interest Commissioner, in addition to his statutory responsibilities under the *Members' Conflict of Interest Act* to ensure compliance with the requirements of the Act by all Members, and in that connection to provide advice to Cabinet, Ministers of the Crown, and Members of the Legislative Assembly, receives numerous inquiries from public bodies and private organizations and from private individuals on the subject of perceived or potential conflict of interest problems related to public sector activities outside the scope of the *Act*.

A simple response would be to turn all such persons and organizations away with a blunt reply of "no jurisdiction" in this office.

The fact is that frequently there is no other source of assistance known to the inquirer. In such cases, this office may, if it feels willing and able to do so and if time constraints permit, try to be of assistance in the most informal of ways -- through a general discussion during which the details of the problems are aired in the hope that some generalized guidance will assist the inquirer in making a decision about the problem that has caused the inquirer to make contact with this office. On occasion the inquirer has misunderstood the purpose of such a meeting or the reaction of the Commissioner to problems aired. It is to avoid any such misunderstanding that inquirers are advised of the conditions under which the Commissioner is prepared to participate in non-jurisdictional discussions:

1. The Commissioner will under no circumstances offer legal advice and inquirers are strongly urged to seek legal assistance from their own solicitors or from other practicing members of the Bar if they have no solicitor. Under no circumstances may visitors rely on what they may believe to be the Commissioner's view on any legal matter.
2. All discussions are private and confidential. Nothing discussed between the inquirer and the Commissioner may be disclosed to anyone without the prior written consent of the Commissioner. In the event that a visitor relates to any third party anything allegedly said or done at a confidential meeting with the Commissioner, the Commissioner reserves the right to disclose his recollection of the whole or any part of the matters discussed at the meeting.
3. Any tentative views expressed by the Commissioner in the course of such a discussion are advanced only to further the discussion. They cannot be relied upon as considered expressions of the Commissioner's opinion. The only formal opinions by the Commissioner upon which reliance may be placed are those provided by the Commissioner in writing and in accordance with the provisions of the *Members' Conflict of Interest Act*.

## **SPECIAL ASSIGNMENTS**

I received no request from the Lieutenant Governor in Council or the Legislative Assembly to undertake any special assignments pursuant to section 20.

## ***MEMBERS' CONFLICT OF INTEREST ACT PROPOSED AMENDMENTS***

My predecessor, Commissioner Hughes, in several of his Annual Reports, but especially in his 1995-96 Report to the Legislative Assembly, discussed the desirability of certain amendments to provide for a general "Members' Integrity Clause" and to make provision for conflict of interest services covering senior members of the public service, directors of crown corporations and elected municipal officials. The Select Standing Committee on Parliamentary Reform has during the past year conducted Hearings and received a number of submissions on these issues and I have twice appeared before the Committee at the Committee's request. In that connection I have traveled to Salem, Oregon to confer with Mr. Patrick Hearn, Executive Director of the Oregon Government Standards and Practices Commission whose jurisdiction covers municipal as well as state officials, to familiarize myself with the investigatory, administrative and staffing problems presented where both levels of government are covered by the same ethics office, and I also spent some time in Seattle, Washington with Ms. Carolyn M. Van Noy, Executive Director of the Ethics and Election Commission for the City of Seattle. I am greatly obliged to both these officers and the members of their staff for their assistance and guidance.

In my report to the Committee, I have made it clear that, though I hold certain views (which I expressed) on the desirability of certain changes, I see myself as a servant of the House, ready and able to carry out such duties as the House may wish me to undertake rather than a missionary seeking to convert others to some particular belief.

## **AN ACADEMIC ANALYSIS**

During the past year I was approached by Mr. Michael James Lawless, B.Sc., a post-graduate student at the University of Victoria with a proposal that in partial fulfillment of the requirements for the degree of Master of Public Administration, he should prepare, in consultation with myself as the present Commissioner, an Analysis of Recommendation for Reform of the Conflict of Interest Legislation in British Columbia.

After discussion with the University of Victoria, I agreed to this proposal and did what I could to cooperate with Mr. Lawless.

In due course he completed and submitted his Analysis, and then appeared before a three member academic board (if that is the correct description) -- consisting of two faculty members and myself -- and conducted an oral defence of his thesis.

This he did very successfully and was awarded the degree of Master of Public Administration.

