Part Five

Conclusions and Recommendations

This part contains my final observations and conclusions. I first describe the inquiry process, the procedures that were employed, and the roles and responsibilities of Commission counsel. I then summarize my conclusions about the conflict of interest allegations as they concerned Mr. Stevens. In the final chapter, I provide some observations on the lessons that were learned in this Inquiry and I set out my recommendations for reform.

Chapter 25

The Inquiry Process

The Commission began its work in May 1986. One of my first tasks was to retain as Commission counsel, David W. Scott, Q.C., and as associate Commission counsel, Edward Belobaba and Marlys Edwardh. Thereafter, Peat Marwick Lindquist Holmes was engaged as forensic accountant, and Detective Inspector Douglas Ormsby of the Ontario Provincial Police was seconded to the Commission to assist as an investigator. Subsequently, a research staff of three lawyers and three law students was brought together, primarily to assist in the examination and selection of relevant documents.

Commission counsel began their investigation by interviewing many individuals, collecting and examining thousands of documents, identifying a list of witnesses, and preparing for their ultimate examinations during the hearing phase. During this phase, my subpoena powers were used extensively to compel the production of documents and subsequently the attendance of witnesses. The investigation also continued during the hearings as further information was uncovered or individuals made themselves available for interviewing.

On June 9, 1986, I caused a notice to be published nationwide in various newspapers announcing that hearings were to be convened on June 16, 1986, for the purpose of considering which individuals, firms, corporations, or other bodies ought to be accorded standing to participate in public hearings; and of receiving any submissions that interested parties might wish to make with respect to the procedures to be adopted.

On the first day of the hearings, June 16, 1986, standing was granted to eight parties; subsequently, when the hearings resumed on July 14, 1986, four others were granted standing. Thereafter, the Commission sat for a total of 83 days of hearings and received the testimony of 93 witnesses. During the hearings, 232 public exhibits were filed. These exhibits were composed of almost 25,000 pages of documents. The transcripts cover some 14,788 pages of text. The proceedings, almost all of which were open to the public, were, with my permission, also broadcast on cable television. The hearings phase of the Commission ended on February 20, 1987, after I had received extensive written submissions and heard oral argument from those who wished to make it.

It was apparent from the start that the allegations of misconduct were of a serious nature, affecting not only Mr. Stevens but others in the community as well. Therefore, the following steps were taken to ensure procedural fairness:

- On each issue raised there was full and timely disclosure of evidence to the affected parties.
- Any party wishing to call a witness either had a subpoena made available to compel the attendance of the witness or Commission counsel interviewed the witness and called him or her to give evidence before the Commission.
- Almost without exception, documents about which a witness was to be questioned were available in advance to that witness as well as to other interested parties.
- On occasion, an adjournment was sought to permit counsel for a party an opportunity to inspect documents further or to permit more time for preparation. Such adjournments were always granted.
- Each witness was made available for full and sometimes far-reaching cross-examination by any of the interested parties.
- Almost all witnesses who gave evidence before me were represented by counsel, and these counsel were given the right to make objections and to ask questions of their clients.

Finally, in reviewing the evidence placed before the Commission, weighing and considering it in relation to the issues, I have borne in mind my obligation to make findings only when there has been a fair and reasonable preponderance of credible evidence.

Although I felt it essential to ensure that procedural fairness was observed, I also recognized that a commission of inquiry is neither a civil nor a criminal trial. Rather, it is a proceeding that is investigatory in nature. A commission of inquiry may investigate matters ranging from broad social and economic questions, such as those raised in the Mackenzie Valley Pipeline Inquiry, to more narrowly circumscribed allegations of misconduct regarding a specific individual. In either case, the hearings are the most important vehicle for conducting the investigation, as it is through this process that most of the evidence is gathered. This investigatory function can produce tension between traditional notions of due process for persons whose conduct is being investigated and the inquiry process itself, which, unlike a trial, does not commence with a discovery process whereby parties to an action have full disclosure of their opponents' case prior to trial. As a result, a commission of inquiry proceeds before the evidence is marshalled, before the issues are clearly delineated, and even before the course of the inquiry has been clearly charted.

Further, the absence of legal consequences — there are no civil or criminal penalties attached to the findings I make or the conclusions set

out in the report — underscores the investigatory function of a commission of inquiry. Even though I have found that Mr. Stevens was in a position of conflict of interest, such a finding is a matter to be dealt with by the prime minister, who is ultimately responsible for the code of conduct governing his ministers. A true understanding of the inquiry process therefore must reflect the need to balance considerations of due process with the investigation required of an inquiry.

This tension raises the question of the proper role of Commission counsel in such proceedings. I am satisfied that his or her task is to ensure that all the evidence, all the issues, and all possible theories are brought forward to the Commission. In this context, counsel's obligation is most often described as the duty to be impartial.

During the course of this Inquiry, some parties accused Commission counsel of being too adversarial. In particular, counsel for Mr. and Mrs. Stevens as well as counsel for Miss Walker made this accusation. Their complaint lay with the manner in which certain cross-examinations were conducted as well as Commission counsel's submission that certain inferences, adverse to their clients, should be drawn from the evidence. In assessing this criticism, it is significant that no one complained that all evidence for or against Mr. Stevens was not called by Commission counsel. There can be no suggestion that the selection of witnesses was not impartial in this regard. Further, all documents gathered together and presented by Commission counsel were made available to the parties, whose only complaint about the documentation was that it was too voluminous and comprehensive.

In light of the foregoing, the assertion that Commission counsel was too adversarial must be examined with care. In this Inquiry, although numerous parties were granted standing, no one appeared who was adverse in interest to Mr. Stevens. In these circumstances there was no one to ask the "hard questions" in a probing and thoughtful manner unless this task was undertaken by Commission counsel. This situation was similar to the one faced by Mr. Justice Samuel Freedman in the Commission of Inquiry in the Matter of Wilson D. Parasiuk. In his report, Justice Freedman comments:

> Our litigation is conducted on the basis of the adversary system, the plaintiff and his counsel presenting one point of view, the defendant and his counsel presenting the other. That system has not escaped criticism, some of it valid, but as of today it continues to be the system which we employ. At the base of it is the right of cross-examination. That right is an essential instrument for the discovery of truth. What a witness may say under the friendly blandishments of counsel upholding his cause may be radically altered under the stern questioning of opposing counsel. Indeed, even if the same answers are given by the witness the manner in which they are given may be changed, to a degree causing the tribunal to lose confidence in the testimony of the witness. More than that. Sometimes the absence of cross-examination will result in important questions not being put to the witness. Their absence from the case may materially affect the result, often bringing about a miscarriage of justice.

> In the proceedings of this Commission the phenomenon of a one-sided presentation became early discernible. The witnesses and their counsel all seemed to be on the same side, the side of Parasiuk. . . . Our Commission of Inquiry confronted the danger of virtually only one side being heard.
>
> In that setting Mr. Raymond Flett, counsel of the Commission, determined to do what he could to plug the gap, at least in part. When Mr. Parasiuk took the witness stand Mr. Flett assumed the role of opposing counsel and subjected Parasiuk to a cross-examination that was vigorous, searching and intelligent. Mr. Parasiuk may have been taken by surprise by the turn of events, but the Commission is pleased to assert that he responded to the challenge with dignity and wisdom, and as one guided by the white light of truth.
>
> At the time of this event the Commission stated that Mr. Flett's course of conduct was in the best traditions of the Bar. The Commission repeats that assertion now, adding that regardless of the outcome all connected with the Inquiry must be happier that the other side was heard and not ignored. (pp. 9–10)

It was for this same purpose that Commission counsel in this Inquiry took on what appeared to some to be an adversarial posture. Such a posture was not a shedding of the duty of impartiality but, to the contrary, an essential aspect of that duty. It ensured full cross-examination of witnesses in circumstances where no other party had any interest in testing and challenging the evidence offered.

Commission counsel also properly discharged their duty in relation to their submissions. When all parties urged an interpretation of the evidence that advanced their clients' cause, it was Commission counsel's duty to point out to the Commission that other inferences could be drawn from the evidence and that these must be weighed and considered by me in the course of my deliberations. Further, on those occasions that Commission counsel urged that only one inference could be drawn from the evidence, they did so on the basis that in their view a preponderance of credible evidence left only one inference available to me.

Thus, Commission counsel's duty of impartiality is not inconsistent with taking an adversarial position when such a position is essential to ensuring that the Commission will arrive at the true facts. In this regard, I adopt the views of Mr. Justice J.H. Laycraft in the inquiry into Royal American Shows Inc. and Its Activities in Alberta, who in his report likened the duties of Commission counsel to those of a prosecutor in a criminal trial:

> In this investigatory process, the function of Commission Counsel is not to act as advocate for any particular person or party or to contend for or against any point of view. Counsel's duty is to place before the Commission all of the evidence available without regard to whom it favours, and to see that all persons affected are treated equally. He assists not only the Commission but all parties appearing before it to see that their rights are observed and that the evidence is

fairly adduced. After consideration of the general issues before the Inquiry as they were then understood to be, I considered that the duties of Commission Counsel are not consistent [sic] with those of a prosecutor and, in fact, are virtually identical.

The role of a Crown Prosecutor in England and in Canada is not to struggle at all events for conviction. His duty is as an officer of the court to ensure that all evidence, both favourable and unfavourable to the accused, is put before the court. This has been repeatedly stated in courts here and abroad.

In the Supreme Court of Canada in *Boucher* v. *The Queen* 1955 S.C.R. 16, . . . Rand, J. said at Page 23:

> "It cannot be over-emphasized that the purpose of a criminal prosecution is not to obtain a conviction, it is to lay before a jury what the Crown considers to be credible evidence relevant to what is alleged to be a crime. Counsel have a duty to see that all available legal proof of the facts is presented: it should be done firmly and pressed to its legitimate strength but it must also be done fairly. The role of prosecutor excludes any notion of winning or losing; his function is a matter of public duty than which in civil life there can be none charged with greater personal responsibility. It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings."

