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COMMITTEE ON CONFLICT OF INTERESTS.

Report to the Senate and to the  
House of Commons, subject-matter of  
Bill C-43, conflict of interests for  
Parliamentarians.

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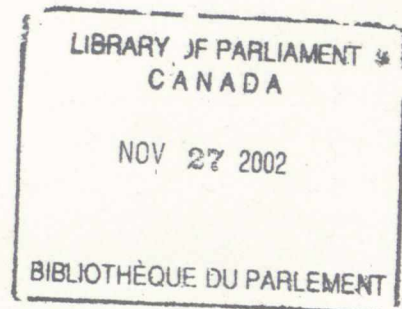
SPECIAL JOINT COMMITTEE  
ON CONFLICT OF  
INTERESTS

# REPORT

to the Senate and to the House of Commons

**Subject-matter of Bill C-43**  
**(Conflict of interests for Parliamentarians)**

June 1992



**THE HONOURABLE SENATOR RICHARD J. STANBURY**  
**DON BLENKARN, M.P.**  
**JOINT CHAIRMEN**







SENATE

HOUSE OF COMMONS

Issue No. 17

Tuesday, March 31, 1992

Monday, May 11, 1992

Tuesday, May 12, 1992

Tuesday, June 2, 1992

Thursday, June 4, 1992

Tuesday, June 9, 1992

**Joint Chairmen:**

Hon. Richard J. Stanbury, Senator

Don Blenkarn, M.P.

SÉNAT

CHAMBRE DES COMMUNES

Fascicule n° 17

Le mardi 31 mars 1992

Le lundi 11 mai 1992

Le mardi 12 mai 1992

Le mardi 2 juin 1992

Le jeudi 4 juin 1992

Le mardi 9 juin 1992

**Coprésidents:**

L'hon. Richard J. Stanbury, sénateur

Don Blenkarn, député

*Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on*

## Conflict of Interests

**RESPECTING:**

Mandate of the Committee in relation to Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts

**INCLUDING:**

The Report to the Senate and the House of Commons

*Procès-verbaux et témoignages du Comité mixte spécial du Sénat et de la Chambre des communes relatif aux*

## Conflits d'intérêts

**CONCERNANT:**

Mandat du Comité relatif au projet de loi C-43, Loi visant à empêcher toute incompatibilité entre les intérêts privés des parlementaires et les devoirs de leur charge, constituant la Commission des conflits d'intérêts et apportant des modifications corrélatives à certaines lois

**Y COMPRIS:**

Le Rapport au Sénat et à la Chambre des communes

Third Session of the Thirty-fourth Parliament,  
1991-1992

Troisième session de la trente-quatrième législature,  
1991-1992



SPECIAL JOINT COMMITTEE OF THE SENATE AND  
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INTERESTS

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John Rodriguez—(14)

(Quorum 11)

Marie Carrière

Marie-Louise Paradis

*Joint Clerks of the Committee*

In accordance with the Order adopted by the House of Commons on November 22, 1991

On Tuesday, June 2, 1992:

Clément Couture replaced Edna Anderson.

On Thursday, June 4, 1992:

Ricardo Lopez replaced Clément Couture;

Doug Fee replaced Michel Champagne.

On Tuesday, June 9, 1992:

Michel Champagne replaced Doug Fee;

Edna Anderson replaced Ricardo Lopez.

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CONFLITS D'INTÉRÊTS

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(Quorum 11)

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En conformité de l'Ordre adopté par la Chambre des communes  
le 22 novembre 1991

Le mardi 2 juin 1992:

Clément Couture remplace Edna Anderson.

Le jeudi 4 juin 1992:

Ricardo Lopez remplace Clément Couture;

Doug Fee remplace Michel Champagne.

Le mardi 9 juin 1992:

Michel Champagne remplace Doug Fee;

Edna Anderson remplace Ricardo Lopez.

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**REPORT**

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# Principal Recommendations

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Service to the Canadian public has always been the highest calling of a Canadian citizen. Traditionally, Parliament has attracted dedicated men and women, from diverse sectors of Canadian life, to serve their country and fellow citizens with integrity and commitment.

Recent years have seen the beginnings of an erosion of the public's respect for Parliament as an institution, and for the individuals who participate in it. While no one reason accounts for this emerging crisis of confidence, a contributing factor has undoubtedly been disillusionment about ethics in government.

To address one corner of this problem — the issue of conflict of interest — the Members of the Special Joint Committee on Conflict of Interests recommend that the existing provisions of the *Parliament of Canada Act* concerning conflict of interest, which are inconsistent and out of date, be repealed. We recommend that instead, a new Part to the *Parliament of Canada Act* be enacted, and include the following provisions.

1. An independent office of Jurisconsult be created. The Jurisconsult would serve as advisor to the Members concerning their obligations under the Act, as overseer to ensure that full public disclosure of Members' interest is made, and ultimately as investigator of possible breaches of the Act.
2. A regime of full and complete disclosure for all Members be established, requiring all Members to both identify and quantify all their interests, assets, and liabilities to the Jurisconsult. The Jurisconsult would then prepare a statement, that would be made public, identifying, without quantifying, all those interests, assets and liabilities, with the exception only of those that are either purely personal, so small as not to warrant disclosure, or that by their nature could not be affected by a Member's actions.
3. Members be required to identify and quantify to the Jurisconsult, to the best of the Member's knowledge, information and belief, all the interests, assets and liabilities of the Member's spouse and other family members. Those interests, assets and liabilities would then be identified (but not quantified) in the Member's public disclosure statement.
4. The disclosure statements would be filed annually, and augmented from time to time with notice of any material changes, as necessary.
5. The Jurisconsult would review the Members' disclosure statements; meet with Members to ensure that full disclosure has been made; make recommendations to Members if any steps need to be taken with any assets, interest or liabilities, in order to ensure the Member fulfils all obligations



- under the Act; be available to advise Members on any questions that may arise concerning their obligations under the Act; investigate any apparent breaches of the Act, and conduct public inquiries where appropriate; and report on the investigations to Parliament, including recommending appropriate sanctions.
6. Clear rules must be provided, prohibiting the improper use of influence for personal ends; the abuse of confidential information; and making or participating in decisions that could further personal ends.
  7. Procedures should be established requiring that, where a matter is under discussion involving the Member that could affect a private interest of the Member or the Member's family, then unless the Jurisconsult authorizes otherwise, the Member must **declare** the interest, and **withdraw** from the meeting, without either **voting** or **discussing** the matter.
  8. Procedures should be established requiring Ministers and Parliamentary Secretaries to **withdraw** from any consideration of matters that could affect a private interest of the Minister or Parliamentary Secretary or his or her family, and allowing someone else to act for the Minister or Parliamentary Secretary in that matter, unless the Jurisconsult authorizes otherwise.
  9. Rules should be provided that make it clear that while Ministers and Parliamentary Secretaries would not, save in exceptional circumstances, be permitted to engage in outside professional or other business activities, private members may continue to retain such outside contacts and activities if they so choose. The Jurisconsult would be available to assist all Members in ensuring that their obligations to the public remain always paramount.
  10. Public disclosure should be required of any gifts or other benefits received by a Member in the course of his or her office, where the gift or benefit is valued at more than \$200.
  11. The outdated provisions of the *Parliament of Canada Act* should be repealed, specifically those that allow Members to indirectly hold government contracts except where the contract relates to a "public work". They should be replaced with a strong, coherent set of provisions prohibiting such contracts in general, and providing specific, rational exceptions.
  12. Clear rules should be provided restricting, for a period of one year, certain activities of former Ministers and Parliamentary Secretaries who return to the private sector, to ensure that there is no abuse of the former position or influence.
  13. Where the Jurisconsult finds that a Member breached any of these proposed provisions, Parliament would be able to order any of a range of sanctions, from a reprimand (for minor or inadvertent breaches), to an order to pay compensation or make restitution, to suspension from Parliament, which can be with or without pay, to the ultimate sanction: declaring the Member's seat vacant.



14. The *Criminal Code* provisions on conflict of interest matters should be tightened, to clarify that where a Member commits criminal conduct, the Member can be and will be prosecuted criminally.

## Introduction

Service to the Canadian public has always been the highest calling of a Canadian citizen. Traditionally, Parliament has attracted dedicated men and women, from diverse sectors of Canadian life, to serve their country and fellow citizens with integrity and commitment.

Recent years have seen the beginnings of an erosion of the public's respect for Parliament as an institution, and for the individuals who participate in it. While no one reason accounts for this emerging crisis of confidence, a contributing factor has undoubtedly been disillusionment about ethics in government.

As intimate observers, as well as participants in the political realm, we can affirm with confidence the honesty, integrity and commitment of the vast majority of Canadians who represent Canada in Parliament. But we know that it is no longer sufficient to state this fact, however emphatically. The cases wherein a few individuals have abused their positions of public trust have bred scepticism and, worse still, resignation to dishonesty and unethical behaviour as an attribute of politicians and political life.

We believe this does a disservice to all those who are dedicated to public service, who believe that it can still be the highest calling of the democratic citizen. The tradition of political philosophy from Plato to today has sought the parallel between the city and the citizen. The integrity and justice of the political life of the nation both mirrors and is mirrored in the integrity and justice of the inner lives of its citizens; the moral health of one is reflective of that of the other. We therefore believe that complacency about the integrity of our fundamental institutions, the Canadian government and Parliament, cannot be countenanced. Problems must be addressed and addressed with speed and care.

This Committee was formed to address one corner of this problem, the issue of conflict of interest.

Clear rules are needed to provide guidance to Members of Parliament and to the public as to what is and is not proper and appropriate conduct in public office. In our experience, most parliamentarians want only to do that which is right and proper and in the best interest of their constituents and the Canadian public as a whole. However, even what seems patently inappropriate in hindsight, is often much less clear at the time. We believe parliamentarians would welcome an office to which they can turn with confidence for guidance on such matters.

Our Committee heard extensive testimony about jurisdictional problems and issued a report which will advise and guide Members as to the application of these principles. We have seen this to be the trend throughout Canada - Quebec has a *Commission des Éthiques*, New Brunswick and Nova Scotia each have a designated judge, Ontario has the *Commission des Éthiques* and New







# CONFLICT OF INTERESTS

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## Introduction

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Our Committee heard extensive testimony about jurisdictions that have introduced a single individual to advise and guide Members as to the application of these principles. We have seen this to be the trend throughout Canada — Quebec has a Jurisconsult; New Brunswick and Nova Scotia each have a designated judge; Ontario, British Columbia and now



Alberta each have a Commissioner. In all cases, the appointment of an individual of impeccable integrity, stature in the community, and basic common sense has provided enormous assistance to the members and to the public alike. We were impressed by the unanimous support for these individuals, and the offices they each fill, from the members who have turned to these people for advice and guidance, and from the members of the press corps that have monitored the legislatures these individuals advise.

One of our key recommendations in this report is that a similar office be created for the federal Parliament including Cabinet Ministers and Parliamentary Secretaries as well. Fundamental to the success of this project is finding the right person for the job; with someone of integrity and good judgment, who commands the respect of the community, we have confidence this will enable parliamentarians to not only try to be always ethical, but to succeed.

We recognize that the role of the Jurisconsult (as we have termed the official) is primarily limited to advising members on matters that arise through disclosure to and in conversations with the Jurisconsult. While we recommend that the Jurisconsult investigate allegations of improprieties and then report the results to Parliament, this role would usually be in response to a request for an inquiry received from Parliament or a Member. The Jurisconsult is not and should not be a police officer, to monitor Members' activities on an on-going basis for breaches of the obligations on conflict of interest.

So that the integrity of the Members is manifest to all, we recommend adoption of a broad public disclosure regime. Each Member would declare to the Jurisconsult all his or her financial interests and activities, including not only assets, income and business activities, but also any liabilities; this declaration would be as full and complete as possible, so that the Jurisconsult would know not only of every interest that could possibly bear on the Member's public activities, but also of those that could never foreseeably be relevant. The declaration would be of the fact of the interest, as well as the value or quantity of that interest.

The Jurisconsult would then prepare a public disclosure statement, that would identify all the interests (including income, assets, activities and liabilities) declared by the Member. This would only exclude from disclosure those interests of a purely personal nature, or that are so small as to be considered insignificant and irrelevant for the public purpose.

Public disclosure is necessarily an invasion of the privacy of the Member. It allows the public to scrutinize one's life, not merely the quality of one's representation in Parliament. Establishment of a disclosure regime is necessarily a balancing act, seeking to reconcile the public right (really, need) to know, to be satisfied that the Member is acting in the public interest and not to further a private objective; against the Member's right to privacy.

We concluded that the public interest in full disclosure outweighs the Member's right to privacy. The only limit we have recommended on the nature of this full public disclosure is that it identify without quantifying the Member's interests. Thus, the public will know the specific nature of each Member's interests. However we did not see any reason to compel Members to disclose publicly the value or amount of their particular interests. We heard substantial testimony from highly respected individuals that such information satisfies the public curiosity about Members' private lives, but does nothing to further the public interest in ensuring that Members' activities are properly directed.



One of the most difficult issues before us was whether to require public disclosure of the interests of a Member's spouse and family. As Canadians, we are traditionally both private ourselves and also highly respectful of others' privacy. Willing to subject ourselves to close public scrutiny, we properly had to pause and reflect seriously on the need to so expose the private lives of our spouses and children.

We concluded that public confidence in the integrity of Parliament requires opening not only our own interests, but also those of our family to the public eye. The relationship between spouses is one of unique closeness and sharing of concerns, interests, joys and anxieties. If one spouse is concerned in a particular matter, it is straining credulity to expect the public to believe that the other spouse will not be concerned, or know of that issue. Under the emerging provincial family laws a spouse has rights in certain assets and interests of the other upon marital breakdown. For all these reasons, we determined that from the public's perspective, if a Member's spouse is active in a particular business or other concern, then that should be disclosed, to ensure that it is publicly seen that the Member is not acting to further the spouse's interests at the expense of the public interest.

The details of our recommendations are set out and discussed below.

## Background

In November-December 1991 the House of Commons and the Senate each passed resolutions to appoint a Special Joint Committee on Conflict of Interests, with the following mandate:

That a Special Joint Committee of the House and Senate be appointed and empowered to undertake a comprehensive review of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of the Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts; . . .

That the Special Joint Committee be permitted to request adequate support from the government for drafting its final report in the form of a bill or report Bill C-43 with or without amendments or in the form of principles that could be embodied in the legislation.

On December 12, 1991, the Special Joint Committee held its first organizational meeting. On February 11, 1992, it heard its first witness, the Honourable Mitchell Sharp, former Member of Parliament, Cabinet Minister, and co-author of one of the leading studies on conflict of interest in the public sector, entitled *Ethical Conduct in the Public Sector: Report of the Task Force on Conflict of Interest* (known as the "Starr-Sharp Report"). Our Committee was fortunate in addition in having Patrick Boyer, M.P., as one of its members. Mr. Boyer was Executive Director of the Starr-Sharp Task Force.

The Committee heard witnesses through May 7, 1992. In all, it heard from 31 witnesses, including present Members of Parliament, representatives of the Parliamentary Spouses Association, former Cabinet Ministers, academics from the United States and Canada, the



Quebec Jurisconsult, the Commissioners of Ontario and British Columbia, the designated judge in Nova Scotia, current and former members of provincial legislatures and cabinets, administrators (past and present) of the existing federal Conflict of Interest and Post-Employment Code governing Cabinet Ministers and Parliamentary Secretaries, lawyers from both the government and the private sector who are knowledgeable about the existing regime governing private members of Parliament, and journalists.