Mr. Lawless' Analysis of Recommendation for Reform of Conflict of Interest Legislation in British Columbia is a very useful document which has been made available to the Select Standing Committee on Parliamentary Reform and I wish to express to him my thanks and appreciation for this helpful report, prepared at no cost to my department.

It runs to some 83 pages for which reason I have not attached it to my Annual Report but it is available for inspection.

## **PUBLIC EDUCATION**

I have, since my appointment, given talks to and conducted seminars for a wide variety of organizations including service clubs, faculties of law, political science and education at a number of universities and I have been asked to address various groups of citizens both within and outside the province. I have been pleasantly surprised at the astonishing degree of outside interest in the functioning of what I had always regarded as a rather obscure and low profile legislative office and have found the dialogue which has generally turned listeners into participants to be at least as helpful to me as I hope it was to the other participants.

## **PROSPECTIVE CANDIDATES**

I gather from a number of members that they were, prior to election, unaware of the *Members' Conflict of Interest Act* and the extent to which its restrictive provisions were applicable to them. I believe it important that arrangements should be made for all prospective candidates without prior service in the Legislative Assembly to attend an interview with the Commissioner at the very outset of their candidature to ascertain the extent to which the legislation may impact on their private lives. No responsible person should seek any employment, least of all public office, without making inquiries as to the terms and conditions of employment. I believe it important that party leaders, prior to nomination day (whether for a general election or a by-election) should inform prospective candidates that this office is available to provide information and advice with respect to the *Members' Conflict of Interest Act* and should insist that candidates attend for interview with the Commissioner.

## **RELATIONS WITH COLLEAGUES IN OTHER JURISDICTIONS**

Almost immediately following my appointment I attended the annual meeting of CCOIN, the Canadian Conflict of Interest Network, composed of the heads of province-wide or federal government organizations with a major mandate for administering conflict of

interest and ethical conduct rules in Canada. The membership now consists of 12 members from the federal government, Treasury Board of Canada Secretariat, Newfoundland, Nova Scotia, New Brunswick, Quebec, Ontario, Saskatchewan, Alberta, British Columbia, Yukon and Northwest Territories.

Its members meet annually to discuss mutual problems and are in frequent communication with one another with the aim of achieving some consistency in legislation and interpretation. It is by no means rare for a problem of great apparent complexity to arise in one jurisdiction when very similar problems have already been dealt with and solved elsewhere in Canada. Although the way in which one provincial commissioner has dealt with a particular problem is in no way binding on that commissioner's colleagues, it is always useful to reduce, as far as possible, the number of occasions on which the wheel has to be reinvented.

Immediately after attending the meeting of CCOIN in Edmonton, I was able, in the same city, to attend the annual meeting of COGEL, the Council on Governmental Ethics Laws. This is an international organization of governmental ethics officers including not only representatives from Canada but also from every part of the United States, from Australia and elsewhere. I participated in remarkably interesting discussions with colleagues from the United States: there, the general practice appears to be that states and frequently counties and municipalities have their own ethics commissions of anywhere from five to nine members, generally unpaid political appointees who employ a professional ethics director with appropriate support staff. Investigations are carried out by the director and his staff who report to the full commission and the commission by majority vote then decide the course to be pursued.

After a frank exchange of views with my U.S. colleagues about the difference in our respective conflict structures, I remain firmly of the view that the single Commissioner system is more expeditious and more cost effective, and that as long as we can attract persons of total political independence, and of sufficient calibre and experience to serve in the office of single Commissioner, our existing system probably best serves our Canadian needs.

I have also taken the opportunity, during his visit to the West Coast, of spending several hours with Mr. Abelardo L. Aportadera, Jr., Assistant Ombudsman of the Philippines. The Ombudsman's Office in that country is the main arm of the Philippine government in fighting graft and corruption. It has been set up constitutionally to block political interference as it exercises an extraordinary range of oversight and investigative authority over the actions of all public officials and employees, offices and agencies. The Ombudsman in the Philippines holds the power of investigation and of prosecution. Mr. Aportadera heads the Evaluation and Investigation office and supervises his staff of 58 lawyers and 38 non-lawyers. Assistant Ombudsman Aportadera was anxious to learn more about "how we achieve clean and efficient government in Canada." I valued the opportunity of making some small contribution to the concerted effort being made by his government to tackle endemic problems of corruption in the public sector.