In my view, this definition of the role of the Crown Prosecutor is also an apt description of the duty of Commission Counsel in an Inquiry such as this one. (pp. A 15–17)

In considering the discharge of Commission counsel's duty in this Inquiry, I am satisfied that Commission counsel conducted themselves, at all times, in the best traditions of the Bar and in accordance with their obligation to leave no stone unturned in the pursuit of truth.

Chapter 26

Conclusions about Mr. Stevens' Conflict of Interest

This chapter summarizes my principal conclusions under each of the five broad categories of allegations that were reviewed above. Before turning to these conclusions, however, I shall deal briefly with certain allegations of conflict of interest that were not pursued in this Inquiry.

Allegations Not Pursued in this Inquiry

The first allegation related to Mr. Stevens' conduct between March 26 and May 12, 1986, that is, in the period between the first major news story and the date of his resignation from the cabinet. It was alleged by certain members of Parliament that any dealings that Mr. Stevens had as minister involving Magna, Burns Fry, Dominion Securities, Gordon Capital, or Hyundai following the news reports of March 26, 1986 (about Hyundai) and of April 29, 1986 (about the others), and his then clear knowledge of the $2.62 million loan and the York Centre search for financing, would be conflicts of interest and would remain so until the date of the minister's resignation. This category of allegations can be disposed of quite briefly. Regarding Hyundai, I have found in this report that Mr. Stevens was not in a conflict of interest in his dealings thereto. I also note that in any event Mr. Stevens had no further dealings with Hyundai following the March 26 news story. Thus there could have been no subsequent occasions for conflict of interest. As for the Magna and Bay Street allegations, I have already found that Mr. Stevens had knowledge of the $2.62 million loan and York Centre's involvement with Burns Fry, Dominion Securities, and Gordon Capital well before the publication of these allegations in the media on April 29. It thus goes without saying that any further ministerial dealings that Mr. Stevens had with Magna, or with Burns Fry, Dominion Securities, or Gordon Capital, following these news reports could have amounted to further conflicts of interest. I find, however, that between April 29 and May 12, 1986, there were no such dealings.

There were two other conflict of interest allegations that were not pursued in this Inquiry. Both were made by members of Parliament and recorded in Hansard. The first related to de Havilland Aircraft. The

allegation was that de Havilland was sold for "a ridiculously low price." The second related to the closing of a Quebec shipyard. The allegation was that there was a conflict of interest in Mr. Stevens' decision to place the chairman of one shipyard in charge of planning the closure of another shipyard without first advising the latter. As things turned out, counsel for the members of Parliament in question advised Commission counsel in writing that neither of these allegations in fact had any relation to any alleged conflict of interest on the part of Mr. Stevens. Hence, the allegations were not pursued further.

General Conclusions about Conflict of Interest

I am now in a position to summarize my general conclusions with regard to the five broad categories of allegations that were reviewed in this part of the report. For ease of understanding, I shall set out my conclusions under each of the five categories that were reviewed.

The Allegations of Conflict of Interest Relating to Magna

These allegations have been made out. I have found that from early April 1985, when Mr. Stevens acquired knowledge of Mrs. Stevens' negotiations with Mr. Anton Czapka, until his resignation from public office, all of his dealings with Magna in his capacity as minister of DRIE and minister responsible for CDIC were occasions of real conflict of interest. In particular, I have found that Mr. Stevens was in a position of real conflict of interest in:

- personally approving the applications for federal assistance to Multimatic Inc., Master Precision, and Integram on April 17, 1985, at a meeting of the Economic Development Board (these applications totalled $5,033,000 in federal assistance);
- personally approving Magna's application for $10.2 million for the Class A Stamping plant on April 17, 1985, subject to approval by Treasury Board and contingent upon an equivalent provincial contribution;
- pressing for and authorizing the presentation to the Treasury Board of the application for federal assistance for the Class A Stamping plant in June 1985;
- entering into a cancellation agreement with Magna and recommending to cabinet an amendment to the Enterprise Development Regulations enabling the cancellation of the Polyrim stock option in July and August 1985;
- becoming involved in January 1986 in a meeting to consider Magna's proposal concerning the privatization of Canadair; and

- decisions made, directions given, and agreements entered into, leading to the $64.2 million in federal assistance ultimately recommended for approval for the Cape Breton project in April 1986.

The Allegations Relating to CDIC and Bay Street

These allegations have been made out in part. I have found that Mr. Stevens in his capacity as minister responsible for CDIC was in a position of real conflict of interest with regard to:

- the appointment in October 1984 of Mr. Trevor Eyton as a CDIC director;
- the approval in March 1985 of the financial advisory contracts awarded by CDIC to Burns Fry and Dominion Securities;
- the appointment in late April or early May 1985 of Gordon Capital as a financial adviser to the federal government on the CDC share sale.

I have found that with regard to the other allegations relating to "Brascan," and in particular to Mr. Stevens' involvement in a "reversal of policy" affecting Noranda and Eldorado, or to his involvement in the CDC share sale, Mr. Stevens was not in a conflict of interest position.

The Allegations Relating to Hyundai

These allegations have not been made out. I have found that the allegations relating to Mr. Stevens' dealings with Hyundai in his capacity as minister responsible for Investment Canada were unfounded and that Mr. Stevens was not in a position of conflict of interest.

The Allegations Relating to the Mingling of Private and Public Business

These allegations have been made out. I have found that Mr. Stevens mingled his private interest with his public duties while he was a minister of the Crown. Mr. Stevens used his public office for private advantage and mixed government and private business on at least five occasions:

- in his dealings with the Chase Manhattan officials;
- in his meeting with Mr. Angus Dunn of Morgan Grenfell;
- in his dealings with Mr. Tom Kierans of McLeod Young Weir;
- in his telephone call to Mr. Ken Leung of Olympia & York; and
- in his visit to the Hanil Bank in Seoul, South Korea.

On each of these occasions, I have found that he was in a position of real conflict of interest.

The Allegations Relating to Non-Compliance with the Guidelines, Code, and Letter

These allegations have been made out. I have found that the blind trust was not in fact blind. Mr. Stevens remained knowledgeable about and involved with the York Centre companies and thus with the very assets that were in the blind trust. Both Mrs. Stevens and Miss Walker conveyed information to Mr. Stevens about the assets in the blind trust and, with Mr. Stevens, remained involved in their management.

In sum, Mr. Stevens' conduct during his tenure as a minister of the Crown demonstrated a complete disregard for the requirements of the guidelines and code and the standard of conduct that is expected of public office holders.

Chapter 27

Recommendations for Reform

This Inquiry has provided a unique opportunity to examine some of the practical workings of the conflict of interest regime that is in place at present for federal cabinet ministers. Many of the provisions of the guidelines (Appendix E), code (Appendix F), and letter (Appendix H) were subjected to examination, and their strengths and weaknesses were reviewed. It is in my view important that the lessons that were learned in the course of this Inquiry be recorded, and I therefore offer some final observations and suggestions for reform.

This was not the first inquiry to explore the topic of conflict of interest. The matter has been studied at both the federal and provincial levels. The leading federal study is *Ethical Conduct in the Public Sector: Report of the Task Force on Conflict of Interest* (1984). Known as the Starr-Sharp Report, it provided a comprehensive and sophisticated review of existing federal and provincial conflict of interest regimes, and set out proposals for reform.

There have also been a number of provincial studies arising out of inquiries into allegations of conflict of interest on the part of provincial cabinet ministers. I note in particular in Manitoba, Mr. Justice Freedman's Report of the Commission of Inquiry in the Matter of Wilson D. Parasiuk (1986), and in Ontario, the *Report of the Standing Committee on Public Accounts on the Allegation of Conflict of Interest Concerning Elinor Caplan* (1986). A recent provincial study which I found particularly useful was the study conducted by the Honourable John B. Aird, former lieutenant-governor of Ontario, *Report on Ministerial Compliance with the Conflict of Interest Guidelines* (1986). The Aird Report recommended a number of important reforms, some of which have been adopted by the Ontario government in the Members' Standards of Office Act, 1986, which received first reading on November 27, 1986.

The reform of conflict of interest codes has also been studied abroad. A number of recent studies describe experiences in the United Kingdom and in Australia. I have also reviewed with considerable interest the current approaches to conflict of interest at the federal level in the United States. These studies and reports have provided a useful context

for my own conclusions about the directions for reform that the federal government might pursue.

It is important to emphasize that what follows is not a comprehensive study. Nor is it a detailed blueprint for legislative reform. What follows are my own views on the fundamental lessons learned over the course of this Inquiry and my suggestions for reform.

My suggestions will address the four basic conflict of interest issues affecting members of cabinet that figured most prominently over the many months of public hearing.

- Disclosure and Divestment: the extent to which disclosure should be required; the appropriate vehicles for divestment; and the role, if any, of the blind trust.
- Recusal: the need to recognize a continuing obligation on the part of public office holders to declare their interests and withdraw from exercising certain duties or responsibilities (or recuse) whenever necessary.
- Spouses: the question of spousal compliance, and in particular whether spouses should be required to disclose their financial interests and activities.
- The Assistant Deputy Registrar General (ADRG): the reform of the office of the ADRG and the kinds of functions that a government ethics office should perform in principle.

I shall deal with each of these points in turn.

Disclosure, Divestment, and the Role of the Blind Trust

Requirements under the Present Code

As drafted, the Conflict of Interest and Post-Employment Code for Public Office Holders (Appendix F) sets out detailed but confusing requirements for disclosure and divestment. I have already analyzed these requirements in detail in Chapter 2. Nonetheless, a brief summary here may be useful. It will be recalled that the code requires adherence to certain "compliance measures" (not defined) and sets out four "methods of compliance": avoidance, confidential report, public declaration, and divestment. The appropriate compliance method is determined in large part by the type and value of the assets involved. The code classifies assets in three different ways: exempt, declarable, and controlled.

Exempt assets are assets and interests that are not of a commercial character but are for the private use of the public office holder and his or her family. Exempt assets are defined to include such things as private residences, automobiles, household goods, and other personal effects. Assets that are primarily of a private or personal nature are exempted from confidential report or public declaration.