The Committee's research staff analyzed the conflict of interest systems in place in each of the provinces and territories throughout Canada, as well as in various other countries throughout the world. Papers were prepared and provided to committee members, briefing them on these systems.

The Committee noted that for a conflict of interest system to be effective, it must reflect and take account of the particular political culture for which it is designed. While certain features of particular foreign systems may be amenable to the Canadian context, it would be an error to seek to impose a system designed for a different political culture; in matters of conflict of interest, the understanding of what constitutes a conflict — what is acceptable behaviour and what is not — differs radically from one country to the next. For example, in Great Britain it is perfectly acceptable for Members of Parliament to serve as paid parliamentary consultants to interest groups and corporations, something that would be unthinkable in Canada.

Moreover, various Canadian jurisdictions have evolved a uniquely Canadian solution to the conflict of interest situation, and this solution appears to function not simply adequately but with wholehearted success and enthusiasm. We therefore concluded we could adopt a uniquely "Made in Canada" solution for the Canadian version of this problem.

We began our study by closely examining the provisions of Bill C-43. We were concerned to note the complexity of its provisions and the system it proposed. Among other things, it would have established a three-person Conflict of Interests Commission, a separate office called the Register of Interests, as well as a myriad of complicated rules to govern the conduct of members.

Throughout our study, we were unanimous that any system to be proposed must be clear, simple, and not give birth to a whole new bureaucracy. It would have to be guided ultimately by common sense; if the rules become divorced from the reality they seek to govern, they will ultimately not be followed (or honoured more in the breach), and thus would serve only to further undermine confidence in the system.

## **Underlying Principles**

A major concern of many members of the Committee was that the rules must demonstrate an understanding of their role in representing and advocating the interests of their constituents. This role necessarily involves Members in sometimes preferring the interests of the few (their constituents) to the interests of the many (the Canadian public at large). Members cannot be isolated from the world they represent, or they will lose their



ability to understand their constituents' concerns. One of the criticisms sometimes levied against Parliament is that it is an ivory tower, that insulates the Members from the reality of Canadian life. Care must be taken that the conflict of interest rules do not exacerbate this potential problem.

There has never been any prohibition against private members engaging in employment or other business or professional activities, and we see no reason to impose one now. To the contrary, we believe it is important to avoid a Parliament composed uniquely of professional politicians. The Canadian tradition has seen a mix of politicians who have given up outside activities for their parliamentary activities, and "citizen politicians", citizens who entered politics after pursuing active business or professional lives, and who retain those businesses during their tenure in public life. We believe this mix enhances the quality of Parliament as a whole, contributing to an expression of diverse views and the representation of a broad range of interests.

Insofar as Parliament includes individuals who are active in the outside community, or who come to Parliament after building successful business or professional careers, there will be situations where a Member's public duties could impact on their private interests. Government and Parliament are today so deeply involved in a myriad of issues touching on diverse aspects of business and the professions, that it is virtually impossible for this not to occur.

Committee members recognize that it is not necessarily wrong or improper for a conflict between a Member's public duties and private interests to arise. To say otherwise would be to demand that all Members sever all ties with their former lives — a particularly onerous demand, given the uncertainties of elected life. Not only do we believe such a demand would work excessive hardship (and dissuade talented and capable individuals from public life), but we believe it is unnecessary.

What is important is to ensure that any conflict that could arise is and is seen to be always resolved in the public interest. This requires establishing clear rules of conduct, defining when a private interest interferes with a Member's public duties, and what he or she must do when that happens. This we have tried to do, by establishing a series of clear obligations governing Members' conduct, and also setting out, as clearly and succinctly as we could, the course of conduct a Member must take when the situation presents itself. The overarching umbrella of protection of the public interest is in the office of the Jurisconsult; we expect and encourage Members to seek out the Jurisconsult's advice whenever situations of potential problem present themselves.

## **Statutory Framework**

The existing federal laws currently contain a number of provisions that address issues of conflict of interest for Members of Parliament. These are scattered among the *Criminal Code*, the *Parliament of Canada Act* and the Standing Rules and Orders of each House of Parliament. We heard extensive testimony from witnesses who asked that we try to consolidate all the rules in one place.



The *Criminal Code* is a unique statute, designed to address the most serious breaches of the standards of ethical behaviour. It applies equally to maintain a basic standard of conduct throughout the country. In our opinion, where a Member of Parliament intentionally abuses his or her position, whether by influence-peddling, taking bribes, or otherwise breaching the public trust placed in the Member, that Member must be charged and tried under the *Criminal Code*, with sanctions imposed by the courts.

Reviewing the *Criminal Code* provisions relating to Members of Parliament, we noticed a number of technical defects that in our opinion should be remedied. The courts have strained to interpret wording to ensure that the proper individuals are covered by certain sections, even though that interpretation leads to inconsistencies elsewhere. We have included a number of recommendations to address these problems, to tighten up the *Code* and ensure that all public officials and Members of Parliament are covered by the appropriate sections.

The *Parliament of Canada Act* is the federal statute that governs both Houses of Parliament, and the members thereof. It already has sections addressing conflict of interest, although several witnesses pointed out that there are serious problems with those provisions, primarily because they were written in a very different time, when the government's activities were radically different (more limited) than they are today.

The Committee concluded that instead of creating yet another statute governing Members' conduct, the appropriate place to legislate rules pertaining to conflict of interest to maintain and enhance public confidence in Parliament is the *Parliament of Canada Act*. We have therefore recommended that a new Part of this Act be created, and that be the part which sets out the rules and regimen we recommend. We have also proposed certain amendments to the existing provisions of that Act, to update them and clear up various ambiguities.

## PROPOSED PROVISIONS

The following are the principles that we recommend be incorporated in legislation forming a new Part III.1 of the *Parliament of Canada Act*. We recommend, for reasons discussed below, that Sections 14 through 16, and 32 through 41 of that Act be repealed.

### I. Purpose Clause

#### PURPOSE

1. The purpose of this Part is to provide greater certainty in the reconciliation of Members' private interests and public duties, recognizing:
  - (a) that it is desirable that Members of Parliament include individuals with broad experience and expertise in diverse facets of Canadian life, including individuals who continue to be active in their community, whether in business, professional pursuits, or otherwise, so that Parliament as a whole can better represent the Canadian public;



- (b) that all Members are expected to perform their duties of office and arrange their private affairs in such a manner as to maintain public confidence and trust in the integrity of each Member individually, the dignity of Parliament, and the respect and confidence that society places in Parliament and Members of Parliament;
- (c) that all Members are expected to act in a manner that will bear the closest public scrutiny;
- (d) that all Members, in the proper exercise of their functions and duties as Members of Parliament, are expected to represent their constituents, including broadly representing the constituents' interests in Parliament and to the Government of Canada.

Section 1 is a statement of our fundamental approach, and the principles underlying the proposed conflict of interest rules.

Conflict of interest is one aspect of ethical conduct. Witnesses before the Committee testified that there is and should be a distinction between exhortatory standards, to which Members are expected to aspire; and those standards demanded of every Member, all the time, the breach of which calls for the imposition of sanctions. These principles are the exhortatory or aspirational standards. The balance of the proposed legislation sets out the mandatory standards of conduct.

We are persuaded that conflicts of interest will arise; in itself, there is nothing morally wrong or heinous about having a conflict of interest. What is important is not that a Member insulate him- or herself to avoid conflicts of interest arising, but that clear rules and procedures be established to ensure that the conflict is resolved in the public interest.

As was stated by the Ontario Government concerning its Members' Conflict of Interest Act:

Conflicts of interest are bound to arise in respect of matters discussed at meetings of the Assembly or Cabinet or at committee meetings, especially since non-minister members and spouses of all members can carry on business and since ministers can retain their interests if in a trust. It is not an abuse of office simply to be in a situation when a conflict of interest arises, however, it is an abuse to participate in a matter knowing you have a conflict of interest.

This premise is reflected in the opening statement of Section 1. The purpose of these rules is not to avoid conflicts arising. Rather, it is to provide greater certainty, both for Members and for the public, as to how private interests should be reconciled with the public duties of a Member: in other words, how conflicts must be resolved. We have adopted the Ontario approach, and required that all members disclose their interest in a matter, and then withdraw from all participation in it, to ensure that the public interest is and is seen to be always paramount over any private interest.



## II. Definitions

### INTERPRETATION

#### 2. In this Part,

“Member” means a member of the Senate or the House of Commons and includes a Minister who is not a member of either House;

“Minister” means a person in receipt of a salary under section 4 or 5 of the *Salaries Act*, a Minister without portfolio or a Minister of State;

“Parliamentary Secretary” means a person in receipt of a salary under section 61 of this Act;

“Member’s family” means a person who is

- (a) the Member’s spouse;
- (b) a minor child of the Member, or a minor who is dependent primarily on the Member or the Member’s spouse for financial support and for whom the Member has demonstrated a settled intent to treat as a family member;
- (c) a relative of the Member or the Member’s spouse who lives as part of the Member’s household and is primarily dependent on the Member or the Member’s spouse for financial support;

“excluded private interest” means

- (a) an asset, liability or financial interest of less than \$10,000 in value;
- (b) a source of income of less than \$10,000 a year;
- (c) any real property that is used primarily for a residence or for recreation;
- (d) personal property used for transportation, household, educational, recreational, social or aesthetic purposes;
- (e) cash on hand or on deposit with a financial institution in Canada that is lawfully entitled to accept deposits;
- (f) fixed value securities issued by any government or municipality in Canada or any agency thereof;
- (g) a registered retirement savings plan, registered home ownership savings plan, retirement or pension plan or employee benefit plan, that is not self-administered;



- (h) an investment in an open-ended mutual fund that has broadly based investments not limited to one industry or one sector of the economy;
- (i) a guaranteed investment certificate or similar financial instrument;
- (j) an annuity, life insurance policy or pension right;
- (k) an asset, liability or financial interest that is held:
  - (i) as executor, administrator or trustee, or
  - (ii) by bequest or inheritance, during the twelve months following the date it devolves;
- (l) an interest certified by the Jurisconsult as being an excluded private interest;

**“private interest” means**

- (a) an asset, liability or financial interest;
- (b) a source of income;
- (c) a position of director or officer in a corporation or association;
- (d) membership of a board, commission or agency of the Crown in right of Canada or a province, or a municipality;
- (e) an office, commission or employment in the service of the Government of Canada or a province, at the nomination of the Crown in right of Canada or a province, or an officer of the Crown in right of Canada or a province;

**“source of income” means**

- (a) in the case of employment, the employer;
- (b) in the case of contract work, the party with whom the contract is made;
- (c) in the case of income arising from a business or profession, the business or profession;

**“spouse” means a person to whom a Member is married or with whom the Member is living in a conjugal relationship outside marriage, but does not include a person from whom the Member is separated, and whose support obligations and family property have been dealt with by a separation agreement or by court order;**

**“prescribed”, except where the context otherwise requires, means prescribed by regulation made under Section 34.**



We sought a definition of private interest that would be as all-encompassing as possible. The proposed system requires a declaration to the Jurisconsult of all private and excluded private interests; in other words, everything is declared to the Jurisconsult. Excluded private interests are not included in the public disclosure statement, on the principle that these are either purely personal interests (one's home or cottage, or the family car), or by their nature will not interfere with a Member's public duties, either because they are so small as not to be reasonably likely to cause a conflict, or because there is nothing the Member could do to affect the interest one way or another (as is the case, for example, with guaranteed investment certificates).

We considered how broadly to define "Member's family", noting that this will directly affect a Member's disclosure obligations. The underlying premise of a conflict of interest regime is fundamentally one of economic benefit, rather than spiritual or emotional satisfaction. All the studies in the area to date, and the judicial decisions focus on a Member's pecuniary interest. It is thus appropriate to look to those family members whose benefit would benefit the Member in a pecuniary way. We therefore included in the definition of "Member's family" those individuals who are variously dependent on the Member financially, and whose benefit could thus immediately benefit the Member in an economic way.

A spouse may of course not be financially dependent; however, under the existing family laws in effect throughout much (if not all) of Canada, the assets and interests, as well as liabilities, of a family unit are divided between spouses upon marital breakdown, so that each spouse has a clear economic interest in the other's interests.

### **III. Obligations**

#### **OBLIGATIONS**

3. A Member shall not use the Member's public office to seek to influence a decision by another person to further, directly or indirectly, a private interest of the Member or the Member's family.
4. (1) Subject to subsection (2), a Member shall not make or participate in making a decision in his or her capacity as a Member, if the Member knows or should reasonably know that in the making of the decision there is the opportunity to further, directly or indirectly, a private interest of the Member or the Member's family.  
(2) Notwithstanding subsection (1), the Jurisconsult may authorize a Member to participate in making a decision where satisfied that in all the circumstances, including any arrangements made pursuant to section 22, it is in the public interest to do so.
5. A Member shall not use or share information that is gained in his or her capacity as a Member, and that is not available to the general public, to further or seek to further, directly or indirectly, a private interest.



6. For purposes of this Part, a decision is deemed not to further, directly or indirectly, a private interest of a person if

(a) the decision

(i) is of general public application;

(ii) affects the person as one of a broad class of the public; or

(iii) concerns the remuneration or benefits of a Member provided by or pursuant to an Act of Parliament, or

(b) the interest is an excluded private interest.

These obligations contain the most fundamental rules of conduct to govern Members. (The others, set out below, are specific to particular situations.) We considered the approaches adopted in the various provincial and territorial laws on the subject. Those statutes generally identify a single aspect of these obligations, and label that as "conflict of interest". For the most part, these statutes take the substance of our proposed Section 4 and use it to define a "conflict of interest".

We believe that this approach, while attractive, does not fully reflect the opportunities for a conflict between a Member's private interests and public duties. A Member could as well (and for a private member, more likely) further private interests by the exercise of influence, or the abuse of confidential information, as by the making of a decision. In our view, all of these acts together comprise the range of abuses to be addressed by conflict of interest rules. It would be misleading and artificial to single out one from the whole, and identify that as "conflict of interest".

There has been considerable debate in the cases and the literature concerning the scope of the prohibition to apply with respect to decision-making. The current Conflict of Interest Code, promulgated by the Prime Minister and applicable to Ministers, Parliamentary Secretaries, Governor in Council appointees, and high level public servants, speaks of "real, potential and apparent conflicts of interest", without defining the terms. A body of literature has grown around these terms, and the proper definition to apply to each. Much of the debate has centred on the question whether the Member's actual knowledge of the conflict should be required.

We agree fully with the comments of Mr. Justice Parker in his report in the matter of the Hon. Sinclair Stevens, when he stated:

The concern about appearance of conflict as an important ethical postulate of modern government is one that is well founded. The reasons are obvious. Trust and confidence in government can be maintained and enhanced only if the occasions for apparent conflict are kept to a minimum. Public perception is



important. Indeed, the perception that government business is being conducted in an impartial and even-handed manner goes a long way to enhancing public confidence in the overall integrity of government.<sup>1</sup>

Thus, we have rejected a condition of actual knowledge. However, we believe that the underlying interest must be present, and the circumstances such that the Member **should reasonably have known** there was the opportunity to further his or her private interest. We believe it would be improper to sanction someone for unethical or improper conduct on the basis that a third party thought the Member had the opportunity, whether or not the Member actually had any such opportunity or even the private interest in question.