I welcomed the opportunity earlier this year, during a private visit to London, of spending half a day at the House of Commons at Westminster with Sir Gordon Downey, KCB, the Commissioner for Standards who heads the office charged with the investigation and enforcement of standards of conduct in public life for Parliament at Westminster. Sir Gordon, who set up the office he heads in response to the recommendations of the Nolan Committee on Standards in Public Life, is coming to the end of his three-year term of office.

I am grateful to Sir Gordon for sparing the time for this meeting which afforded me a valuable insight into the operation of his department which has been much in the news of late.

## **OFFICE OPERATIONS**

My predecessor, Commissioner Hughes, has from its very beginning successfully run this operation on a shoestring budget. In some years the budgeted amount was just above \$200,000 and sometimes it was just below that amount. This is a practice which I am endeavoring to continue. The estimated expenditures for the past fiscal year were \$178,000. The actual expenditure was just over \$163,000.

I recognize that the funds spent for the operation of this Office are hard-earned taxpayers' money. I view with dismay large bureaucracies, which in some jurisdictions are thought to be necessary for the proper operations of ethics offices. The British Columbia Conflict of Interest Office is run with a bureaucracy consisting of two persons: Jill Robinson and Daphne Thompson who job-share the solitary staff position of Administrative Assistant. I inherited both of them from my predecessor Ted Hughes: they constitute one of the best parts of the legacy which he has left me. Without the friendly, willing and faithful cooperation of these two colleagues, my task would have been a very difficult one indeed. If this department is presently well run, it is in large measure due to their efforts.

I extend my thanks also to the Legislative Comptroller, Donald Phillips (who is about to enter well-earned retirement from the public service) and his assistants who have carefully husbanded the resources and kept the books for this office. I thank also the other helpful and courteous staff of the Legislature. Finally, I express my thanks to all Members of the House, without whose ready cooperation my appointment would be a far less pleasant one.

# APPENDIX A

1996

MEMBERS' CONFLICT OF INTEREST

RS CHAP. 287

Section 1

## MEMBERS' CONFLICT OF INTEREST ACT

### CHAPTER 287

#### *Contents*

#### *Section*

- 1 Definitions
- 2 Conflict of interest
- 3 Conflict of interest prohibition
- 4 Insider information
- 5 Influence
- 6 Activities on behalf of constituents
- 7 Accepting extra benefits
- 8 Former members of Executive Council and former parliamentary secretaries
- 9 Carrying on business
- 10 Procedure on conflict of interest
- 11 Performance of responsibilities by minister
- 12 Voidability of transaction or procedure
- 13 Application for restitution
- 14 Commissioner
- 15 Annual report
- 16 Disclosure statement
- 17 Public disclosure statement
- 18 Commissioner's opinions and recommendations
- 19 Commissioner's opinion on referred question
- 20 Special assignments
- 21 Inquiry
- 22 Penalties
- 23 Protection of commissioner
- 24 Appropriation
- 25 *Offence Act*
- 26 Power to make regulations

#### **Definitions**

**1** In this Act:

“**child**” includes a person to whom a member has demonstrated a settled intention to treat as a child of his or her family;

“**commissioner**” means the person appointed under section 14;

“**member**” means a member of the Legislative Assembly or of the Executive Council, or both;

“**private corporation**” means a “private issuer” as defined in the *Securities Act*;

“**private interest**” does not include an interest arising from the exercise of an official power or the performance of an official duty or function that

Section 2

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- (a) applies to the general public,
- (b) affects a member as one of a broad class of electors, or
- (c) concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

“spouse” means a person who is married to a member or a person who is living with a member as husband and wife but does not include a husband or a wife who is separated and living apart from a member and who

- (a) has entered into a written agreement under which they have agreed to live apart, or
- (b) is subject to an order of the court recognizing the separation.

**Conflict of interest**

- 2 (1) For the purposes of this Act, a member has a conflict of interest when the member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.
- (2) For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

**Conflict of interest prohibition**

- 3 A member must not exercise an official power or perform an official duty or function if the member has a conflict of interest or an apparent conflict of interest.

**Insider information**

- 4 A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

**Influence**

- 5 A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest.

**Activities on behalf of constituents**

- 6 This Act does not prohibit the activities in which members normally engage on behalf of constituents.