Assets that are not exempt are of two types: declarable assets and controlled assets. The code requires the public office holder to make a "confidential report" to the ADRG of all such non-exempt assets and all direct and contingent liabilities. The non-exempt assets are then classified as either declarable or controlled. Declarable assets are "assets that are not controlled" and they include:

(a) interests in family businesses and in companies that are of a local character, do not contract with the government and do not own or control shares of public companies, other than incidentally, and whose stocks and shares are not traded publicly;
(b) farms under commercial operation;
(c) real property that is not an exempt asset . . . ; and
(d) assets that are beneficially owned, that are not exempt assets . . . and that are administered at arm's length.

Declarable assets can be disclosed in a public declaration.

Controlled assets are defined as "assets that could be directly or indirectly affected as to value by Government decisions or policy." Controlled assets include:

(a) publicly traded securities of corporations and foreign governments;
(b) self-administered Registered Retirement Savings Plans, except when exclusively composed of exempt assets . . . ; and
(c) commodities, futures and foreign currencies held or traded for speculative purposes.

Controlled assets do not have to be disclosed, but they must be divested.

Controlled assets are usually divested either by selling them in an arm's length transaction, or by making them subject to a trust. Three kinds of trust arrangements are suggested: the blind trust, the frozen trust, and the retention trust. The frozen and retention trusts simply freeze the existing assets and transfer managerial responsibilities to the trustee. Only the blind trust provides for the possibility of complete divestment and true blindness.

Once these compliance measures have been completed, two documents must be filed in the Public Registry. The first is the public declaration, which sets out the declarable assets. The second is a summary statement, which sets out the methods of compliance used by the public office holder to comply with the code.

Problems with the Present Code

There are in my view four fundamental problems with the present code's disclosure and divestment provisions: first, they fail to provide for full disclosure; secondly, even as a system of partial disclosure and divestment, the provisions are flawed and inconsistent; thirdly, the

provisions for blind trusts do not meet the objective of blindness; fourthly, although the provisions call for judgments on the likelihood of a conflict of interest arising, there is no definition of conflict of interest. Let me explain what I mean by each of these criticisms.

Failure to Provide for Full Disclosure

In my view the code does not provide an adequate public disclosure system, and in my suggestions for reform I shall develop my reasons for this view. Here I shall simply set out the present limits on disclosure. Although declarable assets must be divested or publicly disclosed, controlled assets need not be disclosed. Further, the ADRG is not able to assess all of a minister's assets to assist him or her in classifying them. Those assets that are exempt in a minister's opinion need not be disclosed confidentially to the ADRG. I note as a matter of interest that when the code came into force the ADRG himself advised ministers that it would be prudent to continue to disclose exempt assets precisely for these classification purposes.

As far as disclosure of activities and positions is concerned, the code requires a minister to disclose publicly only directorships and official positions. It is thus fair to say that the present code provides for a system of partial and uneven disclosure.

Flawed and Inconsistent Provisions

One of the principal problems with the current system of partial disclosure is the lack of workable criteria for deciding what has to be disclosed, how it has to be disclosed, or whether it has to be divested. Exempt assets are defined as "[a]ssets and interests for the private use of public office holders and their families and assets that are not of a commercial character." Controlled assets are defined broadly as "assets that could be directly or indirectly affected as to value by Government decisions or policy," and declarable assets as effectively those that are neither exempt nor controlled. I believe that the broad and open-ended nature of the definitions of exempt and controlled assets, although designed to achieve laudable purposes, may leave doubt about how an asset should be classified and whether it need be disclosed confidentially, disclosed publicly, or divested. This ambiguity is, of course, undesirable.

Further, the language of the code leaves the occasions and proper methods for divestiture in some doubt as well. One section of the code states that *all* controlled assets are to be divested except those determined by the ADRG to be of such minimal value as not to constitute any risk of conflict of interest; another section of the code, however, requires divestment "where continued ownership [of an asset] by the public office holder would constitute a real or potential conflict

of interest." These sections are at odds, and the ADRG is given no guidance or indeed mandate to exercise the suggested flexibility and discretion.

What is a proper method of divestment is also not clear. In one section the code states that arm's length sale and trusts, the most common of which are set out in a schedule, are "usual." Elsewhere, arm's length sale or trusts are given as the two methods of compliance by divestment. The result is muddle and confusion.

Provisions for Blind Trust Do Not Ensure Blindness

A major problem arises from the fact that the trusts suggested in the schedule to the code, and especially the blind trust, appear to be available indiscriminately for *any* controlled asset. Given the highly elastic definition of controlled asset, it seems that almost any asset could be placed into a blind trust, including a family business, even though, realistically, such an asset would never be sold by the trustee and the blind trust would never become blind.

Indeed, it is this imprecision in the definitions in the present code and the predecessor guidelines that allowed Mr. Stevens to place what was effectively a family business into a blind trust, even though by any realistic measure the trust holding would never be divested and the blind trust would never be blind. I do not suggest for a moment that this imprecision in the definitions can excuse Mr. Stevens' conduct with regard to the assets in his blind trust or excuse his breaches of the conflict of interest code. The guidelines and code are quite explicit in their prohibition of involvement in management. What Mr. Stevens did was a clear violation of clearly worded provisions. Still, the fact that Gill and its holdings could satisfy the definition of a controlled asset and be placed into a so-called blind trust suggests that important questions relating to the role of the blind trust have neither been addressed nor resolved.

I shall set out later in this part my view on whether the blind trust should be retained at all.

No Definition of Conflict of Interest

I have noted earlier in the report the absence of a definition of conflict of interest. The omission is critical. Conflict of interest is discussed in more than a dozen provisions in the code but never once defined. Public office holders are required to arrange their private affairs and perform their official duties "in a manner that will prevent real, potential or apparent conflicts of interest from arising." But the key phrases are not defined.

I recognize that, for the vast majority of public office holders, conflict of interest has a common sense meaning that does not require extensive definition. The mingling of private and public business, for example,

clearly involves a conflict of interest and is wrong by any measure. Some conflict of interest problems, however, are not as black and white. For the grey areas, which require subtle judgments, a clearly written and easily understood definition is needed. Both for reasons of information and education, and for ease of compliance, conflict of interest should be defined.

Public Disclosure as Cornerstone

In my view, public disclosure should be the cornerstone of a modern conflict of interest code. I recognize that the extent to which public office holders should make a public disclosure of private financial interests has been a matter of some debate both in Canada and abroad for a number of years. I am satisfied, however, that full public disclosure of public office holders' private financial interests and activities is the sensible direction for reform.

The point was made in the Aird Report: "full public disclosure of all economic interests and relationships is the strongest weapon in the arsenal of any conflict of interest regime" (p. 38). I agree. If modern conflict of interest codes are to ensure that public confidence and trust in the integrity, objectivity, and impartiality of government are conserved and enhanced, they must be premised on a philosophy of public disclosure. In addition to the individual effort that is expected on the part of public office holders to avoid conflicts of interest, public confidence in the integrity of its public officials requires a healthy measure of public vigilance. Public vigilance, however, depends upon reasonable access to information, first, about the fact that a public duty or responsibility of public office is being exercised, and, secondly, about the existence of any related private interest on the part of the public office holder. The first is normally within the public domain; the latter needs disclosure.

In my view, public confidence in the integrity of government can best be assured by a system that requires disclosure of the public office holder's private financial interests. Indeed, public disclosure requirements are increasingly commonplace. Most of the provinces already have in place laws or guidelines that require some form of public disclosure.

The actual disclosure requirement — the nature and extent of public disclosure, the kind of assets, interests, and activities that should be disclosed, and so on — should be set out simply and clearly. If definitions are to be used, they should be clearly worded and easily understood. If distinctions are to be drawn among classes of assets or activities, then the distinctions should be principled, plainly drafted, and, again, easily understood.

The suggestion that public disclosure must be a cornerstone philosophy for any modern conflict of interest regime does not mean that public office holders would have to bare their souls. Canadians

place a high value on privacy. We recognize that public office holders have and deserve to have a private life. Thus, it would not offend the principle of public disclosure to allow public office holders the right to keep private those assets that are truly personal, such as place of residence, household goods and personal effects, automobiles, cash and saving deposits, RRSPs, and so forth. The assets that are exempt under the present code are the kinds of assets that would continue to remain exempt under a public disclosure regime.

All other financial interests — all sources of income, assets, liabilities, holdings and transactions in real or personal property — would have to be disclosed in a financial disclosure statement that would be filed in the Public Registry and made available to the media and other interested citizens. The disclosure statement, to be effective, would have to be reasonably comprehensive, but it need not require the disclosure of net worth. What is important to disclose is not the public office holder's overall net worth or the dollar value of each and every asset, but the existence and general range of value of these assets. It is my view that it may be sufficient to disclose the source, type, and range of value for certain kinds of financial interests, rather than the exact dollar amount. By range of value I mean monetary categories, such as "under $1000," "$1000 to $5000," or "over $100,000."

One could, for example, design a disclosure statement that required the public office holder to disclose on an annual and updated basis all sources of income, assets and liabilities, holdings and transactions in property, as well as activities and positions held. Important policy decisions, of course, would have to be made about which assets or liabilities would require disclosure by source, type, and exact dollar amount and which would need only source, type, and range of value.

I understand that this approach to financial disclosure requirements has been in place in the United States for nearly a decade. Under the Ethics in Government Act 2 U.S.C. 701 et seq. enacted in 1978, members of Congress and of the executive and judicial branches of the federal government are required to file financial disclosure statements listing assets and financial interests by source, type, and either exact dollar amount or range of value.

The U.S. Ethics in Government Act also requires public disclosure of all activities and positions held during the current calendar year, and in particular:

> The identity of all positions held on or before the date of filing during the current calendar year . . . as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any non-profit organization, any labor organization or any educational or other institution other than the United States. This subparagraph shall not require the reporting of positions held in any religious, social, fraternal, or political entity and positions solely of an honorary nature. (pp. 21–22)

The public disclosure statement required under U.S. federal law must be filed on an annual basis and must be continuously updated as circumstances change.