We wish to emphasize that none of the proposed sections should be applied or interpreted in such a way as to impede a Member representing the interests of his or her constituents. If a matter arises that calls for a Member's intervention on behalf of the interests of his or her constituents, then whether or not the Member or the Member's family would also be benefited, the duty to the Member's constituents is and must be paramount. Clearly representation of one's constituents cannot be used as a shield to disguise an improper activity. However we are confident that the Jurisconsult will be able to distinguish proper activities from those that are mere shams.

**7. (1) A Minister or Parliamentary Secretary shall not:**

- (a) engage in employment or in the practice of a profession;
- (b) carry on a business;
- (c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of the Minister or Parliamentary Secretary, or where the activities are not likely to interfere with the Member's public duties.

(2) For purposes of this section, the management of routine personal financial interests would ordinarily be deemed not likely to interfere with the Member's public duties.

(3) Nothing in this Part shall be interpreted or applied to prevent a Member who is not a Minister or Parliamentary Secretary from:

- (a) engaging in employment or in the practice of a profession;
- (b) carrying on a business;
- (c) being a director, a partner, or holding an office, other than an office a Member may not hold under this Act,

so long as the Member, notwithstanding the activity, is able to fulfil the Member's obligations under this Part.

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<sup>1</sup> *Commission of Inquiry into the Facts of Allegations of Conflict of Interest Concerning the Honourable Sinclair M. Stevens*, (Ottawa 1987), page 31.



**(4) A Member may consult with the Jurisconsult to consider whether the Member should withdraw from the activity, or whether the activity may adequately be reconciled with the Member's obligations by the compliance obligations set out in section 11.**

The Committee learned of instances where Members were advised, by legal counsel, that the *Parliament of Canada Act* might prohibit their continued involvement in business or professional activities. We discovered substantial confusion as to the scope of the permitted activities, and the ambit of the prohibited ones. We were strongly urged to include a positive statement, affirming what can be done, while also stating what is prohibited.

We believe the choice whether or not to remain active in outside activities, should rest with the individual Member. As stated earlier, we believe that Parliament as a whole benefits from having a diversity of voices among its members, including not only "professional" politicians, but also "citizen" politicians. Each brings a perspective of Canadian life, and valuable input into the legislation before Parliament.

Once the outside activities interfere with the Member's ability to fulfil that Member's obligation to the public, then the public interest must be paramount, and the private activities cease. We expect that the Jurisconsult's advice will be sought by each Member who wishes to continue or engage in certain outside activities, to determine whether they are likely to interfere with the ability of the Member to fulfil the Member's obligations, or whether, as stated in subsection (4), the declaration and withdrawal procedures set out in Section 11 would be adequate to address the particular points of interference. It is intended that Section 11 would serve where the points of interference or conflict are relatively infrequent; at the point where the interference overwhelms the Member's ability to execute his or her public duties, then clearly the activities would have to be abandoned. The Jurisconsult is entrusted with the task of discerning the line between the two, and making appropriate recommendations to the Member.

With respect to Ministers and Parliamentary Secretaries, the situation is significantly different. The responsibilities of these offices make it unlikely that such Members could continue with business or professional activities, and this is reflected in subsection (1).

We were however impressed by testimony concerning certain outside activities, particularly involvement with certain family businesses, where there is no likely point of conflict between the business activities and the Parliamentary Secretary's or Minister's public duties. If there is truly no discernible conflict, we see no reason to compel a Parliamentary Secretary, or even a Minister to give up what may be a longstanding, established family business. It must be publicly disclosed, so that the media, members of the opposition parties, and the public can watch to ensure no conflict emerges; but there should not be any automatic requirement to give up such activities, simply because one assumes public office. It may be appropriate in some circumstances to establish a trust to manage the business, but this is a matter for consideration by the Jurisconsult and the Member.

8. (1) A Member shall not directly or indirectly accept any gift or personal benefit that is connected directly or indirectly with fulfilling the duties of office of the Member.
- (2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol, social obligations or custom that normally accompany the duties or responsibilities of office.



(3) Where a gift or personal benefit referred to in subsection (2) exceeds \$200 in value, the Member shall, within 30 days of receipt, file with the Jurisconsult a disclosure statement indicating the nature of the gift or benefit, its source and the circumstances under which it was given, which statement shall be filed with the Member's public disclosure statement and which statement shall be made available for inspection by the public.

(4) Nothing in this section prohibits the acceptance of reimbursement of reasonable travel and associated expenses incurred in performing services that are in the public interest, provided that the amount and source of the reimbursement, as well as a description of the services performed, are immediately set out by the Member in a disclosure statement filed with the Jurisconsult, which disclosure statement shall be filed with the Member's public disclosure statement and made available for inspection by the public.

This section acknowledges the principle that all Members must be and remain independent of improper influence from third parties. It is of course quite common and not at all improper for a Member to be given a gift in the ordinary course of the Member's activities, such as when attending a public function or speaking engagement, or simply a small gift of appreciation. This section would not prohibit such gifts or benefits, but would require that any such gift or benefit of a value of \$200 or more be disclosed, both to the Jurisconsult and also publicly. This is to ensure that impropriety is not only avoided, but is seen to be avoided.

The \$200 limit was adopted as representing a reasonable cut-off that will ensure that any substantial gifts or benefits are placed on the public record, while avoiding burying the Jurisconsult's office with paper, that could make it more difficult for the Jurisconsult to identify the serious issues to be considered.

By prohibiting the acceptance of gifts "directly or indirectly", we sought to ensure that the provision is not circumvented by, for example, having the gift given to one's spouse.

9. Nothing in this Part shall be interpreted or applied to prevent or impede a Member in the proper exercise of the Member's Parliamentary functions, including the ordinary and proper representation of constituents.

10. A Member shall not sell or transfer any private interest on any terms or conditions that have as their prime purpose the evasion of a provision of this Act.

These provisions are included for greater certainty, both for the Members and to guide the Jurisconsult in applying the provisions of the Act.

Section 10 is intended to ensure that, for example, a Member does not transfer an interest to a relative other than someone who falls within the definition of "Member's family", and therefore take the interest out of the scope of the disclosure obligation, while the Member retains a "behind-the-scenes" watch over the interest, or retains a secret right to take back the interest at the same price after leaving office.



#### **IV. Compliance Obligations**

11. (1) A Member who has reasonable grounds to believe that he or she, or the Member's family, has a private interest other than an excluded private interest in a matter before either House of Parliament, or the Privy Council, or a committee of either of them, shall, if present at a meeting considering the matter:

(a) disclose the general nature of the private interest; and

(b) withdraw from the meeting without voting or participating in the consideration of the matter.

(2) A Minister who knows or should reasonably know that there is a matter requiring the Minister to make or participate in making a decision in which there is the opportunity to further, directly or indirectly, a private interest other than an excluded private interest of the Minister or the Minister's family, then the Minister shall refer the matter to the minister authorized to be acting minister for that matter or delegate the decision if there is a power to do so.

This provision establishes the procedure that must be followed when a conflict of interest arises. All Members are required to **disclose** the nature of the private interest and **withdraw** from any consideration of the issue, without either **voting** or **discussing** the matter. This would occur whenever a Member or someone in the Member's family has a private interest in something that is before either House, or Cabinet, or a committee, and the Member is present at a meeting considering the matter.

This procedure would not apply where the private interest is an "excluded private interest". Those interests have been defined so as not to include any interest that would warrant the Member withdrawing from public duties. The only possible exception concerns a private interest that the Jurisconsult designated an excluded private interest, under section 22. It is expected that any such designation by the Jurisconsult would be accompanied by any appropriate conditions, for example, that the Member must openly declare the interest prior to participating in a meeting; or, that the Member may participate in meetings but may not unilaterally make decisions that would further that interest. Subsection 22(6) authorizes the Jurisconsult to stipulate conditions in the designation.

The second part to the section sets out the further procedure to apply when a Minister is faced with making a decision on a matter in which the Minister or a member of the Minister's family has a private interest, again other than an excluded private interest. In that case, the Minister must refer the matter to someone else for decision.

In general, we struggled with the fact that, by requiring Members (which of course includes Cabinet Ministers) to withdraw from all discussion of issues where the Member has a private interest, we would be depriving the Government and Parliament of valuable expertise: in all likelihood, a person would have private interests in fields in which they were previously active and therefore they possess expertise and knowledge. Nevertheless, we decided that the public interest in ensuring that all decisions are reached without consideration of a Member's private interest, outweighed the public interest in having the full benefit of all available experience in every decision before Cabinet and Parliament.



## V. *Post-Employment Restrictions*

12. (1) Except in accordance with a waiver or variance granted under this Act, a Minister or an officer or employee of a department of government or an agency of Her Majesty in right of Canada shall not knowingly award to or approve a contract with, or grant a benefit to, a person who within the previous year was a Minister or Parliamentary Secretary, or a corporation or other entity in which such a person holds 10% or more of the shares, or of which such a person is an employee, director or partner, where to do so would contravene this Section.
- (2) Except in accordance with a waiver or variance granted under this Act, no person who was a Minister or Parliamentary Secretary shall, within one year after ceasing to hold that office,
- (a) be employed by, or serve on the board of directors (or equivalent) of, a person or entity with which the former Minister or Parliamentary Secretary had significant official dealings during the last year of service in that office;
  - (b) make representations to any department or entity for which the former Minister or Parliamentary Secretary was responsible during the last year of service in that office; or
  - (c) accept, directly or indirectly, any contract or benefit from any department or entity for which the former Minister or Parliamentary Secretary was responsible during the last year of service in that office.
- (3) Except in accordance with a waiver or variance granted under this Part, no person who was a Minister or Parliamentary Secretary shall at any time advise or represent any person or entity in return for a fee, concerning any proceeding, transaction, negotiation or case to which the Government of Canada is a party, and in respect of which the former Minister or Parliamentary Secretary acted for or advised the Government of Canada while in office, if the matter might result in the conferring of a benefit of a purely commercial or private nature on a person, or a benefit of any other nature on a person or class of persons that is other than the general public or a broad class.
- (4) For purposes of this Section, "significant official dealings" means regular and extensive contacts over a period of time involving the former Minister or Parliamentary Secretary personally.
13. On receipt of an application in writing by a person who was a Minister or Parliamentary Secretary, the Jurisconsult may, in writing, waive or vary any prohibition contained in section 12 in relation to that person, on such terms and conditions as the Jurisconsult considers appropriate, where in the opinion of the Jurisconsult the public interest would be served by so doing, including the public interest in attracting capable and qualified individuals to public office.

We are aware that the existing restrictions on what a former Cabinet Minister or Parliamentary Secretary may do after leaving that office have caused serious hardship in a number of cases. Individuals are often selected to fill particular posts because they have



demonstrated ability in the subject-matter, that would be of significant benefit to the Government. It seems patently wrong to insist that only individuals with little or no background in relevant fields be selected to fill particular positions in Cabinet. Yet imposition of harsh post-employment rules could have this result, if they effectively prohibit individuals, after they leave the Cabinet, from returning to practise in the field of their expertise.

We were also impressed by the suggestion that the existing rules create something akin to a "libel chill", by encouraging public servants and Ministers to avoid all contact with former Ministers and Parliamentary Secretaries for fear of offending the post-employment provisions. (The current Conflict of Interest Code prohibits public servants and Ministers from dealing with former Ministers or Parliamentary Secretaries who during their tenure of office had "significant official dealings" with the department or ministry to which the existing public servant or Minister is attached, whether or not that was the department or ministry to which the former office holder was attached.) This in effect punishes individuals who served the country in some of the most trusted and respected positions.

At the same time, we recognize that it is improper for someone who held a high position and a certain degree of power and influence, to leave office and then seek to exploit that former position for financial gain. Upon analysis, we concluded that the impropriety lies in the possibility that the former Minister would be able to achieve certain objectives for clients because of contacts within and perceived residual power over, individuals within the Minister's former department. It is contacts between a former office holder and the department or ministry that he or she directed which must be regulated and, we believe, prohibited for a period of time. We decided that it is the extension of the prohibition to other departments, not controlled or directed by the former Minister, that works the hardship and injustice. In that situation, the former office holder is indistinguishable from private members.

It follows from our premise that former Ministers should not be permitted, for a certain period, to work for companies or other entities that deal on a regular basis with the department the Minister directed. We have therefore continued to prohibit this, as well as to prohibit the former Minister serving on the board of directors or as an officer of such a company.

We also have concerns about the existing prohibition on a former office holder advising third parties about the policies or programs of government departments, in this case even the one he or she directed. Certainly, a former office holder cannot share confidential information. However, if the information is public, we see no reason to impose special constraints. As a matter of principle, we believe that the more information in the public about Government policies, programs and procedures, the better.

A number of people expressed the view that the restrictions should last one year, not two. At present, the one-year limit applies to Parliamentary Secretaries, but it is a two-year prohibition for former Ministers. Bill C-43 would have made the period one year for both, and we have accepted this proposal. The one exception concerns the prohibition against "switching sides", found in subsection (3). That prohibition has always been absolute, without any limit of time, and we see no reason to alter that.



We questioned whether the same restrictions for former Ministers ought to apply to Parliamentary Secretaries. Ultimately, we decided that they should simply because of the confidential information to which a Parliamentary Secretary is often privy. However, we note this as an issue for future consideration.

We have accepted the proposal of Bill C-43, and authorized the Jurisconsult to vary or waive the post-employment restrictions, where it would be in the public interest to do so.

## **VI. Government Contracts**

- 14. (1) No Member shall, knowingly and wilfully, directly or indirectly, be a party to a contract with the Government of Canada under which the public money of Canada is paid and under which the Member receives a benefit.**
- (2) Subsection (1) does not apply to a Member solely on the ground that a party to a contract with the Government of Canada is a corporation or partnership in which the Member or the Member's family has a shareholding or interest, if**
- (a) the shareholding or interest is 10% or less; or**
  - (b) the Jurisconsult has certified that the shareholding or interest is insufficient to interfere with the Member's public duties; or**
  - (c) the shareholding or interest has been placed in a trust that the Jurisconsult is satisfied will prevent the Member exercising any authority or control over the affairs of the corporation or partnership and will ensure the Member will not receive any payment derived directly from the contract.**
- (3) Subsection (1) does not apply to**
- (a) a contract that existed before the Member became a Member, or an extension of such a contract at any time according to its terms;**
  - (b) a contract awarded by public tender under which no special preference or treatment was given because of the Member having an interest in it;**
  - (c) a contract that, either alone or in combination with all contracts with the Government of Canada in the same calendar year, in which the Member or the Member's family has an interest, has a value of less than \$10,000;**
  - (d) a contract for goods or services made in an emergency;**
  - (e) a contract for goods or services provided in a case where no other person is qualified and available to provide the goods or services;**
  - (f) the completion of a contract that devolves by descent, limitation or marriage, or as devisee, legatee, executor or administrator, where less than 12 months have elapsed after the devolution;**



**(g) a benefit received or transaction entered into**

- (i) by a Member or the Member's family under the provisions of or pursuant to an Act of Parliament;**
  - (ii) under which the Member or the Member's family is entitled, upon fulfilling the conditions specified in or pursuant to the Act, to receive the benefit or enter into the transaction on terms in common with the general public or a defined class of the public to which the Member belongs; and**
  - (iii) where the benefit or transaction is not subject to the exercise of discretion by any person;**
- (h) a contract under which the Member's family becomes an employee of or independent contractor for personal services to the Government of Canada;**
- (i) the reimbursement of expenses incurred by the Member or the Member's family while on the business of the Government of Canada.**

These provisions replace the existing sections 14 — 15 and 32 — 33 of the *Parliament of Canada Act*. The Committee heard persuasive testimony from legal counsel who have been working with these provisions, that the sections are inconsistent and hopelessly out of date. Under the present Act, Senators are treated differently from Members of the House of Commons in matters regarding contracting with the Government; Members of either House are not allowed to contract with the Government, but they are allowed to own shares in companies that contract with the Government (even 100% of the shares), so long as the company does not contract to build a "public work".