**Accepting extra benefits**

- 7 (1) A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

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- (2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.
  - (3) If a gift or personal benefit referred to in subsection (2) exceeds \$250 in value, or if the total value received directly or indirectly from one source in any 12 month period exceeds \$250, the member must immediately file with the commissioner a disclosure statement, in the form prescribed by the regulations, indicating
    - (a) the nature of the gift or benefit,
    - (b) its source, and
    - (c) the circumstances under which it was given and accepted.

**Former members of Executive Council and former parliamentary secretaries**

- 8 (1) The Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission, must not knowingly
  - (a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary, until 24 months have expired after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office,
  - (b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary who has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit, or
  - (c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council or former parliamentary secretary has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit.
- (2) Subsection (1) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.
- (3) Subsection (1) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.
- (4) A former member of the Executive Council or former parliamentary secretary must not, unless 24 months have expired after the date when he or she ceased to hold office,
  - (a) accept a contract or benefit that is awarded; approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission,
  - (b) make representations on his or her own behalf with respect to such a contract or benefit, and

Section 9

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- (c) make representations on another person's behalf with respect to such a contract or benefit.
- (5) Subsection (4) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.
- (6) Subsection (4) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.
- (7) A former member of the Executive Council or a former parliamentary secretary must not make representations to the government in relation to any specific ongoing transaction or negotiation to which the government is a party and in which the former member of the Executive Council or former parliamentary secretary was directly involved if the representation would result in the conferring of a benefit not for general application.
- (8) A person who contravenes subsection (4) or (7) commits an offence and is liable, on conviction, to a fine of not more than \$5 000.

**Carrying on business**

- 9 (1) A member of the Executive Council must not
  - (a) engage in employment or in the practice of a profession,
  - (b) carry on a business, or
  - (c) hold an office or directorship other than in a social club, religious organization or political partyif any of these activities are likely to conflict with the member's public duties.
- (2) A person who becomes a member of the Executive Council must comply with subsection (1) within 60 days of being appointed.
- (3) The commissioner may extend the period referred to in subsection (2) by giving the member a written notice to that effect, and may impose on the extension conditions that the commissioner considers just.
- (4) If a member of the Executive Council complies with subsection (1) (b) by entrusting his or her business to one or more trustees,
  - (a) the provisions of the trust must be approved by the commissioner,
  - (b) the trustees must be persons who are at arm's length with the member and approved by the commissioner,
  - (c) the trustees must not consult with the member with respect to managing the trust property, and
  - (d) the trustees must report in writing all material changes in assets, liabilities and financial interests contained in the trust to the member and the commissioner immediately after the changes have occurred.
- (5) For the purposes of this section, the management of routine personal financial interests does not constitute carrying on a business.

**Procedure on conflict of interest**

- 10** (1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Legislative Assembly or the Executive Council, or a committee of either of them, must, if present at a meeting considering the matter,
- (a) disclose the general nature of the conflict of interest, and
  - (b) withdraw from the meeting without voting or participating in the consideration of the matter.
- (2) If a member has complied with subsection (1), the Clerk of the Legislative Assembly or secretary of the meeting must record
- (a) the disclosure,
  - (b) the general nature of the conflict of interest disclosed, and
  - (c) the withdrawal of the member from the meeting.
- (3) The Clerk of the Legislative Assembly or secretary of the meeting must file the information recorded under subsection (2) with the commissioner,
- (a) in the case of a meeting of the Legislative Assembly or a committee of the Legislative Assembly, as soon as practicable, and
  - (b) in the case of a meeting of the Executive Council or a committee of the Executive Council, as soon as practicable after the Executive Council's decision on the matter which has been the subject of the disclosure is made public.
- (4) The commissioner must keep all information filed under subsection (3) in a central record kept for that purpose and must
- (a) make the central record available for inspection by any person without charge during normal business hours, and
  - (b) on request by any person provide a copy of the record or portion of it on payment of a reasonable copying charge.

**Performance of responsibilities by minister**

- 11** (1) If, during the exercise of any official power or the performance of any official duty or function by a member of the Executive Council, a matter arises with respect to which the member has a conflict of interest or apparent conflict of interest, the member must
- (a) refrain at all times from attempting to influence the matter, and
  - (b) at any subsequent meeting of the Executive Council or a committee of the Executive Council at which the matter is considered, disclose the general nature of the private interest and withdraw from the meeting without voting or participating in the discussion.
- (2) The Lieutenant Governor in Council may appoint a member of the Executive Council to act in the place of a member referred to in subsection (1) for any matter

with respect to which the member referred to in subsection (1) has a conflict of interest or apparent conflict of interest.