By all accounts the U.S. disclosure requirements are working reasonably well. There have been criticisms relating to investigation and enforcement, but the requirements in principle have received wide-ranging approval. I was particularly interested to learn that the disclosure requirements have not discouraged "good people" from entering politics or running for public office. For example, a study of members of the U.S. House of Representatives and Senate conducted by the Center for Responsive Politics in 1985 found no one who felt that financial disclosure affected his or her decision to seek public office. Further, the vast majority of senators and representatives interviewed said that they knew no one who declined to seek public office because of the disclosure requirements. The disclosure obligation is seen as a reasonable requirement that quite properly attaches to the privilege of holding public office.

The actual design of a public disclosure requirement for Canadian cabinet ministers undoubtedly merits more study. My concern here is simply to emphasize the importance of having a principled and effective cornerstone for a modern conflict of interest code. That cornerstone in my view must be public disclosure.

The Role of the Blind Trust

Disclosure is only one part of an effective conflict of interest regime. Disclosure alone does not prevent conflicts of interest. Even with disclosure, there would still be occasions for conflicts of interest whenever the public office holder's private financial interests encroached upon the exercise of his or her public duties or responsibilities. To minimize the incidence and frequency of such occasions, most conflict of interest codes, even those premised on public disclosure, provide for divestment. The Starr-Sharp Report explained the rationale for divestment:

> In theory, divesting oneself of assets and business connections frees one for the execution of one's official responsibilities without any risk of a conflict of one's governmental responsibilities with one's personal economic interests. . . .
>
> [Divestment] is a form of preventive medicine. . . . [R]ather than an individual continually worrying about whether a particular decision will affect one of his or her specific vested interests, and rather than having the public perceive that a public office holder could be ensconced in a position to confer benefits upon himself or herself, it has been decided that the problem should be removed in advance by requiring divestment of certain types of assets and relinquishing of certain types of interests by those in authority. (p. 63)

Disclosure, after all, does not affect the continuing obligation to recuse or withdraw from exercising a duty or responsibility of office when necessary. To avoid the debilitating effect of permanent or semi-permanent recusal from exercising the duties and responsibilities of office for which the public office holder was appointed, he or she must divest certain private interests. (Failing that, the public office holder should change portfolios or resign from public office altogether.)

Thus, the present code requires that controlled assets be divested, usually via arm's length sale or trust. If the divestiture is via arm's length sale, the problem is at an end. If a decision is made to use a blind trust, however, the problems continue. In my view, to make the trust effective, the minister would still have to withdraw from the exercise of any duties or responsibilities of public office that might involve a conflict until advised that the problematic asset had been divested and, with regard to that asset, the blind trust was truly blind. But the likelihood of that happening in a timely fashion would depend on the likelihood that the blind trust asset would really be sold by the trustee.

The real difficulty with regard to divestment by way of blind trust stems from the definition of controlled assets — that is, the kinds of assets eligible for a blind trust. I noted earlier that this definition allowed Mr. Stevens to place what was effectively a family business into a blind trust whose blindness understandably became the subject of immediate scepticism even apart from the evidence of Mr. Stevens' knowledge of and involvement in the affairs of York Centre. It is simply wrong to provide such a vague and open-ended definition of the kinds of assets that can be placed in a blind trust.

However, a more important question is whether the blind trust should be retained at all. The Starr-Sharp Report (1984) cautioned that "trusts are at best an imperfect instrument," but concluded that it could "see no feasible alternative to trusts as a means of temporary divestment of assets that could involve conflicts between public duties and private interests" (p. 114). Recently, however, a number of studies have begun to recognize the deficiencies of using blind trusts to avoid conflicts of interest. The Aird Report (1986) noted that "the mechanism of the blind trust as currently utilized, has fallen into disrepute. In the public eye, the blind trust is too often a mere optical illusion" (pp. 5–6). Nonetheless, Mr. Aird ultimately concluded that the blind trust was still viable and should be retained.

This aspect of his report was not adopted by the Ontario government. In the proposed Members' Standards of Office Act, 1986, described earlier, the blind trust is abolished. In his speech to the Ontario Legislative Assembly, the attorney general explained that the blind trust was being abolished because "the blind trust mechanism requires a blind faith in its opaqueness that the citizens of this province are no longer able to share" (Ontario, Legislative Assembly, *Debates*, November 27, 1986). Instead, the act provides for a "management trust" that cabinet ministers can establish to manage their business interests while they are holding public office. The management trust is

designed to distance the minister from his or her private business interests. There is no attempt to blind the minister to the existence of these business interests — indeed, the minister is informed of any material changes in the trust holding.

I have a number of serious concerns about the management trust. First, the management trust is a confusing and unnecessary device. The confusion will arise from the fact that the management trust has nothing to do with divestment and yet will be seen as an attempt to further true divestment. It must be remembered that even if a minister places the management of certain assets into a management trust, the minister still continues to bear the responsibility to prevent conflicts of interest with regard to the assets in the management trust. The assets have not been divested and yet the formality of a management trust will invite a misplaced confidence (both on the part of ministers and the public) that something akin to divestment has been accomplished. This is undesirable.

Secondly, the management trust may be an unnecessarily formal mechanism for accomplishing what would occur in any event routinely and informally. A minister seeking properly to comply with the requirement to devote full-time attention to the responsibilities of public office would necessarily have to turn over certain private interests, whether a farm, a business, or the management of a financial portfolio, to someone else while in public office. This can be accomplished now with oral or written agreements — formal management trust documentation is not needed and, if needed, it can be made available without the endorsement of a conflict of interest code.

In sum, I do not believe there is value in including in a conflict of interest code a trust mechanism that may easily be misunderstood and misapplied. To my mind, the hard decisions about which assets can be retained and which have to go must be made, and those that have to be divested should truly be divested.

Where such divestment is needed, the only real alternative to outright sale is divestment via a truly blind blind trust. But given the difficulties of design and definition, and the criticisms that have been levelled at the blind trust, can the blind trust still perform a meaningful role?

The only way that a blind trust can work as a legitimate vehicle for divestment is if its "blindness" can be ensured. The only way that blindness can be ensured is by strictly limiting the kinds of assets or interests that can be placed into a blind trust. The Aird Report (1986) concluded that "[a]ny form of asset should be eligible for placement into a blind trust" (p. 53). With respect, I disagree. In my view, the only assets that should be placed into a blind trust are those that can truly and easily be sold by an arm's length trustee, such as publicly traded securities. The blind trust should never be used for any other kind of holding, and certainly not for anything like a family business or family firm.

Given this narrow category of eligible assets and given the reality that most public office holders could use the transition period to allow for a

regularized divestment of a stock and bond portfolio, the question that remains is whether or not the blind trust option should be preserved for the public office holder who prefers, perhaps for market reasons, to retain a diversified portfolio of stocks and bonds, although blinded about its contents. On balance, I question the rationale for retaining an instrument as widely criticized as the blind trust for such a narrow compass of cases, and I urge its abolition.

If the blind trust is retained, however, it should be made clear, first, that only a very limited category of assets are eligible for inclusion, and, secondly, that even with a blind trust, the public office holder remains obliged to recuse from activities that could give rise to conflicts until notified that the original blind trust assets have been divested. Although perhaps obvious, it should also be made clear that the public office holder must neither obtain, nor seek to obtain directly or indirectly any information about the trust assets and must avoid any involvement with them.

In sum, it is essential that a modern conflict of interest policy deal with the concept of divestment from first principles: the theory behind divestment, how it can best be achieved, and when and under what circumstances a blind trust alternative should be permitted. The lingering policy question is whether the blind trust should be retained for a narrowly defined category of assets or abolished outright. In my view, as noted earlier, the blind trust should be abolished.

Declaration of Interest and Withdrawal (Recusal)

In addition to the twin mechanisms of disclosure and divestment, the code also requires ministers to avoid certain situations giving rise to conflicts of interest and contains a number of statements of principle for their guidance. There is, however, no clear direction in the code as to what the proscription against conflict of interest means for the public office holder on a day-to-day basis. Granted, a number of general principles are set out that require public office holders to perform their official duties and arrange their private affairs "in such a manner that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced," but these open-ended principles provide no real direction and fail to establish a workable system for achieving the desired objective.

It is a fundamental premise that ministers should not deal with public duties and responsibilities of office in situations of conflict with their private interests. I suggest a twofold system for addressing this problem that tries to prevent occasions for conflict from arising and, should they occur, provides for an established procedure for their resolution.

My first suggestion is that a registry of interests (identical to a minister's disclosure) be established by a minister on entering office so that public activities involving or relating to these private interests could be handled by others without the minister's involvement or knowledge.

Such a registry would therefore contain the initial disclosure and updates. It would be open for inspection by the public but its primary use would be by officials designated to see that matters involving the disclosed interests never reached the minister. In other words, where it is considered appropriate for a minister to retain his private interests, or where such interests have not yet been fully divested by sale, there would be a formal system in place to prevent the minister from dealing with or knowing of any public matter possibly affecting such interests.

The registry's primary purpose would be to formalize the areas in which a need for recusal is foreseeable and to minimize the incidents of interruption or inconvenience or the suggestions of impropriety, by providing for ongoing disclosure and formal withdrawal. The registry would act as a formal declaration of interests and provide a mechanism for withdrawal. I note that provisions for declaration and withdrawal are in place in some provinces in Canada. In one instance, there is even a system for recording these occasions as well. The federal government in the United States has also instituted a "recusal agreement" system for the executive branch of government.

Nonetheless, occasions of conflict of interest could still arise in spite of the registry, and here I suggest that the further requirement of an ad hoc declaration and recusal be made clear and explicit, with guidance given as to who should be informed of the problem and how the minister's public duty and responsibility is then to be handled. Such a system is designed to assist the minister to resolve conflicts of interest in favour of the public interest by providing clear direction as to what he or she must do.