These provisions clearly were reasonable and appropriate when they were enacted; however, they fail to address the real issues concerning government contracts in modern-day Canada. We propose repealing those sections entirely, and replacing them with a coherent, rational set of provisions concerning government contracts, that treat Members of both Houses of Parliament the same.

We recommend setting out, as a general rule, the principle that Members of either House cannot knowingly and wilfully, whether directly or indirectly, contract with the Government and obtain a benefit thereby. We then recommend significantly revising the exceptions. It would no longer be enough to establish a corporation and thereby avoid the prohibition. The exception for being a shareholder would apply only to small shareholdings, where the Member's share is so small that he or she likely cannot affect the activities of the corporation, or where the Jurisconsult has found in the particular case that the interest will not likely interfere with the Member's public duties.

Other exceptions would relate to the provision of goods or services in an emergency; very small contracts; pre-existing contracts; inherited contracts; employment contracts between the Government and a Member's spouse or other family member; and transactions entered into by a Member under a federal statute, available to the public. We excepted contracts awarded by public tender, but only in circumstances where no special preference or treatment



is given because of the Member's interest. In other words, it is not enough to assert that a contract was obtained by public tender; the terms of the tender itself must not have been arranged so as to prefer the Member's proposal.

We recommend repealing the provision about public works, as an antiquated distinction that no longer has any true meaning. Government today is involved in a wide range of endeavors, and government contracts extend far beyond building public works. We decided the important issue was to define the issues of real concern, namely the exercise of preference for a Member as a Member, rather than focus on the subject-matter of the contract.

The relevant sections of the *Parliament of Canada Act* currently provide for a "common recovery" enforcement mechanism, whereby any person can bring a civil action to recover the stipulated penalty, where a Member breaches his or her obligations under the provisions. This recovery procedure is antiquated and, we believe, inappropriate. We therefore recommend repealing those provisions. Instead, these provisions would be enforced like the other provisions in this Part, with investigations by the Jurisconsult and sanctions by Parliament.

We have also recommended that sections 16 and 41 of the *Parliament of Canada Act* be repealed. Those sections prohibit payments to a Member for promoting a matter before either House or influencing a Member of either House. In our opinion, this conduct is and must continue to be criminal conduct, prohibited under the *Criminal Code*; it would constitute bribery or influence peddling, contrary to sections 119 and 121 of the *Criminal Code*. In our opinion, these provisions have no place in the *Parliament of Canada Act*.

## **VII. Office of the Jurisconsult**

**15. (1) There shall be a Jurisconsult who is an officer of Parliament.**

**(2) The Jurisconsult shall be appointed by the Governor in Council on address by both Houses of Parliament following consultation by the Prime Minister with the Leader of the Official Opposition in the House of Commons and the Leader of the Opposition in the Senate, and the leader of each party having a recognized membership of twelve or more persons in the House of Commons.**

**(3) The address referred to in subsection (2) shall be based on a motion introduced in the House of Commons by the Prime Minister and seconded by the Leader of the Official Opposition.**

**(4) The Jurisconsult holds office during good behaviour for a term of 7 years, and may be reappointed for a further term or terms.**

**(5) The Jurisconsult may be removed at any time before the expiration of the term of office by the Governor in Council on address of the Senate and the House of Commons.**

**(6) Such officers and employees as are necessary for the proper conduct of the work of the Jurisconsult shall be appointed by the Jurisconsult, for such term and on such conditions as the Jurisconsult shall determine.**



16. (1) The Jurisconsult shall be paid a salary to be fixed by the Governor in Council.
  - (2) The Jurisconsult is entitled to be paid such travel and living expenses incurred in the performance of duties and functions under this Act as are prescribed.
  - (3) All other terms and conditions of appointment of the Jurisconsult shall be fixed from time to time by order of the Governor in Council.
17. The Jurisconsult and every person employed by the Jurisconsult who is required to receive or obtain information relating to the personal interests and property of Members under this Act shall, with respect to access to and the use of that information, comply with any security requirements applicable to, and take any oath of secrecy required to be taken by, individuals who normally have access to and use of that information.
18. The office of the Jurisconsult shall be in the National Capital Region described in the schedule to the *National Capital Act*.
19. (1) The Jurisconsult shall report annually upon the affairs of the office of the Jurisconsult to the Speaker of the Senate and the Speaker of the House of Commons, who shall cause the report to be laid before each House.
  - (2) The Jurisconsult may from time to time issue summaries of advice given, where it is possible to summarize the advice without disclosing any information of a confidential nature or identifying the individual concerned.
  - (3) In each annual report made under this section, the Jurisconsult shall take every reasonable precaution to avoid revealing any information likely to identify a Member or a Member's family.

These provisions establish the office of the Jurisconsult. We considered whether to make this a one-person position, or a commission of several people. We decided to appoint a single individual, both in the hope that this will reduce the likelihood this office will blossom into yet another large bureaucracy, and also to try to encourage the Jurisconsult to adopt a commonsensical, and not legalistic, approach to the issues brought before him or her. We were impressed with the degree of personal trust that members of the Ontario legislature place in the Commissioner; the same is true of members of the provincial legislatures in each of Quebec, British Columbia and Nova Scotia. We believe that establishing a rapport and a basis for mutual trust and respect is essential, and this is more likely with an individual than with a body of people.

We cannot stress enough how important it is that the right person be found to serve as Jurisconsult. The individual must be of high integrity, command the respect of the public and the Members, and, again, have basic common sense. We have recommended that the Jurisconsult be appointed on address by both Houses of Parliament, and after all political parties have been consulted, to ensure the individual is able to command the respect of the whole body of Members. We have also recommended that the Prime Minister introduce the motion in the House of Commons, and the Leader of the Official Opposition second it, to further ensure that the appointment has the support this position requires.



We recognize that one person will likely not be able to fulfil all the duties of the position for the whole body of Senators and Members of the House of Commons. Particularly when the annual disclosure statements are filed, and especially after an election, the Jurisconsult will require assistance. We therefore have given the Jurisconsult power to appoint officers and employees to assist him or her. However, we hope that these appointments will be temporary only, to assist the Jurisconsult in the busy periods. We were impressed by the small size of the offices of the existing Commissioners and Jurisconsult in the provinces; the Ontario Commissioner completes his duties with an office consisting of himself, employed part-time, and one full-time assistant.

We note that in several provincial jurisdictions, the Commissioners issue summaries of the advice given, to guide Members on matters that may be of general application. We encourage the Jurisconsult to do the same.

### **VIII. Disclosure Obligations**

20. (1) Every Member shall, within 60 days after notice of the Member's election is given in the *Canada Gazette* or after the Member is summoned or appointed, and thereafter annually, file with the Jurisconsult a statement containing the following information:
- (a) a statement of the Member's private interests, including particulars of all interests of the Member in:
    - (i) any partnership or corporation in which the Member and the Member's family together hold a 10% or more interest or 10% or more of the shares;
    - (ii) any partnerships or corporations controlled by a corporation in which the Member and the Member's family together hold 10% or more of the shares; and
    - (iii) any partnerships or corporations controlled by any partnership in which the Member and the Member's family together hold a 10% or more interest;
  - (b) a statement of any income received by and liabilities of:
    - (i) any corporation in which the Member and the Member's family together hold 10% or more of the shares;
    - (ii) any partnership in which the Member and the Member's family together hold a 10% or more interest; and
    - (iii) any partnerships or corporations controlled by any of the foregoing;
  - (c) a statement, to the best of the Member's knowledge, information and belief, of each private interest and each excluded private interest of the Member's family, including particulars of all interests of the Member's family in:
    - (i) any partnership or corporation in which the Member's family holds a 10% or more interest or 10% or more of the shares;



- (ii) any partnerships or corporations controlled by any corporation in which the Member's family holds 10% or more of the shares; and
  - (iii) any partnerships or corporations controlled by any partnership in which the Member's family holds a 10% or more interest;
- (d) the particulars referred to in paragraph (c) shall include a statement of any income received by and liabilities of:
- (i) the Member's family;
  - (ii) any corporation in which the Member's family holds 10% or more of the shares;
  - (iii) any partnership in which the Member's family holds a 10% or more interest; and
  - (iv) any partnerships or corporations controlled by any of the foregoing.
- (2) Any material change to information required to be disclosed to the Jurisconsult under this section, shall be reported to the Jurisconsult in writing by the Member not more than 60 days after the change occurs.
- (3) For purposes of subsection (2), "material change" does not include any change to an excluded private interest, so long as the excluded private interest continues to qualify as an excluded private interest after the change.
- (4) Each statement filed by a Member with the Jurisconsult pursuant to this section shall be maintained by the Jurisconsult on a confidential basis.
- (5) This section applies to a Minister or Parliamentary Secretary as if notice of that person's election had been given in the *Canada Gazette* on the day of appointment to that office.

21. (1) After reviewing the disclosure statement received from a Member, the Jurisconsult may require that the Member meet with the Jurisconsult to ensure that adequate disclosure has been made and to discuss the Member's obligations under this Act.
- (2) The Jurisconsult shall prepare a public disclosure statement for each Member, which shall be submitted to the Member for review.
- (3) The public disclosure statement shall identify each private interest other than an excluded private interest of the Member and the Member's family disclosed to the Jurisconsult by the Member, but shall not show the amount or the value of any private interest.
- (4) An interest may be qualified in the public disclosure statement by the words "nominal", "significant" or "controlling" where in the opinion of the Jurisconsult it would be in the public interest to do so, and the Member agrees to include the qualification.



(5) The public disclosure statement of each Member shall then be placed on file at the Office of the Jurisconsult, and made available for public inspection during normal business hours.

22. (1) Upon reviewing the disclosure statement received from the Member, and after considering any information received during any meeting with the Member, the Jurisconsult shall advise the Member whether any steps need be taken to ensure that the Member's obligations under this Act are fulfilled.
- (2) The Jurisconsult may make a recommendation to a Member that in order to fulfil the Member's obligations under this Act, the Member sell a private interest at arm's length, place the private interest in a trust on such terms and conditions as the Jurisconsult may specify, with or without such other arrangements to be made as will ensure that the Member's obligations under this Act are fulfilled.
- (3) Where the Jurisconsult is satisfied on the basis of the disclosure statement and any subsequent steps taken by a Member, whether in response to advice received from the Jurisconsult or not, that the Member has fulfilled the Member's disclosure obligations, then if the Member so requests, the Jurisconsult shall so certify in writing to the Member, and the Member is entitled to rely on that certificate, for all purposes of this Act, according to its terms.
- (4) A copy of any advice or certificate given pursuant to this section shall be given by the Jurisconsult to the Prime Minister, where the advice or certificate relates to a Member who is a Minister or Parliamentary Secretary, or relates to that Member's family.
- (5) Subject to subsection (4), any advice or certificate given by the Jurisconsult to a Member pursuant to this section is confidential to the Member, and may be made public only by the Member or with the Member's written consent.
- (6) Where it would not be contrary to the purposes of this Part, and would be consistent with the public interest, the Jurisconsult may designate a private interest of the Member or the Member's family to be an excluded private interest, either absolutely or on stated conditions.

These provisions contain some of the core recommendations of our Committee, namely full disclosure to the Jurisconsult and the public of a Member's interests, so that it can be readily seen that the Member is not acting improperly.

We have recommended full disclosure to the Jurisconsult by the Member of all private interests, including assets, liabilities, purely personal assets and liabilities, income, and activities. Each Member will have to both identify and quantify for the Jurisconsult every interest and liability. In some cases, Members may have complex structures of corporate holdings; all corporations and partnerships down any corporate tree network will have to be identified.

With respect to the interests of a Member's spouse and other family, we decided to require a Member to state, to the best of the Member's knowledge, information and belief, the interests of the Member's spouse and family. These interests again would include all



assets, income, and liabilities, both purely personal as well as business, and activities. Again, complex corporate structures would have to be identified. This obligation would require a Member to diligently address the interests of his or her family, so that they are fully declared to the Jurisconsult. However we do not believe we can require the spouse or family member to provide that information, if he or she is unwilling to do so. We do not believe there is any effective sanction that could be applied to enforce such an obligation. We do, however, believe that by placing the obligation on the Member — the individual who has undertaken the public duty — the obligation reflects the real purpose of the disclosure regime, namely to ensure that the Member does not act improperly. The obligation of reporting material changes should ensure that if the Member subsequently learns of interests previously unknown to him or her, those will be disclosed.

We provided for very broad public disclosure of the interests of the Member, the Member's spouse and other members of the family who fall within the scope of the Act. The only interests excluded from public disclosure are those that are either so small or somehow otherwise unlikely to be significant in affecting a Member's conduct; purely personal assets (like the residential home, or cottage, or the family car); and assets that the Member cannot affect by any actions in Parliament.

All other interests would be identified publicly. As noted earlier, we decided against requiring Members to quantify their interests. If the Jurisconsult and the Member conclude it would be in the public interest to describe the size of a particular interest, we have stated that it may be qualified as "nominal", "significant" or "controlling". We are hopeful that such a description would assist the public in assessing whether a Member's actions are likely to be affected by the particular interest. However, we are satisfied, based on extensive discussion with many witnesses, that quantification is not required or appropriate. We note that in British Columbia, for example, interests are not quantified even to the Commissioner.

After reviewing the disclosure statements, the Jurisconsult will advise whether any steps need be taken to ensure that each Member is in a position to fulfil his or her obligations under this Act. If the nature of a particular Member's responsibilities are such that a particular interest could give rise to difficult situations, then the Jurisconsult may advise the Member to sell the interest, or place it in a trust on terms dictated by the Jurisconsult, or to withdraw from consideration of certain types of issues.

There has been a great deal of discussion about the propriety of the use of trusts. As in every other jurisdiction in Canada that has addressed the issue, we concluded that while imperfect, there is no alternative to a trust as a vehicle to enable Members to retain certain interests to which they may wish to return after public life, or keep for the benefit of the family members (such as one's children), or which may be of deep sentimental value, or are otherwise not readily disposable. What is important is not to mislead as to its usefulness or appropriateness for certain circumstances. We are optimistic that the Jurisconsult will be able, as have the Commissioners in various provinces in Canada, to guide Members, including Ministers (such issues more usually arise for Ministers than for private members), so that they can execute their public duties properly and without doubt as to the paramountcy of the public interest.



We have also provided that once a Member has completed the required disclosure, and complied with any recommendations of the Jurisconsult concerning any of the Member's interests, then the Member may request and the Jurisconsult shall provide a certificate, declaring that the disclosure obligations have been fulfilled. The Member will then be entitled to rely on that certificate according to its terms.