**Voidability of transaction or procedure**

- 12 The failure of any member to comply with section 10 does not of itself invalidate
- (a) any contract or other financial transaction, or
  - (b) any procedure undertaken by the government with respect to a contract or other financial transaction

to which the failure to comply with section 10 relates, but the transaction or procedure is voidable at the instance of the government before the expiration of 2 years from the date of the decision authorizing the transaction, except as against any person who or organization that acted in good faith and without actual notice of the failure to comply with section 10.

**Application for restitution**

- 13 Despite anything in this Act, if any person, whether or not the person is or was a member, has realized financial gain in any transaction to which a violation of this Act relates, any other person affected by the financial gain, including the government or a government agency, may apply to the Supreme Court for an order of restitution against the person who has realized the financial gain.

**Commissioner**

- 14
- (1) There must be appointed a commissioner who is an officer of the Legislative Assembly.
  - (2) On the motion of the Premier in the Legislative Assembly and on the recommendation of 2/3 of the members present, the Lieutenant Governor in Council must appoint the person so recommended to the office of commissioner.
  - (3) The commissioner holds office for a term of 5 years and may be reappointed for a further term or terms.
  - (4) The commissioner may be removed or suspended before the end of the term of office by the Lieutenant Governor in Council for cause on the recommendation of the Legislative Assembly.
  - (5) The commissioner must be paid compensation as may be set by the Lieutenant Governor in Council.
  - (6) If
    - (a) the commissioner is removed or suspended or the office of the commissioner becomes vacant when the Legislature is sitting but no recommendation under this Act is made by the Legislative Assembly before the end of that session, or
    - (b) the commissioner is suspended or the office of the commissioner is or becomes vacant when the Legislature is not sitting,the Lieutenant Governor in Council may appoint an acting commissioner.

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- (7) The appointment of an acting commissioner under this section terminates
    - (a) on the appointment of a new commissioner under subsection (2),
    - (b) at the end of the period of suspension of the commissioner, or
    - (c) immediately after the expiry of 20 sitting days after the day on which he or she was appointed,whichever the case may be and whichever occurs first.
  - (8) The commissioner may employ or retain persons that the commissioner considers necessary and may
    - (a) specify their duties and responsibilities, and
    - (b) establish their remuneration and other terms and conditions of employment, or retainer.
  - (9) The *Labour Relations Code* and the *Public Service Labour Relations Act* do not apply to a person employed or retained under subsection (8).
  - (10) The Lieutenant Governor in Council may order that the *Pension (Public Service) Act* applies to the commissioner and to any person the commissioner employs.

**Annual report**

- 15 The commissioner must report annually on the affairs of his or her office to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly.

**Disclosure statement**

- 16
  - (1) Every member must, within 60 days of being elected, and after that annually, file with the commissioner a confidential disclosure statement in the form prescribed by the regulations.
  - (2) The disclosure statement must contain
    - (a) a statement of the nature of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private corporations controlled by any of them, and
    - (b) any other information that is prescribed by the regulations to be contained in the disclosure statement.
  - (3) After filing a disclosure statement, the member, and the member's spouse if the spouse is available, must meet with the commissioner to ensure that adequate disclosure has been made and to obtain advice from the commissioner on the member's obligations under this Act, and the commissioner may recommend the manner by which the member will comply with those obligations.
  - (4) If any asset, liability or financial interest described in the disclosure statement relates to a corporation, the commissioner must ascertain whether any other corporation is an affiliate of the first named corporation, as determined under section 1 (2) to (6) of the *Company Act*.

Section 17

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- (5) If the commissioner determines that there is an affiliate of the first named corporation, he or she must
  - (a) advise the member of the fact, in writing, and
  - (b) mention the fact in the public disclosure statement prepared under section 17.
- (6) After filing a disclosure statement, the member must continue to disclose any material change in the assets, liabilities and financial interests of the member, the member's spouse and minor children and private corporations controlled by any of them by filing a statement of material change with the commissioner within 30 days of the material change.
- (7) In subsection (6), "**material change**" means a material change as defined in the regulations.