I am satisfied that the adoption of a formal system for recusal will enable ministers to meet more easily the requirements to avoid or resolve conflicts of interest. Obviously the system will be useful only where recusal is not the norm for the particular minister. Where a minister's private interests are of such a nature or extent as to require routine withdrawal from public duties, divestment of the interests or declining or resigning the office will be necessary. Nonetheless, in the more usual case of a minister with limited private interests, recusal will serve as a vital adjunct to the cornerstone of public disclosure.

Disclosure of Spouse's Financial Interests and Activities

The third area of concern is spouses. Elsewhere in this report I have had occasion to observe that the guidelines and code as drafted at present do not apply to spouses. Not only is the spouse not governed by the same conflicts regime as the minister, but the guidelines and code place no restraint of any kind on a spouse's activities or dealings with property. The entire burden of ensuring that spousal activities and dealings with property do not create situations of conflict rests with the minister.

In this regard, both Prime Minister Trudeau's letter of April 28, 1980 (Appendix G), and Prime Minister Mulroney's letter of September 9,

1985 (Appendix H), impose a duty on a minister to ensure, first, that a spouse's activities do not create a conflict for the minister, and, secondly, that a spouse is not used as a vehicle to circumvent restrictions on the minister's behaviour. To discharge this duty effectively, the minister must remain sufficiently aware of a spouse's activities or dealings with property to take whatever action is necessary to avoid real or apparent conflicts. This duty, which is by its very nature ongoing, necessarily implies that, if issues of conflict do arise and no mutually satisfactory arrangement is reached between the spouses as to who will abstain from certain activities, it is the office holder who must withdraw from the performance of public duties.

Thus it can be seen that the regime at present in place for dealing with spousal interests and activities requires a clearly defined system of recusal for its effective implementation; this system it does not possess. A further difficulty with the present regime is the extremely high level of vigilance required of the public office holder. I am satisfied that in some cases, despite good faith and real effort, the office holder may have difficulty assessing the potential for conflict, real or apparent, arising from spousal activities or dealings with property. These inadequacies underscore the need to address the more fundamental issue of whether spouses of public office holders should themselves be governed by conflict of interest provisions, and, if so, of what kind.

The present federal conflict of interest regime is unique among conflict of interest regimes in Canada in expressly exempting spouses from its provisions. In nine provinces provision has already been made (and is also being retained in proposals for change) for disclosure of the financial interests of ministers' spouses. It is also noteworthy that the approach taken to compliance by spouses by various federal governments has differed. In 1979 spouses were governed by compliance provisions which went so far as to require divestment of some types of assets. As the Starr-Sharp Report noted, serious objection was taken to such provisions by at least one spouse of a public office holder. In 1980 the regime was changed to its present form.

The objection to including spouses in a conflict of interest regime is that their inclusion is inconsistent with recognizing that independent spouses have separate professional, economic, social, and political interests. It is said that to require compliance is to treat a spouse as an appendage of an office holder and to treat his or her interests as secondary to those of the public office holder.

I find this argument misconceived in several respects. The present federal conflict of interest regime could just as well be interpreted as premised on notions of a nuclear family with only one spouse actively involved in economic pursuits. Such a premise would favour a regime that disregarded spousal activities and dealings with properties because the potential for such activities giving rise to a situation of conflict would be remote. Indeed, one does not have to go back too far in time to find a situation where women were systematically excluded from participation in economic activity by being denied access to professions,

excluded from holding office, and severely limited in their right to deal with property. A conflict of interest regime premised on the assumption that the spouses in question would be women whose activities would be confined to the home could just as easily have led to the present requirement that spouses not be required to comply.

In any event, the reality of modern life is quite different. Women today are increasingly breaking down the barriers to full participation in economic activity. Women today do pursue independent careers. Indeed, marital relationships frequently involve spouses with separate professional, financial, social, and political interests. It is this very independence that gives rise to concerns about conflict of interest.

In acknowledging the modern reality of spousal independence, however, one must also acknowledge the existence and effect of the marital relationship. Spousal independence must be considered in the context of the modern institution of marriage. Major reform has occurred across Canada in the area of family law, which in varying degrees has sought to recognize marriage as a partnership of equals. These reforms endeavour to recognize the economic contribution of both spouses and the legitimacy of their interest in one another's financial activities. The effect of these changes has been to create regimes where each spouse has a clear pecuniary interest in the financial activities of the other. These legal changes have only enhanced the social reality that spouses usually have a profound impact upon one another.

Still, it is self-evident that no conflict of interest regime could or should require a spouse to divest property or to abandon a career or other social or political interests. Such a requirement would be an unjustifiable infringement of contemporary principles of equality. This, however, does not end the matter. Other jurisdictions that have grappled with these issues have identified a legitimate public interest in compelling spouses to disclose at least their financial activities while at the same time acknowledging their right to pursue and possess independent interests. By requiring such disclosure, the reality of marriage as an economic partnership is recognized and the public office holder's pecuniary interest in a spouse's financial activities is identified.

Even with a regime that is limited to disclosure, the question of whether the public interest in ensuring the integrity of decision making in government is sufficient to outweigh a spouse's interest in privacy remains. The public interest in ensuring integrity in government has increased along with the growth of government itself. The modern state is more directly involved in the affairs of its citizens than ever before, a fact that has led increasingly to demands for openness and accountability in governmental decision making.

With this growth in government has come a diminishing respect in recent years for its institutions. There exists in some segments of the community a perception, based in part upon extensive exposure to both national and international incidents, that public office holders lack integrity. One aspect of this perception is that public duties are sometimes discharged with an eye to private gain — either the office

holder's or his or her family's. Whether such suggestions of impropriety in government are made in Canada or elsewhere, they have had an impact on the community's collective faith in the honesty of its elected officials. Therefore, provisions governing the conduct of public office holders, particularly at the ministerial level, must acknowledge the need both to ensure that actual decision making is free from conflict as well as to enhance the community's perception that this is so. The importance of these concerns cannot be overestimated. They relate to the continued legitimacy of the state itself and the maintenance of the consensus necessary to govern.

It has also been argued that the effect of requiring disclosure of financial interests will be to hamper married women unduly from entering public life in circumstances where their husbands will have to make disclosure. This would be a very serious drawback if true. However, the validity of this assertion is difficult to assess. I have been unable to find any empirical data in Canada addressing this concern. It is of some significance that the Center for Responsive Politics study referred to earlier indicated that the fact that there are now more female members, and thus more male spouses, should not affect the disclosure laws that are in place at the federal level in the United States.

In light of these views, and despite any apparent unease men may have about being publicly scrutinized because of their wives' public profile, I am satisfied that a modern conflict of interest regime requires public disclosure of the financial interests of spouses, whether male or female. I am fortified in this conclusion by the fact that all Canadian provinces with rules for disclosure by office holders apply a disclosure requirement to spouses as well.

Disclosure of Spouse's Financial Interests

I do not propose that total disclosure of interests be required without regard to a spouse's right to privacy, but rather disclosure of only those kinds of interests that might reasonably be said to give rise to concerns regarding conflict of interest. Thus I would reject as unjustified a system of disclosure that made available information such as appears on an income tax return. In my opinion, no public interest is served by this type of disclosure. The disclosure of financial interests required of a spouse ought to be identical in scope to that required of the public office holder.

Although the financial interests of a spouse ought in general to be disclosed, at least one foreign jurisdiction has sought to recognize a narrow exemption from disclosure for a truly independent financial interest which is of no benefit to the office holder. Such provisions have been the subject of serious criticism because of the vagueness associated with any kind of "benefits" test. It is readily apparent that income, although kept exclusively for the benefit of one spouse, may indirectly benefit the other in certain circumstances. Although the question of whether such an exemption is or can be made workable cannot be

answered within the confines of this report, I am satisfied that, in principle, such an exemption is appropriate for ensuring spousal privacy in those rare cases of truly independent financial interests.

Disclosure of Spouse's Activities

One area of concern that has arisen in the context of this Inquiry is the question of public disclosure of certain spousal activities, such as positions held as an officer, director, employee, or consultant. Most regimes exempt disclosure of such activities on the part of the spouse, although they require such disclosure by the office holder. This exemption obviously rests upon considerations of the spouse's right to privacy. It has been suggested that disclosure of activities is unnecessary because reporting is required of significant sources of a spouse's earned income. In these circumstances, a spouse's connection to a company would become apparent in most cases.

However, I have doubts about exempting from disclosure any activities that have an avowedly commercial character *and* that it might reasonably be said could give rise to a conflict of interest on the part of the office holder. In my opinion, it would be preferable for these activities to be disclosed. To a large extent, such activities are already included in the public record by way of other mandatory government filings, for example, lists of officers and directors of incorporated businesses. In such circumstances, to require disclosure would not be an intrusion on a spouse's privacy. If such activities are not disclosed elsewhere but are of a commercial character, the public interest in monitoring and preventing conflicts through disclosure outweighs the spouse's interest in privacy in this narrow area. Such a requirement, however, should not require disclosure of activities of a purely religious, philanthropic, or political nature.

Office of the ADRG

The Inquiry heard a great deal of evidence about the structure and operation of the office of the Assistant Deputy Registrar General. The office of the ADRG was established in May 1974 and was made responsible for the administration of the federal government's rules on conflict of interest. It was located in the Department of Consumer and Corporate Affairs. In addition to its responsibilities for the administration of the conflict of interest code, the office of the ADRG was also given responsibility for various formal document procedures that are required of the Registrar General of Canada and for the use and safe keeping of various formal instruments such as the Great Seal of Canada.

As I have noted earlier in Chapter 2, the office of the ADRG was never intended to have an independent role or function in the conflict of interest area. Indeed, herein may lie the seed of some of the difficulties

that have surrounded the operation of the office as brought to light during this Inquiry. Two points became clear as the Inquiry progressed: first, the administration of the federal conflict of interest regime would be better served if the office in charge could be given a separate and more visible status with a clearer and more appropriate focus, namely, conflict of interest alone; secondly, the demands of administering the federal conflict of interest regime in an effective and efficient manner require additional and more sophisticated resources.

