



December 8, 1992

To all Members of the Legislative Assembly of British Columbia

Re: Membership, directorship, office or patron in
charitable/non-profit/social/community organizations

In my July 31, 1992 letter to you I sought your views on this matter. I indicated that I would give an opinion once I had the opportunity to consider the thoughts of members. I will now attempt to meet that commitment.

I am guided primarily by the Members' Conflict of Interest Act and view I take of the role of democratically elected representatives who are chosen by their constituents to act and speak on their behalf in the corridors of government. I expressed that view in my 1991-92 Annual Report when commenting on section 5 of the Act which emphasizes that the Members' Conflict of Interest Act is not intended to prohibit members from partaking in activities in which members normally engage on behalf of constituents. I said on that occasion: "I believe a liberal interpretation of this section is called for. After all, the essence of democratic government is the principle of representation".

In commenting on my subsequent remarks in that section of my Annual Report, a daily newspaper last month placed the following interpretation on what I said:

"Hughes said in May that ministers could no longer help their constituents through the bureaucratic maze of government if the matter involved something in that MLA's portfolio."

I said no such thing. What I did on that occasion was draw boundaries with respect to ministerial advocacy representation on behalf of a constituent, before a commission, board, agency or other tribunal established by the government of the province. In my view, assistance to constituents "through the bureaucratic maze of government" is very much a legitimate activity of an MLA, minister or otherwise, in meeting the needs of a constituent. However, in such endeavours, ministers must always be careful to avoid crossing the line from lending assistance to providing personal advocacy services. Whether or not that proscription flows directly from the Act, crossing that line would be unseemly and inconsistent with justice being seen to be done. As will be seen on pp. 7 and 8 of my 1991-92 Annual Report, advocacy representation has not, however, been denied to anyone.

Sometimes a member is requested to become a patron, an honorary patron or a member of a charitable or other non-profit organization, association or society in his or her community. The goal of the group is to advance cultural, social service, health, youth or like endeavours for the good of the community as a whole and often a fund raising component is part of the activity. They are groups which, while not necessarily appealing to everyone's interests, are viewed as worthwhile endeavours directed to the general good of the community. Quite frankly, I view such requests and the acceptance of them as legitimate activity for an MLA, whether minister or private member. Often the request is made of a member in order to signal to the community that the group is a legitimate, wholesome and worthwhile organization. If you see the group fitting that description then, subject to the caution I will hereafter sound with respect to answering questions in the abstract as distinct from addressing a precise factual situation, I do not see a prohibition to you being a patron or holding membership status. What I have said in this paragraph is applicable to all 75 MLAs.

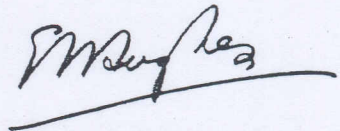
Leaving ministers aside for the moment, there may even be a role for an MLA serving as a director or even an officer of such a society, organization or association if the member's commitment to the goals of the group are that strong.

Acceptance of such a position of patron, holding such a membership and in the case of members not in Cabinet serving as a director or an officer, would be consistent with meeting your responsibilities to your constituents under section 5 of the Act. That responsibility could quite properly involve you in an approach to government in assisting the organization, association or society to obtain some benefit for it from government. Subject to what I have said about limitations on the role of ministers, there would be nothing wrong with involvement of that kind by you providing your actions are neither furthering nor seen as furthering your private interest as prohibited by section 2 of the Act. For example, there should be no problem with a member arguing for the spending of government funds to build or renovate a recreation facility by a community organization in which he/she holds membership where the use of the facility will be available to all residents of the community. If, however the facility is to be located next door to the member's own property, which as a result, takes on an enhanced value, then the member's private interest would be furthered by the success of such an approach to government and, in that circumstance, the member must not be involved. Each specific situation can have its own special circumstances and nuances and, therefore, should be evaluated by the Commissioner at the time of the situation arising. It is much easier to answer with precision when a known factual situation exists. That is why I caution that an answer to an abstract or hypothetical question should not be seen as one carved in stone but must always be capable of modification when specific factual circumstances are identified.

3.

A few paragraphs above, I excluded ministers from my comments with respect to participation beyond patron and membership status. Ministers are prohibited, by section 8 of the Act, from holding a position as officer or director of any kind other than in a social club, religious organization or political party where such an activity is likely to conflict with the member's public duty. When it is appreciated that a minister is involved daily in a multitude of actions and decisions, I believe extreme caution should be used in accepting such a directorship or officer position. Certainly ministers should never be officers or directors of organizations that are related to the minister's portfolio and particularly where the organization represents one of a number of sectors over which the minister has responsibility. For instance, the Minister of Health should not be a director or officer of a society formed for the purpose of advancing the cause of controlling or obliterating a particular disease or affliction.

Yours truly,

A handwritten signature in dark ink, appearing to read 'E.N. Hughes', with a long horizontal line extending from the end of the signature.

E.N. (Ted) Hughes
Commissioner of
Conflict of Interest