**Public disclosure statement**

- 17 (1) After meeting with the member, and with the member's spouse if the spouse is available, the commissioner must prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the commissioner, in respect of the member, the spouse and minor children, except
  - (a) the municipal address or legal description of land that is primarily for the residential or recreational use of the member or the member's spouse or minor children, and
  - (b) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes.
- (2) The public disclosure statement must contain a statement of any gifts or benefits that have been disclosed to the commissioner under section 7 (3).
- (3) The commissioner must, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who must
  - (a) make the statement available to any person for inspection without charge and during normal business hours, and
  - (b) provide a copy of the statement on payment of a reasonable copying charge.

**Commissioner's opinions and recommendations**

- 18 (1) A member may request, by application in writing, that the commissioner give an opinion or recommendation on any matter respecting the obligations of the member under this Act or under section 25 of the *Constitution Act*.
- (2) The commissioner may make such inquiries as the commissioner considers appropriate and provide the member with a written opinion and recommendations.

- (3) If the commissioner is of the opinion that a member has or may have a conflict of interest, the commissioner may, in the recommendations, specify the time by which the member must resolve the matter.
- (4) The opinion and recommendations of the commissioner are confidential, but may be released by the member or with the consent of the member in writing.
- (5) If the commissioner determines that a member has not contravened this Act, that determination is final for all purposes of the Act and any proceeding under the Act, so long as the facts presented by the member to the commissioner under subsection (1) were accurate and complete.

#### Commissioner's opinion on referred question

- 19 (1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.
- (2) A member of the public who has reasonable and probable grounds to believe that there has been a contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the alleged contravention.
- (3) The Executive Council may request that the commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council or a parliamentary secretary with the provisions of this Act or of section 25 of the *Constitution Act*.
- (4) The Legislative Assembly may request that the commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act or of section 25 of the *Constitution Act*.

#### Special assignments

- 20 At the request of the Lieutenant Governor in Council or the Legislative Assembly, the commissioner may undertake special assignments that he or she considers appropriate.

#### Inquiry

- 21 (1) On receiving a request under section 19, and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.
- (2) If the request for an opinion is made under section 19 or the commissioner undertakes a special assignment under section 20, the commissioner has the powers of a commissioner under sections 15 and 16 of the *Inquiry Act*.

Section 22

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- (3) If the request for an opinion is made under section 19 (1), the commissioner must report his or her opinion to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly if it is in session or, if not in session, to the Clerk of the Legislative Assembly who must send a copy of it to all members of the Legislative Assembly.
- (4) If it appears to the commissioner that the report may adversely affect the member, the commissioner must inform the member of the particulars and give the member the opportunity to make representations, either orally or in writing, at the discretion of the commissioner, before the commissioner finalizes the report.
- (5) If the commissioner is of the opinion that the member making the application under section 19 (1) had no reasonable and probable grounds for making it, the commissioner may state that in his or her report, and if he or she does so, the commissioner must report the matter to the Speaker who must lay the report before the Legislative Assembly and the Legislative Assembly may, after considering the matter, hold the member in contempt of the Legislative Assembly.
- (6) If the request for an opinion is made under section 19 (3), the commissioner must report his or her opinion to the Secretary of the Executive Council.

**Penalties**

- 22 (1) If the commissioner finds
- (a) after an inquiry under section 21 that a member has contravened section 3, 4, 5, 7, 8, 9 or 10 (1), or
  - (b) that a member has refused to file a disclosure statement within the time provided by section 16 or that a member has failed to comply with a recommendation of the commissioner under section 16 (3) or 19,
- the commissioner may recommend, in a report that is laid before the Legislative Assembly
- (c) that the member be reprimanded,
  - (d) that the member be suspended for a period specified in the report,
  - (e) that the member be fined an amount not exceeding \$5 000, or
  - (f) that the member's seat be declared vacant until an election is held in the member's electoral district.
- (2) The Legislative Assembly must consider the commissioner's report and respond to it as subsection (3) provides
- (a) within 30 days after it is laid before the Legislative Assembly, or
  - (b) within 30 days after the next session begins if the Legislative Assembly is not in session.

- (3) The Legislative Assembly may order the imposition of the recommendation of the commissioner under subsection (1) or may reject the recommendation, but the Legislative Assembly must not further inquire into the contravention or impose a punishment other than the one recommended by the commissioner.