23. (1) A Member may, by application in writing, request the Jurisconsult to give an opinion and recommendations on any matter respecting any obligation of the Member under this Act.
- (2) The opinion and recommendations of the Jurisconsult are confidential to the Member, and may be made public only by the Member or with the Member's written consent.
24. In the consideration of any matter under this Part, an opinion given by the Jurisconsult to a Member is binding on the Jurisconsult in relation to any subsequent consideration of the facts on which the opinion is based, in relation to that Member.
25. For greater certainty, it is not a breach of any obligation under this Act, and no obligation to disclose under any section of this Act arises, by reason only that
- (a) an association or organization of the members of a registered party within an electoral district, within the meaning of those terms for the purposes of the *Canada Elections Act*, provides any benefit to or for the benefit of a Member who represents that electoral district, related to the conduct of the Member's responsibilities as such; or
- (b) a registered party, within the meaning of the *Canada Elections Act*, provides any benefit to or for the benefit of a Member who is the leader of that party, related to the conduct of the Member's responsibilities as such.
26. (1) As soon as is reasonably practicable after a Member ceases to be a Member, the Jurisconsult shall destroy all documents in the possession of the Jurisconsult that relate to the Member or the Member's family, unless there is an inquiry current under this Act or a charge has been laid against the Member or the Member's family under the *Criminal Code* to which the documents relate or may relate.
- (2) Subsection (1) does not apply to a Member who has been a Minister or a Parliamentary Secretary.

Sections 23 and 24 are also central to the proposed regime. Section 23 expressly permits Members to consult the Jurisconsult on particular matters that may arise, to determine whether certain steps are required, or whether particular actions would or would not be proper. This provision would invite the Jurisconsult to interpret and apply the provisions of this Act, in assisting Members in concrete situations.

The opinion is confidential to the Member, who may or may not choose to rely on it. If the Member follows the advice then, under section 24, he or she cannot subsequently be found to have breached the Act, provided that the information on which the opinion was based was complete and accurate. Thus, Members are encouraged to openly turn to the Jurisconsult for guidance, knowing that they can confidently rely on the advice received.



## **IX. Conduct of Inquiries and Sanctions**

27. (1) The Jurisconsult may conduct an inquiry to determine whether a Member has failed to fulfil any obligation under this Part, if the Jurisconsult deems it to be in the public interest:
- (a) upon receipt of a request in writing for such an inquiry from a Member who has reasonable and probable grounds to believe that another Member has failed to fulfil any obligation under this Act, which request shall identify the unfulfilled obligation and set out the reasonable and probable grounds to believe the Member has failed to fulfil that obligation; or
  - (b) on the Jurisconsult's own initiative, where in the opinion of the Jurisconsult it is in the public interest to do so.
- (2) The Jurisconsult shall conduct an inquiry to determine whether a Member has failed to fulfil any obligations under this Act, upon receipt of a request in writing for such an inquiry from:
- (a) either House of Parliament, by way of resolution, concerning a Member of that House; or
  - (b) the Prime Minister, concerning a Minister or Parliamentary Secretary.
- (3) Forthwith upon receipt of a request for an inquiry pursuant to this section, or prior to conducting an inquiry pursuant to paragraph (1)(b), the Jurisconsult shall give notice thereof, including a copy of the request, to the Member to whom the inquiry relates and, at all appropriate stages throughout its consideration thereof, the Jurisconsult shall give the Member reasonable opportunity to be present and to make representations to the Jurisconsult in writing or in person or by counsel or other representative.
- (4) Where the Jurisconsult is of the opinion that effective consideration of any matter under this section requires the exercise of powers provided for in Part I of the *Inquiries Act*, he or she shall in writing so advise the Member affected and any person or body that requested the inquiry under this section, and on the expiration of 10 days after the giving of that notice, the Jurisconsult has, in respect of the matter, all the powers of a commissioner under Part I of the *Inquiries Act*.
- (5) Where the Jurisconsult determines that the subject-matter of any inquiry conducted by it is under investigation by police or is the subject-matter of criminal proceedings, the Jurisconsult shall hold the inquiry in abeyance pending final disposition of that investigation or those proceedings.
- (6) Where during the course of an inquiry the Jurisconsult determines that there are reasonable grounds to believe that an offence against an Act of Parliament has been committed, the Jurisconsult shall forthwith refer the matter to the appropriate authorities and hold the inquiry in abeyance pending final disposition of any resulting investigation and proceedings.



- (7) No report concluding that a Member has failed without reasonable justification to fulfil an obligation under this Part shall be made until reasonable notice has been given to the Member of the alleged failure and the Member has been allowed full opportunity to be heard in person or by counsel or other representative.
28. Where the Jurisconsult conducts an inquiry pursuant to section 27, the Jurisconsult shall report the results as soon as possible, and in any event no later than 90 days from the date the Jurisconsult commenced the inquiry:
- (a) in all cases, to the Member concerned; and
  - (b) to the Speaker of the House of Parliament in which the Member concerned sits, and to the leader of the political party, if any, with which the Member is affiliated; and
  - (c) where the request for the inquiry was received pursuant to paragraph 27(2)(b), to the Prime Minister.
29. Where the Jurisconsult has determined that the Member has failed to fulfil an obligation under this Part, then the Jurisconsult may recommend, in the report under section 28,
- (a) that the Member be reprimanded;
  - (b) that the Member make restitution or pay compensation;
  - (c) that the Member be suspended from the House, with or without pay, for a period specified in the report; or
  - (d) in the case of a Member of the House of Commons, that the Member's seat be declared vacant, and in the case of a Member of the Senate, that the Member be disqualified from holding a seat in the Senate.
30. (1) Upon receipt of a report from the Jurisconsult under paragraph 29, the Speaker shall table the report in the House of Commons or the Senate, as the case may be.
- (2) No recommendation in a report of the Jurisconsult made pursuant to section 29 shall take effect unless the report is concurred in by resolution of the House in which the Member sits.
- (3) A report to the Senate or the House of Commons pursuant to subsection (1) shall be taken up, considered and disposed of in accordance with the rules of the appropriate House within fifteen sitting days after the day on which it is made or such greater number of days as is fixed by order of the House.
- (4) If, on the expiration of the fifteen-day period provided in subsection (3) or such longer period as is fixed by order of the appropriate House, a report referred to in that subsection has not been disposed of, the Speaker of the appropriate House shall forthwith put, without further debate or amendment, every question necessary for the disposal of the report.



31. Where a report to the Senate or to the House of Commons pursuant to section 30 is adopted, any compensation recommended in the report is a debt due to the person identified in the report as having suffered damage and may be recovered as such from the Member to whom the report relates by that person in any court of competent civil jurisdiction in Canada.

32. (1) Where, after considering any matter under section 27, the Jurisconsult concludes that, having regard to all the circumstances, there was no failure without reasonable justification in the Member's fulfilment of an obligation under this Part, then the Jurisconsult shall, without providing further information, so certify to the Member in writing and shall give a copy of the certificate

(a) to the Prime Minister, where the Member is a Minister or Parliamentary Secretary; and

(b) to the Speaker of the House of Parliament in which the Member concerned sits, and to the leader of the political party, if any, with which the Member is affiliated.

(2) Where the Jurisconsult gives a copy of a certificate to a Member pursuant to this section, the Jurisconsult shall, on the request of the Member, provide the Member with such information and explanations in support of the conclusion referred to in subsection (1) as the Jurisconsult considers appropriate in the circumstances, and the Member may publish or otherwise deal with information and explanations so provided as the Member sees fit.

The Jurisconsult would serve not only as advisor to the Members, but also as investigator of alleged breaches of the Act's provisions. We seriously considered establishing a separate body to serve as investigator, but rejected it. Again, we are reluctant to establish rules that will give rise to an extensive bureaucratic machine. In addition, the investigative authority provides the Jurisconsult with significant persuasive authority to convince Members to follow his or her advice and recommendations. Ultimately, the Jurisconsult is an officer of Parliament, and any report on an alleged breach must be placed before Parliament for disposition (Parliament is and must remain master of its Members); however, the Jurisconsult's recommendations will likely carry great weight before Parliament. Knowledge of this should encourage Members to heed the Jurisconsult's advice.

Procedurally, we sought to impose time limits on the conduct of any inquiry, to ensure that they be handled expeditiously. Hopefully this will also ensure that the cost of any such inquiry remains within reasonable bounds.

We gave power to the Jurisconsult to vet any request for an inquiry, to ensure that there exist grounds to launch an investigation. These procedures cannot be abused for political advantage; they must be used seriously, when there exist grounds to believe a breach of the Act has occurred. However we also gave the Jurisconsult power to launch an inquiry on his or her own initiative, to ensure that the public interest is always safeguarded.



We discussed the issue of sanctions extensively. Under our proposal, the Jurisconsult, as the person with the best knowledge of the particular matter, would recommend the particular sanction. Parliament must however have the final word. It must be able to protect its own integrity, and be able to sanction those who undermine that integrity and public confidence in Parliament as an institution.

We therefore decided to present a spectrum of possible sanctions, ranging from a reprimand, to an order to make restitution or pay compensation, to suspension from Parliament, which suspension can be with or without pay, to the ultimate sanction: removal from the House altogether.

## **X. General**

### **REVIEW**

33. The administration of this Part shall be reviewed on a permanent basis by such committee of the Senate and such committee of the House of Commons, or such joint committee of both Houses, as is designated for the purposes of section 34.

### **REGULATIONS**

34. (1) Subject to subsection (2), the Jurisconsult may, with the approval of the Governor in Council, make regulations
- (a) prescribing anything that is, by virtue of any provision of this Act, to be prescribed;
  - (b) prescribing any classes of interests to be excluded private interests within section 2;
  - (c) prescribing criteria for determining in any case or class of cases what will constitute material change for purposes of subsection 20(2); and
  - (d) generally for carrying out the purposes and provisions of this Part.
- (2) Before making any regulation under this section, the Jurisconsult shall submit a draft thereof to such committee of the Senate and such committee of the House of Commons or such joint committee of both Houses, as is designated by order of the appropriate House or, in the case of a joint committee, by order of both Houses, for the purposes of this section, and shall obtain the approval of those committees or that joint committee of the draft.

### **MISCELLANEOUS**

35. (1) Where any provision of this Part requires anything to be done or to be caused to be done by a Member forthwith or within a specified period of time, the Jurisconsult may, on request in writing by a Member, extend the time so provided as it applies to that Member in any particular case by such additional number of days as the Jurisconsult considers to be reasonable and not inconsistent with the public interest.



- (2) Notice of an extension of time under this section shall be given in writing to the Member who requested the extension.
36. Failure to comply with any provision of this Part does not constitute an offence punishable on summary conviction or on indictment under the *Criminal Code*.
37. For greater certainty, information disclosed or caused to be disclosed by a Member or the Member's family to the Jurisconsult pursuant to this Part or any regulations made hereunder or in the course of the administration of this Part is personal information within the meaning of section 3 of the *Privacy Act* and shall not be disclosed pursuant to the *Access to Information Act* or otherwise than in accordance with this Act or the *Privacy Act*.
38. (1) No action lies against the Jurisconsult in respect of any advice, certificate, opinion or report made by the Jurisconsult within the authority given the Jurisconsult under this Part.
- (2) Neither the Jurisconsult nor any officer or employee of the office of the Jurisconsult is a competent or compellable witness in any proceeding outside of Parliament arising out of or in relation to any advice, certificate, opinion, or report made by the Jurisconsult, except in relation to a question whether the Jurisconsult acted within the authority given the Jurisconsult under this Part.
39. This Part shall come into force on a day to be fixed by order of the Governor in Council and thereupon applies to each Member then holding office as if notice of the Member's election had been given in the *Canada Gazette* or the Member had been summoned or appointed on that day.

The Jurisconsult is and must be independent, and many of the proposed provisions above are designed to ensure and enhance this independence. Parliament must however remain master of itself and its Members. It is therefore crucial that there be parliamentary oversight of the administration of these provisions, and ultimate control over their interpretation. section 33 would establish a mechanism for permanent review of the operation of these provisions by a parliamentary committee from each House (or a single joint committee). Under section 34, these committees (or the one committee) would have to be consulted by the Jurisconsult with respect to any proposed regulations to be made. If it transpires that there are amendments the Jurisconsult believes should be made to the Act, then the committee(s) would provide an ideal forum to consider those proposals.

## CRIMINAL CODE

There are a number of provisions in the *Criminal Code* that relate to issues of the intentional advancement of private interests at the expense of public interests. We examined those provisions as part of our study. We heard testimony from legal counsel in the private sector as well as in Parliament who have had the opportunity to study these provisions in the course of advising Members as to their duties and obligations. We also had the opportunity to hear from two senior public servants at the Department of Justice, criminal law section.



We were concerned to see that the wording of the *Criminal Code* is not as tight as we believe it should be; several provisions that we examined appear to cover the same conduct, while it is not always clear from the wording whether Members of Parliament are included within the scope of particular provisions.

The senior officials from the Department of Justice drew our attention to proposals from the Law Reform Commission of Canada, Report 31, which proposed a complete rewriting of the *Criminal Code*, including these Sections. The suggested text was simple, straightforward and clear in application and prohibition. We were impressed with these proposals, and would hope that they are given serious consideration.

We recognize, however, that the style of the revised provisions is radically different in its simplicity from the existing provisions, and that their adoption would require a significant shift in approach from that of the rest of the *Code*. For now, therefore, we have confined ourselves to proposing modest amendments to the existing provisions, that we believe should assist in ensuring that Members of Parliament are included within the proper sections.

Specifically, we recommend the following amendments be proposed to the *Criminal Code*:

#### **Section 119 – Bribery**

Section 119 prohibits holders of judicial office and Members of Parliament accepting or being offered bribes in respect of something done or not done in the person's official capacity. Courts have strained to find that this provision applies to Ministers, and have succeeded by finding that the Minister was acting in his or her capacity as a Member of the particular legislature.

To resolve this difficulty, and also to ensure that the section applies to Ministers who are not also Members of any particular legislature (as occurs from time to time), we recommend amending the section by adding, in paragraph (a) after the word "province", the following:

**or a minister of the Crown in right of Canada or a province**

#### **Section 121 – Influence-Peddling**

Section 121 prohibits "officials" using their influence improperly. A Member of Parliament is not usually considered to be an official, and indeed is often specifically mentioned in sections of the *Code*. Moreover, to consider a Member of Parliament an "official" leads to certain anomalies, for example in paragraph 121 (1)(c), which requires an official to obtain the written consent of the head of the branch of government that employs the official. We note that courts have struggled with this provision as a result, straining to find ways to make the substance of the section apply to elected individuals.

We recommend amending the definition section (section 118) to clarify that "official" does not include a Member of Parliament, and then amending section 121 by adding, after paragraph 121(1)(c), the following:



(c.1) being a member of the Senate, the House of Commons or of the legislative assembly of a province, or a Minister of the Crown in right of Canada or a province demands, accepts or offers or agrees to accept from a person who has dealings with the government, a commission, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission with respect to those dealings;

This will make it an offence, punishable by up to five years imprisonment, for a Member to take a commission for helping to get government business.

### Section 122 – Breach of Trust

The current language of section 122 also refers only to “officials”. We recommend the following amendment to that section, to ensure that all elected individuals are covered by that provision.