In recent years, a number of federal and provincial studies have recommended the establishment of a conflict of interest office that would have a clearer mandate, broader powers, and a higher public profile than that of the existing ADRG. The Starr-Sharp Report recommended the establishment of an "Office of Public Sector Ethics" headed by an "Ethics Counsellor" (p. 201). The Aird Report recommended a "Commissioner of Compliance" with wide-ranging investigative and enforcement powers (p. 6). In the United States, the 1978 Ethics in Government Act established an "Office of Government Ethics" (p. 48).

It is not my purpose here to consider the various models or to make recommendations that may be seen as a detailed blueprint for the reform of the office of the ADRG. I leave these important policy decisions for Parliament. The questions that surround the reform of the office of the ADRG — where it should be located, how it should be structured, to whom it should be accountable, how it should be designed and staffed, what powers it should have, and so on — are questions that merit more detailed study.

My contribution here is to identify the kinds of functions that the Conflicts of Interest Office, whether it be an office of government ethics, a conflict of interest commissioner, or a redesigned ADRG, should perform in principle. Based on the lessons learned in this Inquiry, I suggest that in addition to providing information, education, and consultation, and giving advice, the office responsible for the administration of the federal conflict of interest law be empowered to perform two further functions:

- *Opinions and rulings* The office should have the power to make rulings on questions that arise with regard to details of compliance; the office should have the ability to make judgment calls and the administrative discretion to "waive" the application of a technical compliance requirement when reasonable to do so; where appropriate the opinions and rulings should be published and circulated.
- *Investigation and inquiry* The office should have the mandate and sufficient resources to undertake follow-up investigations to ensure that compliance is achieved, or initiate fresh investigations with regard to allegations of non-compliance or conflict of interest; the office should also have the capability to conduct independent inquiries when investigations disclose that further inquiry is warranted.

Related to the investigation and inquiry function, of course, is the question of enforcement and sanction. Should the office have the power to issue a public report following an investigation, or to recommend or impose sanctions or penalties? Or should these important policing aspects remain within the traditional structures of Parliament? These are questions that in my view are best left to parliamentarians and policy makers.

On the office of the ADRG, I am content to make two basic observations: first, the office as structured at present needs to be redesigned; secondly, whatever shape the new conflict of interest office takes, it must have a clearer mandate, broader powers, and a higher profile so that it can have greater impact in ensuring that the new conflict of interest system will be understood, implemented, and enforced.

Final Observations and Proposals for Reform

I have referred throughout this part of my report to the need for new federal conflict of interest rules. It is important that I make myself clear. Conflict of interest is much too important to leave to the vagaries of guidelines and codes. In my view, the time has come to move beyond codes of conduct and establish conflict of interest rules that have the force of law. I recommend that comprehensive legislation be enacted relating to conflict of interest; that the legislation contain clearly worded definitions and directions; that conflict of interest be defined as suggested in Chapter 3 of this report; that the compliance requirements be clearly drawn and easily understood; and that the legislation be enforced when appropriate with penal sanction.

Based on the lessons learned in this Inquiry, I suggest the following specific recommendations for reform:

- The federal conflict of interest law should be based on the principle of public disclosure.
- Public disclosure means disclosure by the public office holder upon entering office, and continuously thereafter, of private financial interests and activities, by source, type, and dollar amount, or range of value, depending on the nature of the asset or interest being disclosed.
- The same financial interests and certain activities of a spouse should also be publicly disclosed in accordance with the guidelines suggested herein.
- The rules pertaining to disclosure and divestment should be set out in plain English and French so they can be easily understood.
- The blind trust should be abolished.

- The legislation should make clear that even with disclosure and divestment, the public office holder would have a continuing obligation to anticipate any remaining areas of potential conflict and to recuse when problems arise.
- A recusal registry system should be established in departments of government; foreseeable conflict areas would be identified in advance by the minister so that problematic matters could be handled by others without his or her involvement or knowledge.
- The office of the ADRG should be given a clearer mandate, broader powers, and a higher public profile. Whatever shape the structure takes, the office should have clear responsibility for the administration of the federal conflict of interest law and should at a minimum be empowered to perform the following functions: information, education, consultation, and advice; opinions and rulings; investigation and inquiry.

It is important to remember that no conflict of interest system can, by itself, guarantee ethics in government or prevent dishonourable conduct on the part of cabinet ministers or other public office holders. Ultimately, public trust and confidence in the integrity of government depends upon the integrity of individual public office holders and their individual sense of honour. Nonetheless, it is in my view important to provide clear conflict of interest rules that have the force of law and that provide useful direction for the vast majority of public office holders who do perform their duties and responsibilities in good faith and with integrity.

I recognize that the enactment of a federal conflict of interest law is a substantial undertaking and one that will necessarily involve much more than the four topics discussed herein. It is my hope, however, that my observations and suggestions for reform will be of assistance to federal parliamentarians as they consider the design and content of a much needed conflict of interest law.

Appendices

Appendix A

List of Counsel Appearing at the Inquiry

	Counsel
Commission Counsel	David W. Scott, Q.C. *Scott & Aylen* Edward P. Belobaba *Gowling & Henderson* Marlys Edwardh *Ruby and Edwardh*
*Sinclair M. Stevens	John Sopinka, Q.C. Kathryn I. Chalmers Margaret E. Grottenthaler *Stikeman, Elliott*
*Noreen M. Stevens	Thomas J. Lockwood, Q.C. Kristine L. Delkus *Lockwood, Bellmore & Moore* Laura Legge, Q.C. Mary M.P. Stokes *Legge & Legge*
*Government of Canada	W. Ian Binnie, Q.C. *McCarthy & McCarthy* Urszula Kaczmarczyk April Burey *Department of Justice*
*Liberal Party	Stephen R. LeDrew *Lyons, Arbus & Goodman*
*New Democratic Party Caucus	Linda Gobeil *NDP Caucus Research Bureau*

	Counsel
*Edward Rowe *York Centre Corporation	Roy E. Stephenson *Roy E. Stephenson*
*Shirley Walker	Donald H. Jack *McDonald & Hayden*
*Frank Stronach *Magna International Inc.	John F. Howard, Q.C. James W. Garrow, Q.C H. Jory Kesten J.W. Brown, Q.C. B.J. Sherman *Blake, Cassels & Graydon*
*Hyundai Auto Canada Inc.	James G. Beamish Larry Theall David Penhorwood *Miller, Thomson, Sedgewick, Lewis & Healy*
*Anton Czapka	Robert B. Tuer, Q.C. Peter C. Wardle *Fasken & Calvin* J.B.G. Ledger *Osler, Hoskin & Harcourt*
Canadian Imperial Bank of Commerce	Derek C. Hayes *Canadian Imperial Bank of Commerce* James P. Dube *Blake, Cassels & Graydon*
Canadian Broadcasting Corporation	Daniel J. Henry *Canadian Broadcasting Corporation*
National Trust Company	Robert P. Armstrong, Q.C. John H. Tory *Tory, Tory, DesLauriers & Binnington*
Guaranty Trust Company of Canada	Michael D. Novak *Guaranty Trust Company of Canada*
Mel Leiderman	S.G. Fisher, Q.C. *McMillan, Binch*

	Counsel
Continental Bank of Canada	Charles F. Scott *Tory, Tory, DesLauriers & Binnington*
Thorne, Ernst & Whinney	T.R. Lederer *Osler, Hoskin & Harcourt*
*Hanil Bank Canada	Richard M. Krempulec *Blaney, McMurtry, Stapells*
Burns Fry Limited	Henry J. Knowles, Q.C. *Woolley, Dale & Dingwall*
Gordon Capital Corp.	Tom I.A. Allen, Q.C. *Davies, Ward & Beck*
Canada Development Investment Corporation	J.L. McDougall, Q.C. I.V.B. Nordheimer *Fraser & Beatty*
Dominion Securities Limited	John T. Morin, Q.C. *Campbell, Godfrey & Lewtas*
McLeod Young Weir Ltd.	Garfield Emerson *Davies, Ward & Beck*
J. Trevor Eyton	H. Lorne Morphy, Q.C. Kent E. Thomson *Tory, Tory, DesLauriers & Binnington*
Richardson Greenshields of Canada Limited	Paul V. McCallen *Aird & Berlis*
Noranda Inc.	J.W. Ivany *Noranda Inc.*
Bank of Nova Scotia	F.J.C. Newbould *Tilley, Carson & Findlay*
Helmut Hofmann	A.M. Gans *Miller, Thomson, Sedgewick, Lewis & Healy*

	Counsel
*Canada Development Corporation	K.W. Scott, Q.C. *Borden & Elliot*
Chase Manhattan Bank of Canada	I.V.B. Nordheimer *Fraser & Beatty*
Donald Busby	A.B. Doran, Q.C. *Lang Michener Lash Johnston*
Harold Anthony Hampson	D.R. O'Connor, Q.C. *Borden & Elliot*
Globe and Mail	Alastair R. Paterson, Q.C. Peter M. Jacobsen *Paterson, MacDougall*
Canadian Association of Japanese Automobile Dealers	P.C. Upshall, Q.C. *Upshall, MacKenzie and Kelday*
Deirdre Jean Barker Elizabeth Hopkins	Thomas J. Dunne, Q.C. *Armstrong, Schiralli & Dunne*
Philip MacDonald	Robert A. Blair, Q.C. *Morris/Rose/Ledgett*
Mrs. Philip MacDonald	D.C. McTavish, Q.C. *Bastedo, Cooper & Shostack*

* Parties with standing. All parties seeking standing were granted it.