**Protection of commissioner**

- 23 No action of any kind lies against the commissioner for anything he or she does under this Act.

**Appropriation**

- 24 Money required for the operation of the office of the commissioner may be paid out of the consolidated revenue fund.

**Offence Act**

- 25 Section 5 of the *Offence Act* does not apply to this Act.

**Power to make regulations**

- 26 Subject to the approval of the Lieutenant Governor in Council, the commissioner may make regulations prescribing any matter that is contemplated in this Act to be prescribed by regulations.

MEMBERS' CONFLICT OF INTEREST — HISTORICAL TABLE

*Amendments Not in Force*

**MEMBERS' CONFLICT OF INTEREST ACT**

RSBC 1996, chapter 287

<b>Section</b>	<b>Citation</b>
9 .....	RS1996 (Supp) -287-1; 1992-64-5.
Transitional.....	RS1996 (Supp) -287-2; 1992-64-14.

**Legislative History**

**MEMBERS' CONFLICT OF INTEREST ACT**

RSBC 1996, chapter 287

<b>Section</b>	<b>History</b>
1 .....	1990-54-1; 1992-64-1.
2 .....	1990-54-2; 1992-64-2.
3 .....	1990-54-2.1; 1992-64-3.
4 .....	1990-54-3.
5 .....	1990-54-4.
6 .....	1990-54-5.
7 .....	1990-54-6.
8 .....	1990-54-7; 1992-64-4.
9 .....	1990-54-8.
10 .....	1990-54-9; 1992-64-6.
11 .....	1990-54-9.1; 1992-64-7.
12 .....	1990-54-9.2; 1992-64-7.
13 .....	1990-54-9.3; 1992-64-7.
14 .....	1990-54-10; 1992-82-165.
15 .....	1990-54-11.
16 .....	1990-54-12; 1992-64-8.
17 .....	1990-54-13.
18 .....	1990-54-14; 1992-64-9.
19 .....	1990-54-15; 1992-64-10.
20 .....	1990-54-15.1; 1992-64-11.
21 .....	1990-54-16; 1992-64-12.
22 .....	1990-54-17; 1992-64-13.
23 .....	1990-54-18.
24 .....	1990-54-19.
25 .....	1990-54-20.
26 .....	1990-54-21.

**EXPLANATORY NOTE**

**Amendments Not in Force:** If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

**Legislative History:** The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".

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## MEMBERS' CONFLICT OF INTEREST ACT

### CHAPTER 287

#### *1 Section 9 of the Members' Conflict of Interest Act is amended*

*(a) by repealing subsections (1) and (2) and substituting the following:*

- (1) A member of the Executive Council or a parliamentary secretary must not
  - (a) engage in employment or in the practice of a profession, or
  - (b) carry on a businessif any of these activities is likely to conflict with the member's or parliamentary secretary's public duties.
- (1.1) A member of the Executive Council or a parliamentary secretary must not hold an office or directorship other than in a social club, religious organization, political party or government corporation.
- (2) A person who becomes a member of the Executive Council or a parliamentary secretary must comply with subsections (1) and (1.1) within 60 days of being appointed. ,

*(b) in subsection (3) by adding "of the Executive Council or the parliamentary secretary" after "the member", and*

*(c) by repealing subsection (4) and substituting the following:*

- (4) If a member of the Executive Council or a parliamentary secretary complies with subsection (1) (b) by entrusting his or her business to one or more trustees,
  - (a) the provisions of the trust must be approved by the commissioner,
  - (b) the trustees must be persons who are at arm's length with the member or with the parliamentary secretary and who are approved by the commissioner,
  - (c) the trustees must not consult with the member or the parliamentary secretary with respect to managing the trust property, and
  - (d) the trustees must report in writing all material changes in assets, liabilities and financial interests contained in the trust to the member or the parliamentary secretary and to the commissioner immediately after the changes have occurred.

1992-64-5.

#### **Transitional for amendments in section 1**

- 2** A person who is a member of the Executive Council or a parliamentary secretary on the date that section 1 of this Supplement comes into force must comply with section 9 (1) and (1.1) of the *Members' Conflict of Interest Act* within 60 days of that date.

1992-64-14.

**Commencement**

- 3 Sections 1 and 2 come into force by regulation of the Lieutenant Governor in Council.  
1992-64-15.

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