**122. Every official, member of the Senate or House of Commons or minister of the Crown in right of Canada or a province who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, whether or not the fraud or breach of trust would be an offence if committed in relation to a private person.**



We want to see... as we believe it is... while it is... with the... kind as consideration for cooperation, assistance, exercise of influence or an aim

The senior officials from the Department... the Law Reform Commission of Canada, Report 21, which proposed a complete rewriting of the Criminal Code... and clear in application and provisions... hope that they are exact serious consideration.

We recognize, however, that the style of the revised bill of the law... The current language of section 121... following the... ourselves in proposing... assist in ensuring that Members of Parliament are treated in a manner

Section 121 - Bribery  
Every official, member of the Senate or House of Commons or Minister of the Crown... his office, contract, trust or a breach of trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, whether or not the fraud or breach of trust would be an offence if committed in relation to a private person.

Section 121 applies to holders of judicial office and Members of Parliament accepting or being offered a bribe in respect of something done or not done in the person's official capacity. Courts have... finding that the... legislature.

Section 121... that the section applies to Ministers who are... (occurs from time to time), we recommend amending the... the following:

Section 121 - Bribery

Section 121... A Member of Parliament... mentioned in... to commit a Member of Parliament an "official" leads to certain... which requires an official to obtain the... that employ the official. We note that... straining to find ways to make the substance of the... individuals.

We recommend amending... to clarify that "official" does not include a Member of Parliament... by adding, after paragraph 121(1)(a), the following:



## PROPOSED AMENDMENTS TO THE PARLIAMENT OF CANADA ACT

The *Parliament of Canada Act* is hereby amended, by repealing Sections 14 through 16, and 32 through 41 thereof, and by adding thereto, before Part IV, the following:

### PART III.1

## CONFLICT OF INTERESTS

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### PURPOSE

1. The purpose of this Part is to provide greater certainty in the reconciliation of Members' private interests and public duties, recognizing:
  - (a) that it is desirable that Members of Parliament include individuals with broad experience and expertise in diverse facets of Canadian life, including individuals who continue to be active in their community, whether in business, professional pursuits, or otherwise, so that Parliament as a whole can better represent the Canadian public;
  - (b) that all Members are expected to perform their duties of office and arrange their private affairs in such a manner as to maintain public confidence and trust in the integrity of each Member individually, the dignity of Parliament, and the respect and confidence that society places in Parliament and Members of Parliament;
  - (c) that all Members are expected to act in a manner that will bear the closest public scrutiny;
  - (d) that all Members, in the proper exercise of their functions and duties as Members of Parliament, are expected to represent their constituents, including broadly representing the constituents' interests in Parliament and to the Government of Canada.



## INTERPRETATION

### 2. In this Part,

“Member” means a member of the Senate or the House of Commons and includes a Minister who is not a member of either House;

“Minister” means a person in receipt of a salary under section 4 or 5 of the *Salaries Act*, a Minister without portfolio or a Minister of State;

“Parliamentary Secretary” means a person in receipt of a salary under section 61 of this Act;

“Member’s family” means a person who is

- (a) the Member’s spouse;
- (b) a minor child of the Member, or a minor who is dependent primarily on the Member or the Member’s spouse for financial support and for whom the Member has demonstrated a settled intent to treat as a family member;
- (c) a relative of the Member or the Member’s spouse who lives as part of the Member’s household and is primarily dependent on the Member or the Member’s spouse for financial support;

“excluded private interest” means

- (a) an asset, liability or financial interest of less than \$10,000 in value;
- (b) a source of income of less than \$10,000 a year;
- (c) any real property that is used primarily for a residence or for recreation;
- (d) personal property used for transportation, household, educational, recreational, social or aesthetic purposes;
- (e) cash on hand or on deposit with a financial institution in Canada that is lawfully entitled to accept deposits;
- (f) fixed value securities issued by any government or municipality in Canada or any agency thereof;
- (g) a registered retirement savings plan, registered home ownership savings plan, retirement or pension plan or employee benefit plan, that is not self-administered;
- (h) an investment in an open-ended mutual fund that has broadly based investments not limited to one industry or one sector of the economy;
- (i) a guaranteed investment certificate or similar financial instrument;



- (j) an annuity, life insurance policy or pension right;
- (k) an asset, liability or financial interest that is held:
  - (i) as executor, administrator or trustee, or
  - (ii) by bequest or inheritance, during the twelve months following the date it devolves;

(l) an interest certified by the Jurisconsult as being an excluded private interest;

“private interest” means

- (a) an asset, liability or financial interest;
- (b) a source of income;
- (c) a position of director or officer in a corporation or association;
- (d) membership of a board, commission or agency of the Crown in right of Canada or a province, or a municipality;
- (e) an office, commission or employment in the service of the Government of Canada or a province, at the nomination of the Crown in right of Canada or a province, or an officer of the Crown in right of Canada or a province;

“source of income” means

- (a) in the case of employment, the employer;
- (b) in the case of contract work, the party with whom the contract is made;
- (c) in the case of income arising from a business or profession, the business or profession;

“spouse” means a person to whom a Member is married or with whom the Member is living in a conjugal relationship outside marriage, but does not include a person from whom the Member is separated, and whose support obligations and family property have been dealt with by a separation agreement or by court order;

“prescribed”, except where the context otherwise requires, means prescribed by regulation made under Section 34.

## OBLIGATIONS

3. A Member shall not use the Member's public office to seek to influence a decision by another person to further, directly or indirectly, a private interest of the Member or the Member's family.



4. (1) Subject to subsection (2), a Member shall not make or participate in making a decision in his or her capacity as a Member, if the Member knows or should reasonably know that in the making of the decision there is the opportunity to further, directly or indirectly, a private interest of the Member or the Member's family.

(2) Notwithstanding subsection (1), the Jurisconsult may authorize a Member to participate in making a decision where satisfied that in all the circumstances, including any arrangements made pursuant to section 22, it is in the public interest to do so.

5. A Member shall not use or share information that is gained in his or her capacity as a Member, and that is not available to the general public, to further or seek to further, directly or indirectly, a private interest.

6. For purposes of this Part, a decision is deemed not to further, directly or indirectly, a private interest of a person if

(a) the decision

(i) is of general public application;

(ii) affects the person as one of a broad class of the public; or

(iii) concerns the remuneration or benefits of a Member provided by or pursuant to an Act of Parliament, or

(b) the interest is an excluded private interest.

7. (1) A Minister or Parliamentary Secretary shall not:

(a) engage in employment or in the practice of a profession;

(b) carry on a business;

(c) hold an office or directorship other than in a social club, religious organization or political party,

except as required or permitted by the responsibilities of the Minister or Parliamentary Secretary, or where the activities are not likely to interfere with the Member's public duties.

(2) For purposes of this section, the management of routine personal financial interests would ordinarily be deemed not likely to interfere with the Member's public duties.

(3) Nothing in this Part shall be interpreted or applied to prevent a Member who is not a Minister or Parliamentary Secretary from:

(a) engaging in employment or in the practice of a profession;

(b) carrying on a business;



(c) being a director, a partner, or holding an office, other than an office a Member may not hold under this Act,

so long as the Member, notwithstanding the activity, is able to fulfil the Member's obligations under this Part.

(4) A Member may consult with the Jurisconsult to consider whether the Member should withdraw from the activity, or whether the activity may adequately be reconciled with the Member's obligations by the compliance obligations set out in section 11.

8. (1) A Member shall not directly or indirectly accept any gift or personal benefit that is connected directly or indirectly with fulfilling the duties of office of the Member.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol, social obligations or custom that normally accompany the duties or responsibilities of office.

(3) Where a gift or personal benefit referred to in subsection (2) exceeds \$200 in value, the Member shall, within 30 days of receipt, file with the Jurisconsult a disclosure statement indicating the nature of the gift or benefit, its source and the circumstances under which it was given, which statement shall be filed with the Member's public disclosure statement and which statement shall be made available for inspection by the public.

(4) Nothing in this section prohibits the acceptance of reimbursement of reasonable travel and associated expenses incurred in performing services that are in the public interest, provided that the amount and source of the reimbursement, as well as a description of the services performed, are immediately set out by the Member in a disclosure statement filed with the Jurisconsult, which disclosure statement shall be filed with the Member's public disclosure statement and made available for inspection by the public.

9. Nothing in this Part shall be interpreted or applied to prevent or impede a Member in the proper exercise of the Member's Parliamentary functions, including the ordinary and proper representation of constituents.

10. A Member shall not sell or transfer any private interest on any terms or conditions that have as their prime purpose the evasion of a provision of this Act.

## COMPLIANCE OBLIGATIONS

11. (1) A Member who has reasonable grounds to believe that he or she, or the Member's family, has a private interest other than an excluded private interest in a matter before either House of Parliament, or the Privy Council, or a committee of either of them, shall, if present at a meeting considering the matter:

(a) disclose the general nature of the private interest; and



(b) withdraw from the meeting without voting or participating in the consideration of the matter.

(2) A Minister who knows or should reasonably know that there is a matter requiring the Minister to make or participate in making a decision in which there is the opportunity to further, directly or indirectly, a private interest other than an excluded private interest of the Minister or the Minister's family, then the Minister shall refer the matter to the minister authorized to be acting minister for that matter or delegate the decision if there is a power to do so.

## POST-EMPLOYMENT

12. (1) Except in accordance with a waiver or variance granted under this Act, a Minister or an officer or employee of a department of government or an agency of Her Majesty in right of Canada shall not knowingly award to or approve a contract with, or grant a benefit to, a person who within the previous year was a Minister or Parliamentary Secretary, or a corporation or other entity in which such a person holds 10% or more of the shares, or of which such a person is an employee, director or partner, where to do so would contravene this Section.

(2) Except in accordance with a waiver or variance granted under this Act, no person who was a Minister or Parliamentary Secretary shall, within one year after ceasing to hold that office,

(a) be employed by, or serve on the board of directors (or equivalent) of, a person or entity with which the former Minister or Parliamentary Secretary had significant official dealings during the last year of service in that office;

(b) make representations to any department or entity for which the former Minister or Parliamentary Secretary was responsible during the last year of service in that office;  
or

(c) accept, directly or indirectly, any contract or benefit from any department or entity for which the former Minister or Parliamentary Secretary was responsible during the last year of service in that office.

(3) Except in accordance with a waiver or variance granted under this Part, no person who was a Minister or Parliamentary Secretary shall at any time advise or represent any person or entity in return for a fee, concerning any proceeding, transaction, negotiation or case to which the Government of Canada is a party, and in respect of which the former Minister or Parliamentary Secretary acted for or advised the Government of Canada while in office, if the matter might result in the conferring of a benefit of a purely commercial or private nature on a person, or a benefit of any other nature on a person or class of persons that is other than the general public or a broad class.

(4) For purposes of this Section, "significant official dealings" means regular and extensive contacts over a period of time involving the former Minister or Parliamentary Secretary personally.



13. On receipt of an application in writing by a person who was a Minister or Parliamentary Secretary, the Jurisconsult may, in writing, waive or vary any prohibition contained in section 12 in relation to that person, on such terms and conditions as the Jurisconsult considers appropriate, where in the opinion of the Jurisconsult the public interest would be served by so doing, including the public interest in attracting capable and qualified individuals to public office.

## GOVERNMENT CONTRACTS

14. (1) No Member shall, knowingly and wilfully, directly or indirectly, be a party to a contract with the Government of Canada under which the public money of Canada is paid and under which the Member receives a benefit.
- (2) Subsection (1) does not apply to a Member solely on the ground that a party to a contract with the Government of Canada is a corporation or partnership in which the Member or the Member's family has a shareholding or interest, if
- (a) the shareholding or interest is 10% or less; or
  - (b) the Jurisconsult has certified that the shareholding or interest is insufficient to interfere with the Member's public duties; or
  - (c) the shareholding or interest has been placed in a trust that the Jurisconsult is satisfied will prevent the Member exercising any authority or control over the affairs of the corporation or partnership and will ensure the Member will not receive any payment derived directly from the contract.
- (3) Subsection (1) does not apply to
- (a) a contract that existed before the Member became a Member, or an extension of such a contract at any time according to its terms;
  - (b) a contract awarded by public tender under which no special preference or treatment was given because of the Member having an interest in it;
  - (c) a contract that, either alone or in combination with all contracts with the Government of Canada in the same calendar year, in which the Member or the Member's family has an interest, has a value of less than \$10,000;
  - (d) a contract for goods or services made in an emergency;
  - (e) a contract for goods or services provided in a case where no other person is qualified and available to provide the goods or services;
  - (f) the completion of a contract that devolves by descent, limitation or marriage, or as devisee, legatee, executor or administrator, where less than 12 months have elapsed after the devolution;



(g) a benefit received or transaction entered into

- (i) by a Member or the Member's family under the provisions of or pursuant to an Act of Parliament;
- (ii) under which the Member or the Member's family is entitled, upon fulfilling the conditions specified in or pursuant to the Act, to receive the benefit or enter into the transaction on terms in common with the general public or a defined class of the public to which the Member belongs; and
- (iii) where the benefit or transaction is not subject to the exercise of discretion by any person;
- (h) a contract under which the Member's family becomes an employee of or independent contractor for personal services to the Government of Canada;
- (i) the reimbursement of expenses incurred by the Member or the Member's family while on the business of the Government of Canada.

## OFFICE OF THE JURISCONSULT

15. (1) There shall be a Jurisconsult who is an officer of Parliament.

(2) The Jurisconsult shall be appointed by the Governor in Council on address by both Houses of Parliament following consultation by the Prime Minister with the Leader of the Official Opposition in the House of Commons and the Leader of the Opposition in the Senate, and the leader of each party having a recognized membership of twelve or more persons in the House of Commons.

(3) The address referred to in subsection (2) shall be based on a motion introduced in the House of Commons by the Prime Minister and seconded by the Leader of the Official Opposition.

(4) The Jurisconsult holds office during good behaviour for a term of 7 years, and may be reappointed for a further term or terms.

(5) The Jurisconsult may be removed at any time before the expiration of the term of office by the Governor in Council on address of the Senate and the House of Commons.

(6) Such officers and employees as are necessary for the proper conduct of the work of the Jurisconsult shall be appointed by the Jurisconsult, for such term and on such conditions as the Jurisconsult shall determine.

16. (1) The Jurisconsult shall be paid a salary to be fixed by the Governor in Council.

(2) The Jurisconsult is entitled to be paid such travel and living expenses incurred in the performance of duties and functions under this Act as are prescribed.



(3) All other terms and conditions of appointment of the Jurisconsult shall be fixed from time to time by order of the Governor in Council.

17. The Jurisconsult and every person employed by the Jurisconsult who is required to receive or obtain information relating to the personal interests and property of Members under this Act shall, with respect to access to and the use of that information, comply with any security requirements applicable to, and take any oath of secrecy required to be taken by, individuals who normally have access to and use of that information.

18. The office of the Jurisconsult shall be in the National Capital Region described in the schedule to the *National Capital Act*.

19. (1) The Jurisconsult shall report annually upon the affairs of the office of the Jurisconsult to the Speaker of the Senate and the Speaker of the House of Commons, who shall cause the report to be laid before each House.

(2) The Jurisconsult may from time to time issue summaries of advice given, where it is possible to summarize the advice without disclosing any information of a confidential nature or identifying the individual concerned.

(3) In each annual report made under this section, the Jurisconsult shall take every reasonable precaution to avoid revealing any information likely to identify a Member or a Member's family.