Appendix B

Parties Making Written Submissions to the Commission

Commission Counsel
Sinclair M. Stevens
Noreen M. Stevens
Anton Czapka
Shirley Walker
Government of Canada
Canada Development Investment Corporation
Magna International Inc.
J. Trevor Eyton
Hanil Bank Canada
Hyundai Auto Canada Inc.
National Trust Company

Appendix C

List of Witnesses

Robert C. Allison
Director, Automotive and Metal Fabricating, Ontario, DRIE

Neil Baker
Shareholder and Director, Gordon Capital

Deirdre Jean Barker
Niece of William Mollard

Jocelyn Bennett
Partner and Director, Gordon Capital

John Blackwood
Regional Executive Director, Ontario, DRIE

Frederick Bourgase
Project Officer, DRIE

J. Robert Boyle
Assistant Deputy Registrar General

Paul J. Brown
Policy Adviser, DRIE

Robert E. Brown
Assistant Deputy Minister, DRIE

Bruce Buckley
Chartered Accountant, Thorne, Ernst & Whinney

Donald Busby
President, Goldsil Resources and Mahogany Minerals Resources

Robert Callander
Mining Specialist, Corporate Finance, Burns Fry

Donald Campbell
Canadian Ambassador to South Korea

Stewart Carter
Senior Accounts Officer, Guaranty Trust

Alfred Chaiton
Consultant, Capital Hill Group

Aline Charlebois
Secretary to Sinclair M. Stevens, DRIE

Daniel Chicoine
Vice-President, Marketing, Integram Group, Magna

Andrew Chong
Vice-President, Finance and Administration, Hyundai Auto Canada

Douglas Clemence
Administrator, Bank of Nova Scotia

Brian Colburn
Vice-President, Secretary and General Counsel, Magna

Clarence Cole
Senior Executive Vice-President, Credit, Canadian Imperial Bank of Commerce

Jim Connacher
Chairman, Chief Executive Officer, Gordon Capital

Anton Czapka
Businessman, Magna

James Dancey
Project Officer, DRIE

James Davie
Vice-President, Director,
Dominion Securities

James Gerald Davies
Vice-President, Corporate Finance,
Richardson Greenshields

John Arnold Denton
Vice-President, Corporate Credit,
Hanil Bank

Richard Donaldson
Director of Government Relations,
Magna

James Downer
Vice-President, Investment Canada

Angus Dunn
Director, Morgan Grenfell

Philip Evershed
Special Assistant, Exempt Staff,
DRIE

J. Trevor Eyton
President, Chief Executive Officer,
Brascan

Anthony Fell
President, Chief Executive Officer,
Dominion Securities

David Ford
In-house Corporate Counsel, Magna

Joan Foulkes
Bookkeeper,
York Centre Corporation

Norman Gibbons
Vice-President, Hyundai Auto
Canada

Ronald Graham
President,
Ronald J. Graham Consultants

Nigel Gray
Vice-President, General Counsel,
CDC

Marian Guilfoyle
Special Assistant to Mr. Stevens

Harold Anthony Hampson
President, Chief Executive Officer,
CDC

Michael Harris
Journalist, *Globe and Mail*

Peter Herbert
Director, Standard of Conduct
Advisory Group, Assistant Deputy
Registrar General

Helmut Hofmann
President, Devtek Corporation

Vera Holiad
Communications Adviser, DRIE

Elizabeth Hopkins
Sister of William Mollard

James Howe
Director General, Special Projects,
DRIE

Gerald Jean
Project Officer, DRIE

James Kay
Chairman of the Board,
Dylex Corporation

Gerald Kelly
Acting Executive Director, Ontario,
DRIE

Thomas Kierans
President, Member of Executive
Committee, McLeod Young Weir

Paul Labbé
President, Investment Canada

John Lane
Director General of Saskatchewan,
DRIE

Richard John Lawrence
Chairman, Chief Executive Officer, Burns Fry

Mel Leiderman
Chartered Accountant and Partner, Lipton, Wiseman, Altbaum & Partners

Kenneth Leung
Senior Vice-President, Finance and Administration, Olympia & York Developments

Douglas Lewis
Lawyer, Department of Justice, assigned to DRIE

James McAlpine
Executive Vice-President, Magna

James Donald Macgregor
President, Canalands Resources and Sentry Oil & Gas

John MacNaughton
Director, Merger and Acquisition Group, Burns Fry

Paul Marshall
Chief Executive Officer, CDIC

Ronald Marshall
Assistant Deputy Minister, Operations, DRIE

Wilmot L. Matthews
Vice-Chairman, Burns Fry

Dennis Mills
Vice-President, Corporate Affairs, Magna

Brian Milner
Reporter, *Globe and Mail*

Frank Moores
Senior Trust Officer, National Trust

Greg Morris
Senior Vice-President, Credit, Canadian Imperial Bank of Commerce

Peter Nares
Vice-Chairman and Member of Board of Directors, Richardson Greenshields

Ronald Netolitzky
President, Taiga Consultants

John Nunziata
M.P., York South-Weston

Edward Parent
Chartered Accountant, Magna

Bruce Pender
Executive Assistant, MI Developments, Magna

Alfred Powis
Chairman, Chief Executive Officer, Noranda

Christopher Rocker
President, Chief Executive Officer, Chase Manhattan of Canada

Richard Ross
Assistant General Manager, Credit, Continental Bank

Edward Rowe
President, York Centre Corporation

Michael Ruf
Trust Officer, National Trust

David Robin Sloan
Senior Vice-President, Magna; Vice-President, MI Developments

Campbell Smith
Branch Manager, Bank of Nova Scotia

Andrew Sotak
Project Officer, DRIE

Charles Stedman
Director General, Automotive, Marine and Rail Branch, DRIE

Noreen M. Stevens
Director, Cardiff Investments, Clady Farm, and Sentry Oil & Gas

Sinclair M. Stevens
M.P., York-Peel

Geoffrey Stevens
Managing Editor, *Globe and Mail*

David Stewart-Patterson
Reporter, *Globe and Mail*

Frank Stronach
Chairman, Chief Executive Officer, Magna

Andrei Sulzenko
Director, Automotive, Marine and Rail Branch, DRIE

William Teschke
Deputy Minister, DRIE

David Torrey
Vice-Chairman, Dominion Securities

Juliette Toth
Receptionist, CDIC

Roland Wagg
Branch Manager, Canadian Imperial Bank of Commerce

Shirley Walker
Special Assistant to Sinclair M. Stevens, DRIE

J. Christopher Wansbrough
President, National Trust

Ronald Watkins
Director, Crown Investments, DRIE

Appendix D

Inquiry Schedule

Hearings

Commenced	Monday, June 16, 1986
Closed	Friday, February 20, 1987
Total number of days of hearings	83

Hearing Dates

Week 1	June 16, 1986 (preliminary hearing)
Week 2	July 14–17, 1986
Week 3	July 21–24, 1986
Week 4	July 28–31, 1986
Week 5	August 5–7, 1986
Week 6	August 11–14, 1986
Week 7	August 18–21, 1986
Week 8	August 25–28, 1986
Week 9	September 2–4, 1986
Week 10	September 15–19, 1986
Week 11	September 22–26, 1986
Week 12	September 29–30, 1986
	October 1–2, 1986
Week 13	October 6–10, 1986
Week 14	October 14–17, 1986
Week 15	October 20–22, 1986
Week 16	October 28–29, 1986
Week 17	November 3–7, 1986
Week 18	November 10–14, 1986
Week 19	November 17–21, 1986
Week 20	November 24, 26, 28, 1986
Week 21	January 26, 1987
Week 22	February 16–20, 1987

Transcripts

83 volumes

Public hearings	13,992 pages
In-camera hearings	796 pages

Exhibits

Total number of public exhibits 232, representing approximately 25,000 pages

Total number of in-camera exhibits 9, representing approximately 1170 pages

Witnesses

Total number of witnesses called at the Inquiry 93

Appendix E

April 28, 1980

CONFLICT OF INTEREST GUIDELINES
FOR MINISTERS OF THE CROWN

I Principles

1) The onus for preventing real, apparent or foreseeable conflicts of interest rests with the individual;

2) Ministers must perform and appear to perform their official responsibilities and arrange their private affairs in a manner that will conserve and enhance public confidence and trust in government and that will prevent conflicts of interest from arising;

3) Ministers must not take advantage or appear to take advantage of their official positions, or of information obtained in the course of their official duties that is not generally available to the public.

The purpose of these Guidelines is to assist Ministers in observing these principles and in maintaining the high standard of conduct expected of them. As the Guidelines are general in nature, conforming to the letter of them may not afford complete protection for individual Ministers in all cases. Each Minister is therefore responsible for taking whatever additional action may be necessary to ensure that conflicts of interest are avoided.

II Prohibited Activities

Ministers upon appointment, or as soon as possible thereafter, shall cease to:

1) engage in the practice of a profession or the management or operation of any business or commercial activity, or in the management of assets except exempt or discloseable assets;

2) serve as paid consultants;

3) retain or accept directorships or offices in commercial corporations. Although it could be proper in some circumstances for Ministers to retain or accept directorships or offices in organizations of a philanthropic or charitable character, great care must always be taken to prevent conflicts of interest from arising. Offers of directorships or offices in philanthropic or charitable organizations in receipt of federal public funds should be refused;

4) serve actively as members in unions or professional associations.

Each Minister will provide to the Assistant Deputy Registrar General (ADRG) for disclosure in the Public Registry information concerning the partnerships, directorships and corporate executive positions held by them during the two years preceding their appointment. These disclosures will provide sufficient information to identify the nature of the business involved and of the responsibilities carried.

III Avoidance of Preferential Treatment

Ministers shall not accord preferential treatment in relation to any official matter to relatives or friends or to organizations in which their relatives or friends have an interest.

Ministers must also take care to avoid placing, or appearing to place, themselves under an obligation to any person or organization which might profit from special consideration or favour on their part.

IV Gifts

Ministers shall disclose in the Public Registry any personal gift or other benefit of a value exceeding two hundred dollars which they receive from any person not connected with them by blood relationship, marriage

or adoption, together with the name and address of the donor. Official gifts and hospitality received from other governments and hospitality received from personal friends are not subject to this rule. All gifts or benefits exceeding two hundred dollars in value, other than official gifts or benefits, are to be declared to the ADRG within thirty days of their receipt for disclosure in the Public Registry.

V Arrangements with Respect to Assets

At the time of their appointment to the Cabinet or upon the coming into force of these guidelines, Ministers shall make a full report to the Prime Minister, through the Assistant Deputy Registrar General (ADRG), of all their assets and liabilities. These reports will be updated by annual reports submitted by Ministers through the same channel, indicating changes in the assets, other than exempt assets, owned directly by them. These annual reports will include information about changes in the liabilities owed by Ministers.