## DISCLOSURE OBLIGATIONS

20. (1) Every Member shall, within 60 days after notice of the Member's election is given in the *Canada Gazette* or after the Member is summoned or appointed, and thereafter annually, file with the Jurisconsult a statement containing the following information:

(a) a statement of the Member's private interests, including particulars of all interests of the Member in:

(i) any partnerships or corporation in which the Member and the Member's family together hold a 10% or more interest or 10% or more of the shares;

(ii) any partnerships or corporations controlled by a corporation in which the Member and the Member's family together hold 10% or more of the shares; and

(iii) any partnerships or corporations controlled by any partnership in which the Member and the Member's family together hold a 10% or more interest;

(b) a statement of any income received by and liabilities of:

(i) any corporation in which the Member and the Member's family together hold 10% or more of the shares;



- (ii) any partnership in which the Member and the Member's family together hold a 10% or more interest; and
  - (iii) any partnerships or corporations controlled by any of the foregoing;
- (c) a statement, to the best of the Member's knowledge, information and belief, of each private interest and each excluded private interest of the Member's family, including particulars of all interests of the Member's family in:
- (i) any partnership or corporation in which the Member's family holds a 10% or more interest or 10% or more of the shares;
  - (ii) any partnerships or corporations controlled by any corporation in which the Member's family holds 10% or more of the shares; and
  - (iii) any partnerships or corporations controlled by any partnership in which the Member's family holds a 10% or more interest;
- (d) the particulars referred to in paragraph (c) shall include a statement of any income received by and liabilities of:
- (i) the Member's family;
  - (ii) any corporation in which the Member's family holds 10% or more of the shares;
  - (iii) any partnership in which the Member's family holds a 10% or more interest; and
  - (iv) any partnerships or corporations controlled by any of the foregoing.
- (2) Any material change to information required to be disclosed to the Jurisconsult under this section, shall be reported to the Jurisconsult in writing by the Member not more than 60 days after the change occurs.
- (3) For purposes of subsection (2), "material change" does not include any change to an excluded private interest, so long as the excluded private interest continues to qualify as an excluded private interest after the change.
- (4) Each statement filed by a Member with the Jurisconsult pursuant to this section shall be maintained by the Jurisconsult on a confidential basis.
- (5) This section applies to a Minister or Parliamentary Secretary as if notice of that person's election had been given in the *Canada Gazette* on the day of appointment to that office.
21. (1) After reviewing the disclosure statement received from a Member, the Jurisconsult may require that the Member meet with the Jurisconsult to ensure that adequate disclosure has been made and to discuss the Member's obligations under this Act.



(2) The Jurisconsult shall prepare a public disclosure statement for each Member, which shall be submitted to the Member for review.

(3) The public disclosure statement shall identify each private interest other than an excluded private interest of the Member and the Member's family disclosed to the Jurisconsult by the Member, but shall not show the amount or the value of any private interest.

(4) An interest may be qualified in the public disclosure statement by the words "nominal", "significant" or "controlling" where in the opinion of the Jurisconsult it would be in the public interest to do so, and the Member agrees to include the qualification.

(5) The public disclosure statement of each Member shall then be placed on file at the Office of the Jurisconsult, and made available for public inspection during normal business hours.

22. (1) Upon reviewing the disclosure statement received from the Member, and after considering any information received during any meeting with the Member, the Jurisconsult shall advise the Member whether any steps need be taken to ensure that the Member's obligations under this Act are fulfilled.

(2) The Jurisconsult may make a recommendation to a Member that in order to fulfil the Member's obligations under this Act, the Member sell a private interest at arm's length, place the private interest in a trust on such terms and conditions as the Jurisconsult may specify, with or without such other arrangements to be made as will ensure that the Member's obligations under this Act are fulfilled.

(3) Where the Jurisconsult is satisfied on the basis of the disclosure statement and any subsequent steps taken by a Member, whether in response to advice received from the Jurisconsult or not, that the Member has fulfilled the Member's disclosure obligations, then if the Member so requests, the Jurisconsult shall so certify in writing to the Member, and the Member is entitled to rely on that certificate, for all purposes of this Act, according to its terms.

(4) A copy of any advice or certificate given pursuant to this section shall be given by the Jurisconsult to the Prime Minister, where the advice or certificate relates to a Member who is a Minister or Parliamentary Secretary, or relates to that Member's family.

(5) Subject to subsection (4), any advice or certificate given by the Jurisconsult to a Member pursuant to this section is confidential to the Member, and may be made public only by the Member or with the Member's written consent.

(6) Where it would not be contrary to the purposes of this Part, and would be consistent with the public interest, the Jurisconsult may designate a private interest of the Member or the Member's family to be an excluded private interest, either absolutely or on stated conditions.

23. (1) A Member may, by application in writing, request the Jurisconsult to give an opinion and recommendations on any matter respecting any obligation of the Member under this Act.



(2) The opinion and recommendations of the Jurisconsult are confidential to the Member, and may be made public only by the Member or with the Member's written consent.

24. In the consideration of any matter under this Part, an opinion given by the Jurisconsult to a Member is binding on the Jurisconsult in relation to any subsequent consideration of the facts on which the opinion is based, in relation to that Member.

25. For greater certainty, it is not a breach of any obligation under this Act, and no obligation to disclose under any section of this Act arises, by reason only that

(a) an association or organization of the members of a registered party within an electoral district, within the meaning of those terms for the purposes of the *Canada Elections Act*, provides any benefit to or for the benefit of a Member who represents that electoral district, related to the conduct of the Member's responsibilities as such; or

(b) a registered party, within the meaning of the *Canada Elections Act*, provides any benefit to or for the benefit of a Member who is the leader of that party, related to the conduct of the Member's responsibilities as such.

26. (1) As soon as is reasonably practicable after a Member ceases to be a Member, the Jurisconsult shall destroy all documents in the possession of the Jurisconsult that relate to the Member or the Member's family, unless there is an inquiry current under this Act or a charge has been laid against the Member or the Member's family under the *Criminal Code* to which the documents relate or may relate.

(2) Subsection (1) does not apply to a Member who has been a Minister or a Parliamentary Secretary.

## CONDUCT OF INQUIRIES AND SANCTIONS

27. (1) The Jurisconsult may conduct an inquiry to determine whether a Member has failed to fulfil any obligation under this Part, if the Jurisconsult deems it to be in the public interest:

(a) upon receipt of a request in writing for such an inquiry from a Member who has reasonable and probable grounds to believe that another Member has failed to fulfil any obligation under this Act, which request shall identify the unfulfilled obligation and set out the reasonable and probable grounds to believe the Member has failed to fulfil that obligation; or

(b) on the Jurisconsult's own initiative, where in the opinion of the Jurisconsult it is in the public interest to do so.

(2) The Jurisconsult shall conduct an inquiry to determine whether a Member has failed to fulfil any obligations under this Act, upon receipt of a request in writing for such an inquiry from:



- (a) either House of Parliament, by way of resolution, concerning a Member of that House; or
  - (b) the Prime Minister, concerning a Minister or Parliamentary Secretary.
- (3) Forthwith upon receipt of a request for an inquiry pursuant to this section, or prior to conducting an inquiry pursuant to paragraph (1)(b), the Jurisconsult shall give notice thereof, including a copy of the request, to the Member to whom the inquiry relates and, at all appropriate stages throughout its consideration thereof, the Jurisconsult shall give the Member reasonable opportunity to be present and to make representations to the Jurisconsult in writing or in person or by counsel or other representative.
- (4) Where the Jurisconsult is of the opinion that effective consideration of any matter under this section requires the exercise of powers provided for in Part I of the *Inquiries Act*, he or she shall in writing so advise the Member affected and any person or body that requested the inquiry under this section, and on the expiration of 10 days after the giving of that notice, the Jurisconsult has, in respect of the matter, all the powers of a commissioner under Part I of the *Inquiries Act*.
- (5) Where the Jurisconsult determines that the subject-matter of any inquiry conducted by it is under investigation by police or is the subject-matter of criminal proceedings, the Jurisconsult shall hold the inquiry in abeyance pending final disposition of that investigation or those proceedings.
- (6) Where during the course of an inquiry the Jurisconsult determines that there are reasonable grounds to believe that an offence against an Act of Parliament has been committed, the Jurisconsult shall forthwith refer the matter to the appropriate authorities and hold the inquiry in abeyance pending final disposition of any resulting investigation and proceedings.
- (7) No report concluding that a Member has failed without reasonable justification to fulfil an obligation under this Part shall be made until reasonable notice has been given to the Member of the alleged failure and the Member has been allowed full opportunity to be heard in person or by counsel or other representative.
28. Where the Jurisconsult conducts an inquiry pursuant to section 27, the Jurisconsult shall report the results as soon as possible, and in any event no later than 90 days from the date the Jurisconsult commenced the inquiry:
- (a) in all cases, to the Member concerned; and
  - (b) to the Speaker of the House of Parliament in which the Member concerned sits, and to the leader of the political party, if any, with which the Member is affiliated; and
  - (c) where the request for the inquiry was received pursuant to paragraph 27(2)(b), to the Prime Minister.
29. Where the Jurisconsult has determined that the Member has failed to fulfil an obligation under this Part, then the Jurisconsult may recommend, in the report under section 28,



- (a) that the Member be reprimanded;
  - (b) that the Member make restitution or pay compensation;
  - (c) that the Member be suspended from the House, with or without pay, for a period specified in the report; or
  - (d) in the case of a Member of the House of Commons, that the Member's seat be declared vacant, and in the case of a Member of the Senate, that the Member be disqualified from holding a seat in the Senate.
30. (1) Upon receipt of a report from the Jurisconsult under paragraph 29, the Speaker shall table the report in the House of Commons or the Senate, as the case may be.
- (2) No recommendation in a report of the Jurisconsult made pursuant to section 29 shall take effect unless the report is concurred in by resolution of the House in which the Member sits.
- (3) A report to the Senate or the House of Commons pursuant to subsection (1) shall be taken up, considered and disposed of in accordance with the rules of the appropriate House within fifteen sitting days after the day on which it is made or such greater number of days as is fixed by order of the House.
- (4) If, on the expiration of the fifteen-day period provided in subsection (3) or such longer period as is fixed by order of the appropriate House, a report referred to in that subsection has not been disposed of, the Speaker of the appropriate House shall forthwith put, without further debate or amendment, every question necessary for the disposal of the report.
31. Where a report to the Senate or to the House of Commons pursuant to section 30 is adopted, any compensation recommended in the report is a debt due to the person identified in the report as having suffered damage and may be recovered as such from the Member to whom the report relates by that person in any court of competent civil jurisdiction in Canada.
32. (1) Where, after considering any matter under section 27, the Jurisconsult concludes that, having regard to all the circumstances, there was no failure without reasonable justification in the Member's fulfilment of an obligation under this Part, then the Jurisconsult shall, without providing further information, so certify to the Member in writing and shall give a copy of the certificate
- (a) to the Prime Minister, where the Member is a Minister or Parliamentary Secretary, and
  - (b) to the Speaker of the House of Parliament in which the Member concerned sits, and to the leader of the political party, if any, with which the Member is affiliated.
- (2) Where the Jurisconsult gives a copy of a certificate to a Member pursuant to this section, the Jurisconsult shall, on the request of the Member, provide the Member with such information and explanations in support of the conclusion referred to in subsection



(1) as the Jurisconsult considers appropriate in the circumstances, and the Member may publish or otherwise deal with information and explanations so provided as the Member sees fit.

## REVIEW

33. The administration of this Part shall be reviewed on a permanent basis by such committee of the Senate and such committee of the House of Commons, or such joint committee of both Houses, as is designated for the purposes of section 34.

## REGULATIONS

34. (1) Subject to subsection (2), the Jurisconsult may, with the approval of the Governor in Council, make regulations
- (a) prescribing anything that is, by virtue of any provision of this Act, to be prescribed;
  - (b) prescribing any classes of interests to be excluded private interests within section 2;
  - (c) prescribing criteria for determining in any case or class of cases what will constitute material change for purposes of subsection 20(2); and
  - (d) generally for carrying out the purposes and provisions of this Part.
- (2) Before making any regulation under this section, the Jurisconsult shall submit a draft thereof to such committee of the Senate and such committee of the House of Commons or such joint committee of both Houses, as is designated by order of the appropriate House or, in the case of a joint committee, by order of both Houses, for the purposes of this section, and shall obtain the approval of those committees or that joint committee of the draft.

## MISCELLANEOUS

35. (1) Where any provision of this Part requires anything to be done or to be caused to be done by a Member forthwith or within a specified period of time, the Jurisconsult may, on request in writing by a Member, extend the time so provided as it applies to that Member in any particular case by such additional number of days as the Jurisconsult considers to be reasonable and not inconsistent with the public interest.
- (2) Notice of an extension of time under this section shall be given in writing to the Member who requested the extension.
36. Failure to comply with any provision of this Part does not constitute an offence punishable on summary conviction or on indictment under the *Criminal Code*.



37. For greater certainty, information disclosed or caused to be disclosed by a Member or the Member's family to the Jurisconsult pursuant to this Part or any regulations made hereunder or in the course of the administration of this Part is personal information within the meaning of section 3 of the *Privacy Act* and shall not be disclosed pursuant to the *Access to Information Act* or otherwise than in accordance with this Act or the *Privacy Act*.

38. (1) No action lies against the Jurisconsult in respect of any advice, certificate, opinion or report made by the Jurisconsult within the authority given the Jurisconsult under this Part.

(2) Neither the Jurisconsult nor any officer or employee of the office of the Jurisconsult is a competent or compellable witness in any proceeding outside of Parliament arising out of or in relation to any advice, certificate, opinion, or report made by the Jurisconsult, except in relation to a question whether the Jurisconsult acted within the authority given the Jurisconsult under this Part.

39. This Part shall come into force on a day to be fixed by order of the Governor in Council and thereupon applies to each Member then holding office as if notice of the Member's election had been given in the *Canada Gazette* or the Member had been summoned or appointed on that day.

32. (1) Where, after considering any matter under section 27, the Jurisconsult considers that, having regard to all the circumstances, there was no failure without reasonable justification in the Member's conduct in relation to an investigation under this Part, then the Jurisconsult shall, without prejudice to any other law, certify to the Member that the Member's conduct was not in violation of the law.

(2) Where any provision of this Part requires anything to be done or to be done by a Member forthwith or within a specified period of time, the Jurisconsult may, at the request of the Member, extend the time so specified as it applies to that Member in any particular case by such additional number of days as the Jurisconsult considers to be reasonable and not inconsistent with the public interest.

(3) Where the Jurisconsult extends the time so specified, the Jurisconsult shall, at the request of the Member who requested the extension, certify to the Member that the extension was granted and the date to which the time was extended.

(4) Where the Jurisconsult extends the time so specified, the Jurisconsult shall, at the request of the Member who requested the extension, certify to the Member that the extension was granted and the date to which the time was extended.



# Appendix B

## List of witnesses

| Name / Organization   | Issue | Date              |
|---|-------|-------------------|
| <b>British Columbia Commission on<br/>Conflict of Interest</b><br>Ted Hughes, Q.C.<br>Commissioner  | 13    | April 28, 1992    |
| <b>Clegg Michael</b><br>Barrister and Solicitor   | 14    | May 5, 1992       |
| <b>Delisle Normand</b><br>Quebec City Correspondent<br>The Canadian Press   | 11    | April 2, 1992     |
| <b>Department of Justice</b><br>Bruce MacFarlane, Q.C.<br>Assistant Deputy Attorney-General<br>Richard Mosley, Q.C.<br>Senior General Counsel, Criminal<br>and Family Law Policy Sector | 14    | May 5, 1992       |
| <b>Department of Political Science,<br/>McMaster University</b><br>Michael Atkinson<br>Chair  | 6     | February 27, 1992 |
| <b>Department of Political Studies,<br/>University of Guelph</b><br>Maureen Mancuso<br>Professor  | 6     | February 27, 1992 |
| <b>House of Commons, Office of the<br/>Law Clerk and Parliamentary Counsel</b><br>Diane Davidson<br>General Legal Counsel   | 9     | March 24, 1992    |
| <b>Institute for Political Involvement</b><br>Barnett J. Danson<br>Chairman<br>Sara Clodman<br>Director   | 8     | March 19, 1992    |



| Name / Organization  | Issue | Date              |
|--|-------|-------------------|
| <b>Legislative Assembly of Ontario</b><br>Greg Sorbara<br>M.L.A.<br>Noblé Villeneuve<br>M.L.A.<br>David Winninger<br>M.L.A.            | 15    | May 5, 1992       |
| <b>Martin Paul</b><br>M.P.   | 12    | April 9, 1992     |
| <b>Mayrand Albert, (Maître)</b><br>Jurisconsult  | 5     | February 25, 1992 |
| <b>National Assembly of Quebec</b><br>Marcel Parent<br>Member, National Assembly   | 11    | April 2, 1992     |
| <b>Nelligan Powers</b><br>John Nelligan<br>Barrister and Solicitor   | 9     | March 24, 1992    |
| <b>Nova Scotia Commission on<br/>           Conflict of Interest</b><br>Alexander MacIntosh, Q.C.<br>Commissioner                      | 13    | April 28, 1992    |
| <b>Office of the Assistant Deputy<br/>           Registrar General of Canada</b><br>Georges Tsai<br>Assistant Deputy Registrar General | 2     | February 13, 1992 |
| <b>Office of the Chief Electoral Officer</b><br>Jean-Pierre Kingsley<br>Chief Electoral Officer  | 10    | March 26, 1992    |
| <b>Ontario Commission on<br/>           Conflict of Interest</b><br>The Hon. Gregory T. Evans<br>Commissioner                          | 7     | March 17, 1992    |
| <b>Parker William D., (The Honourable)</b>   | 3     | February 18, 1992 |
| <b>Parliamentary Spouses' Association<br/>           (First Appearance)</b><br>Sue Evans<br>Member<br>Monica Berger<br>Member          | 4     | February 20, 1992 |



| Name / Organization   | Issue | Date              |
|---|-------|-------------------|
| <b>Parliamentary Spouses' Association</b><br>(Second Appearance)<br>Sue Evans<br>Member<br>Monica Berger<br>Member<br>Nicole Bosley<br>Member             | 16    | May 7, 1992       |
| <b>Peterson David, (The Honourable)</b>   | 15    | May 5, 1992       |
| <b>Privy Council Office</b><br>Ward Elcock<br>Deputy Clerk<br>Security and Intelligence, and Counsel  | 5     | February 25, 1992 |
| <b>Séguin Rhéal</b><br>Quebec City Correspondent<br>The Globe and Mail  | 11    | April 2, 1992     |
| <b>Senate (The), Office of the Law Clerk and<br/>           Parliamentary Counsel</b><br>Mark Audcent<br>Assistant Law Clerk and<br>Parliamentary Counsel | 9     | March 24, 1992    |
| <b>Sharp Mitchell</b><br>Policy Associate,<br>Strategico Inc.   | 1     | February 11, 1992 |
| <b>Stark Andrew</b><br>Harvard University   | 8     | March 19, 1992    |







A copy of the relevant Minutes of Proceedings and Evidence of the Special Joint Committee on Conflict of Interests (*Issues Nos. 1 to 16, and Issue No. 17, which includes this Report*) is tabled.

## Minutes of Proceedings

Respectfully submitted,

TUESDAY, MARCH 31, 1992

(14)

SENATOR RICHARD J. STANBURY

DON BLENKARN, M.P.

### JOINT CHAIRMEN

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators James Balfour, Normand Grimard, James R. Kelleher, Donald H. Olfar, H.A. Olson and Richard J. Stanbury.

*Representing the House of Commons:* Bud Bird, David Bjornson, Don Blenkarn, Don Boudria, Patrick Boyer, Michael Dreaugh, Catherine Callbeck, Michel Champagne, Robert Layton, John Nunziata, Marcel Frud'homme, Jean-Marie Robitaille and John Rodriguez.

*In attendance:* From the Research Branch of the Library of Parliament: Margaret Young and Grant Purves, Research Officers. From the Parliamentary Centre for Foreign Affairs and Foreign Trade: Peter Dobell, Executive Director; Barbara Kageran, Consultant. From the Committee's Staff: Michael Clegg, Lawyer. From the Senate: Marie-Louise Paradis, Joint Clerk.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (See *Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No. 1*).

The Committee proceeded to the consideration of guidelines for a Draft Report.

At 10:35 o'clock a.m., the sitting was suspended.

At 10:53 o'clock a.m., the sitting resumed.

The Committee resumed consideration of guidelines for a Draft Report.

At 12:20 o'clock p.m., the sitting was suspended.

At 1:21 o'clock p.m., the sitting resumed.







# Appendix C

## Minutes of Proceedings

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TUESDAY, MARCH 31, 1992

(14)

[Text]

The Special Joint Committee on Conflict of Interests met *in camera* at 9:09 o'clock a.m. this day, at Willson House (Meech Lake), the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn, presiding.

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators James Balfour; Normand Grimard, James F. Kelleher; Donald H. Oliver; H.A. Olson and Richard J. Stanbury.

*Representing the House of Commons:* Bud Bird; David Bjornson; Don Blenkarn; Don Boudria; Patrick Boyer; Michael Breaugh; Catherine Callbeck; Michel Champagne; Robert Layton; John Nunziata; Marcel Prud'homme; Jean-Marc Robitaille and John Rodriguez.

*In attendance:* From the Research Branch of the Library of Parliament: Margaret Young and Grant Purves, Research Officers. From the Parliamentary Centre for Foreign Affairs and Foreign Trade: Peter Dobell, Executive Director; Barbara Kagedan, Consultant. From the Committee's Staff: Michael Clegg, Lawyer. From the Senate: Marie-Louise Paradis, Joint Clerk.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (See *Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No. 1*).

The Committee proceeded to the consideration of guidelines for a Draft Report.

At 10:35 o'clock a.m., the sitting was suspended.

At 10:53 o'clock a.m., the sitting resumed.

The Committee resumed consideration of guidelines for a Draft Report.

At 12:20 o'clock p.m., the sitting was suspended.

At 1:21 o'clock p.m., the sitting resumed.



By unanimous consent, the Committee proceeded to the consideration of its future business.

At 2:07 o'clock p.m., the Committee resumed consideration of guidelines for a Draft Report.

At 4:38 o'clock p.m., the Committee adjourned to the call of the Chair.

MONDAY, MAY 11, 1992

(21)

The Special Joint Committee on Conflict of Interests met *in camera* at 10:26 o'clock a.m. this day, at Willson House (Meech Lake), the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn, presiding.

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators Normand Grimard; Donald H. Oliver; H.A. Olson and Richard J. Stanbury.

*Representing the House of Commons:* Bud Bird; Don Blenkarn; Don Boudria; Patrick Boyer; Michel Champagne; Robert Layton and Marcel Prud'homme.

*In attendance: From the Research Branch of the Library of Parliament:* Margaret Young and Grant Purves, Research Officers. *From the Parliamentary Centre for Foreign Affairs and Foreign Trade:* Barbara Kagedan, Consultant. *From the Committee's Staff:* Michael Clegg, Lawyer. *From the Senate:* Marie-Louise Paradis, Joint Clerk.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (*See Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No. 1*).

The Committee proceeded to the consideration of guidelines for the Draft Report to the Senate and to the House of Commons.

At 12:34 o'clock p.m., the sitting was suspended.

At 1:32 o'clock p.m., the sitting resumed.

The Committee resumed consideration of guidelines for the Draft Report to the Senate and to the House of Commons.

At 4:55 o'clock p.m., the Committee adjourned to the call of the Chair.

TUESDAY, MAY 12, 1992

(22)

The Special Joint Committee on Conflict of Interests met *in camera* at 9:53 o'clock a.m. this day, at Willson House (Meech Lake), the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn, presiding.



*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators Pierre De Bané and Richard J. Stanbury.

*Representing the House of Commons:* Bud Bird; Don Blenkarn; Don Boudria; Michael Breagh; Catherine Callbeck; Michel Champagne; Robert Layton and Marcel Prud'homme.

*In attendance: From the Research Branch of the Library of Parliament:* Margaret Young and Grant Purves, Research Officers. *From the Parliamentary Centre for Foreign Affairs and Foreign Trade:* Barbara Kagedan, Consultant. *From the Committee's Staff:* Michael Clegg, Lawyer. *From the Senate:* John Desmarais, Acting Joint Clerk and Marie-Louise Paradis, Joint Clerk of the Committee.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (*See Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No.1*).

By consent of Members present, the Committee resumed consideration of guidelines for the Draft Report to the Senate and to the House of Commons.

At 12:36 o'clock p.m., the sitting was suspended.

At 1:38 o'clock p.m., the sitting resumed.

By consent of Members present, the Committee resumed consideration of guidelines for the Draft Report to the Senate and to the House of Commons.

At 2:45 o'clock p.m., the Committee adjourned to the call of the Chair.

Marie Carrière  
Joint Clerk of the Committee

TUESDAY, JUNE 2, 1992  
(23)

The Special Joint Committee on Conflict of Interests met *in camera* at 9:48 o'clock a.m. this day, in Room 371, West Block, the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn presiding.

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators Pierre De Bané; Normand Grimard; James F. Kelleher; Donald H. Oliver; H.A. Olson and Richard J. Stanbury.



*Representing the House of Commons:* Bud Bird; David Bjornson; Don Blenkarn; Don Boudria; Patrick Boyer; Michael Breough; Catherine Callbeck; Clément Couture; Robert Layton; Marcel Prud'homme and John Rodriguez.

*Other Member present:* Leonard Gustafson.

*In attendance: From the Research Branch of the Library of Parliament:* Margaret Young and Grant Purves, Research Officers. *From the Parliamentary Centre for Foreign Affairs and Foreign Trade:* Barbara Kagedan, Consultant. *From the Committee's Staff:* Michael Clegg, Lawyer. *From the Senate:* Tonu Onu, Acting Joint Clerk of the Committee and Marie-Louise Paradis, Joint Clerk of the Committee.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (*See Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No.1*).

The Committee proceeded to the consideration of its future business.

At 9:50 o'clock a.m. the Committee proceeded to the consideration of the Draft Report to the Senate and to the House of Commons.

At 11:51 o'clock a.m., the Committee adjourned to the call of the Chair.

TUESDAY, JUNE 2, 1992  
(24)

The Special Joint Committee on Conflict of Interests met *in camera* at 3:41 o'clock p.m. this day, in Room 371, West Block, the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn presiding.

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators Normand Grimard; James F. Kelleher; Donald H. Oliver and Richard J. Stanbury.

*Representing the House of Commons:* Bud Bird; David Bjornson; Don Blenkarn; Don Boudria; Michel Champagne; Clément Couture; Robert Layton; John Nunziata; Marcel Prud'homme and John Rodriguez.

*In attendance: From the Research Branch of the Library of Parliament:* Margaret Young and Grant Purves, Research Officers. *From the Parliamentary Centre for Foreign Affairs and Foreign Trade:* Barbara Kagedan, Consultant. *From the Committee's Staff:* Michael Clegg, Lawyer. *From the Senate:* Marie-Louise Paradis, Joint Clerk of the Committee.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of



Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (*See Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No.1*).

The Committee resumed consideration of the Draft Report to the Senate and to the House of Commons.

At 5:47 o'clock p.m., the Committee adjourned to the call of the Chair.

THURSDAY, JUNE 4, 1992

(25)

The Special Joint Committee on Conflict of Interests met *in camera* at 9:48 o'clock a.m. this day, in Room 237-C, Centre Block, the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn presiding.

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators James F. Kelleher; Donald H. Oliver; H.A. Olson and Richard J. Stanbury.

*Representing the House of Commons:* Don Blenkarn; Don Boudria; Michael Breagh; Catherine Callbeck; Clément Couture; Doug Fee; Robert Layton; Ricardo Lopez; John Nunziata and Marcel Prud'homme.

*In attendance: From the Research Branch of the Library of Parliament:* Margaret Young and Grant Purves, Research Officers. *From the Parliamentary Centre for Foreign Affairs and Foreign Trade:* Barbara Kagedan, Consultant. *From the Committee's Staff:* Michael Clegg, Lawyer. *From the Senate:* Marie-Louise Paradis, Joint Clerk.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (*See Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No.1*).

The Committee resumed consideration of the Draft Report to the Senate and to the House of Commons.

At 11:52 o'clock a.m., the Committee adjourned to the call of the Chair.

TUESDAY, JUNE 9, 1992

(26)

The Special Joint Committee on Conflict of Interests met *in camera* at 3:21 o'clock p.m. this day, in Room 371, West Block, the Joint Chairmen, the Honourable Senator Richard J. Stanbury and Don Blenkarn presiding.

*Members of the Committee present:*

*Representing the Senate:* The Honourable Senators Pierre De Bané; Normand Grimard; James F. Kelleher; Donald H. Oliver and Richard J. Stanbury.



*Representing the House of Commons:* Bud Bird; David Bjornson; Don Blenkarn; Don Boudria; Michael Breough; Catherine Callbeck; Michel Champagne; Robert Layton; John Nunziata; Marcel Prud'homme and John Rodriguez.

*Other Member present:* Clément Couture.

*In attendance: From the Research Branch of the Library of Parliament:* Grant Purves, Research Officer. *From the Parliamentary Centre for Foreign Affairs and Foreign Trade:* Peter Dobell, Executive Director and Barbara Kagedan, Consultant. *From the Committee's Staff:* Michael Clegg, Lawyer. *From the Senate:* Marie-Louise Paradis, Joint Clerk.

In accordance with its mandate, the Committee resumed consideration of the subject-matter of Bill C-43, An Act to provide for greater certainty in the reconciliation of the personal interests and duties of office of Members of the Senate and of the House of Commons, to establish a Conflict of Interests Commission and to make consequential amendments to other Acts. (*See Minutes of Proceedings and Evidence, Thursday, December 12, 1991, Issue No.1*).

The Committee resumed consideration of the Draft Report.

On motion of John Rodriguez, it was agreed,—That, the Draft Report be adopted, as amended, as the Report to the Senate and to the House of Commons.

It was agreed,—That, the Co-Chairman representing the Senate table the Report in the Senate.

It was agreed,—That, the Co-Chairman representing the House of Commons table the Report in the House of Commons.

It was agreed,—That, the Co-Chairmen, through the Joint Clerks, be authorized to make such typographical and editorial changes as may be necessary without changing the substance of the Report.

It was agreed,—That, the Committee print 2000 copies of its Report in tumble format, with a special cover.

It was agreed,—That a Press Conference be held after the tabling of the Report.

At 4:52 o'clock p.m., the Committee adjourned to the call of the Chair.

Marie Carrière  
*Joint Clerk of the Committee*

Diane Diotte  
*Committee Clerk*