A) Exempt Assets

There are no requirements of public disclosure or restrictions on dealing with property which is for the personal use of Ministers and their families or with other assets not of a commercial character ("exempt assets"). Exempt assets include: residences and recreational property used or intended for use by Ministers or their families; household goods and personal effects; automobiles; boats and other means of transport for personal use; and works of art. They also include cash and deposits (but do not include cash and deposits in foreign currency held for investment or speculative purposes); Canada and Provincial Savings Bonds; registered retirement savings plans that are not self-administered; self-administered registered retirement savings plans composed exclusively of exempt assets; registered home ownership savings plans; investments in open ended mutual funds; Guaranteed Investment Certificates and similar financial instruments; income averaging and other annuities; accrued pension rights; life insurance policies; money owed by a previous employer, client or partnership; personal loans to any individual connected with a Minister by blood relationship, marriage or adoption; and personal loans not in excess of $5,000 to any individual not connected with a Minister by blood relationship, marriage or adoption.

B) Discloseable Assets

Ministers may elect to disclose in the Public Registry the following assets owned by them when these assets are of such a nature that they are unlikely to give rise to a conflict of interest:

1) ownership interests in family businesses, and in companies whose stocks and shares are not traded publicly, which do not contract with the government, which are of a local character, and which do not own or control shares of public companies;

2) farms;

3) real property other than exempt property not normally for the Minister's or his family's personal use and which is unlikely to create a conflict of interest;

4) beneficial ownership of the assets of trusts other than blind trusts of which the administration is carried out at arm's length.

If Ministers do not elect to disclose non-conflicting assets in the Public Registry, these assets must be treated as "controlled assets". Initial reports of such assets shall be made by the Minister to the ADRG within 60 days of the Minister's appointment to the Cabinet, for the purpose of disclosure in the Public Registry. Information about any sale, purchase or acquisition through other means of assets of this character made subsequent to any initial report must be provided by the Minister to the ADRG within 30 days after the transaction has been completed for disclosure in the Public Registry. The information provided in these initial and subsequent disclosures will be open to public examination.

C) Controlled Assets

All assets other than exempt or discloseable assets owned by a Minister shall be considered controlled assets and shall be either sold in a normal arm's length, transaction or placed in a blind trust. Ministers may not

after the completion of any arrangements necessary to comply with the Guidelines, purchase, sell or retain any direct interest in any controlled asset. If Ministers should acquire controlled assets through inheritance or gift after their arrangements have been completed, this shall be reported to the Prime Minister and either sold or placed in a blind trust.

Controlled assets include:

1) publicly traded securities of corporations and governments;

2) interests in partnerships, proprietorships, joint ventures, private companies and family businesses which are not discloseable assets;

3) stock options except those of private companies referred to in item 1) under Discloseable Assets;

4) self-administered registered retirement savings plans, except those composed exclusively of exempt assets;

5) real property which is not an exempt or discloseable asset;

6) commodities, including metals, and foreign currency for speculative or investment purposes;

7) interests in profit sharing plans;

8) loans that exceed $5,000 to individuals not connected with the Minister concerned by blood relationship, marriage or adoption.

1) Divestment - Selling

Ministers may sell controlled assets in a normal arm's length transaction but only for the purpose of complying with these Guidelines and within the time limits prescribed in them.

2) Divestment - Blind Trust

Controlled assets that are not sold must be placed in a blind trust. The following criteria shall be observed in establishing blind trusts to comply with these Guidelines:

1) Title to all assets placed in trust must be transferred to the trustee(s);

2) All trustees of such trusts shall be individuals, corporations or firms that deal with the Minister at arm's length (as this term is defined in the Income Tax Act of Canada). This means that individuals connected with a Minister by blood relationship, marriage or adoption cannot serve as trustees;

3) While there shall be no limit on the number of trustees that may be appointed, every trust must have at least one "government designated trustee" (all trust companies in possession of a valid licence and designated investment dealers);

4) All decisions of the trustees of a blind trust must be approved by a majority of the trustees, which majority must include the government designated trustee;

5) Subject to the requirements of 2, 3 and 4 above, a Minister may appoint as many independent trustees as he wishes;

6) The terms of each trust instrument shall place on the trustee(s) a clear responsibility not to divulge to, or otherwise inform, directly or indirectly, the Minister of any matter concerning the assets in or the management of the trust, except as hereinafter provided;

7) The trustee(s) of each trust must be empowered to make all decisions concerning the management of the assets in the trust free of direct or indirect control or influence by the Minister, and without informing, consulting with or seeking advice from the Minister;

8) Each trust instrument shall provide that the trustee(s) must deliver annual statements to the Minister that will permit the preparation of annual income tax returns, or compliance with any other legislation or legal requirements;

9) Any trust instrument may provide that the Minister be informed of the total value of the trust fund at any time, but such information and the statements referred to in item 8) above, must not disclose to the Minister the identity, nature, or value of any of the assets in the trust;

10) The terms of any blind trust instrument may provide that the net income of the trust fund be paid to the Minister at such intervals as may be agreed with the trustee(s);

11) The Minister may request the trustee(s) to pay to him or her such part of the capital of the trust fund, in cash and not in specie, as he or she may direct;

12) The Minister may add capital to the trust at any time during the life of the trust.

NOTE: Ministers may name persons other than themselves as beneficiaries of their blind trust, in which event these criteria apply *mutatis mutandis* to Ministers and the beneficiaries.

Within the period stipulated in these Guidelines, a copy of any blind trust instrument entered into by a Minister for the purposes of these Guidelines must be provided to the ADRG.

The deadline for receipt of these instruments may be extended by the Prime Minister in special circumstances.

3) Holding Companies

In cases where Ministers have established holding companies for estate planning purposes, they may put their rights in such companies into a trust for retention. In such circumstances, the trustee may not dispose of or otherwise affect the rights placed in the trust. The Assistant Deputy Registrar General may serve as trustee of such trusts.

In establishing such trusts, Ministers may make arrangements to have third parties exercise their voting rights in relation to the shares in the holding company as long as such arrangements will not result in a conflict of interest. Ministers who have established such trusts may not be consulted or informed of the disposition of any assets owned by the holding company that would be considered to be controlled assets under the terms of these guidelines.

VI Executorships and Trusteeships

Ministers are to disclose to the Prime Minister through the ADRG, all executorships and trusteeships and are to take appropriate steps to avoid conflicts of interest that might arise from serving actively as executor or trustee.

VII Spouses and Dependent Children

These guidelines do not directly apply to spouses or dependent children of Ministers. It goes without saying that Ministers must not transfer their assets to their spouses or dependent children with a view to avoiding the requirements of these Guidelines. Ministers should also bear in mind their individual responsibility to prevent conflicts of interest, including those that might conceivably arise or appear to arise out of dealings in property or investments which are owned or managed in whole or in part, by their spouses or dependent children.

VIII Administration

These Guidelines are administered on behalf of the Prime Minister by the Assistant Deputy Registrar General (ADRG). The ADRG will assist Ministers in complying with these Guidelines and will provide them with information and advice for this purpose.

Ministers must fully declare on a confidential basis their assets, liabilities and activities, including executorships and trusteeships, to the ADRG within 60 days of appointment to the Cabinet or of the coming into force of these Guidelines.

In order that the ADRG may assure Ministers that their trust instruments conform to the criteria set out in the Guidelines and will be satisfactory to the Prime Minister, trust instruments are to be submitted to the ADRG before they are executed.

Ministers must complete all arrangements necessary to achieve full compliance within 120 days of appointment or of the coming into force of these Guidelines. Within this time period, Ministers must provide to the ADRG copies of duly executed trust instruments and public disclosures of previous activities, personal gifts or benefits and discloseable assets, as required, and a public document in which they will indicate in summary form the arrangements they have made to comply with these Guidelines. The public disclosures of previous activities, personal gifts or benefits and discloseable assets and the summary of arrangements made by a Minister will be open to examination by the general public in the Public Registry maintained by the ADRG.

If questions related to compliance with these Guidelines cannot be resolved between a Minister and the ADRG, the matter will be referred by the ADRG or the Minister concerned to an advisory committee composed of the Clerk of the Privy Council and the Prime Minister's Principal Secretary for an opinion. Questions regarding the application of the Guidelines to unusual situations will be referred to the Prime Minister through the advisory committee.

A Minister's conflict of interest arrangements will be considered complete when approved by the Prime Minister.

IX Other Requirements

Conflict of Interest Rules for Parliamentarians

Ministers are subject, in addition to these Guidelines, to the provisions of the Senate and House of Commons Act as they apply to Senators and Members of Parliament. Attention is drawn, in particular, to the conflict of interest provisions of these Acts (Attached as Appendix I). They relate to incompatible offices, prohibited contracts with the government and prohibitions on fees received for influencing other Parliamentarians.

Post-Employment Guidelines

Ministers are also asked to comply with the Post-Employment Guidelines, attached as Appendix II.

APPENDIX I

SENATE AND HOUSE OF COMMONS ACT

Independence of Parliament

Members of the House of Commons

10. Except as hereinafter specially provided,

(a) no person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada, to which any salary, fee, wages, allowance, emolument, or profit of any kind is attached, and

(b) no sheriff, registrar of deeds, clerk of the peace, or county crown attorney in any of the provinces of Canada,

is eligible as a member of the House of Commons, or shall sit or vote therein.

11. Nothing in section 10 renders ineligible any person holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada, at the nomination of the Crown, or at the nomination of any of the officers of the Government of Canada, as a member of the House of Commons, or disqualifies him from sitting or voting therein, if, by his commission or other instrument of appointment, it is declared or provided that he shall hold such office, commission or employment without any salary, fees, wages, allowances, emolument or other profit of any kind, attached thereto.

12. Nothing in this Act renders ineligible or disqualifies any person as a member of the House of Commons or to sit or vote therein by reason of his being

(a) a member of Her Majesty's forces while he is on active service as a consequence of war, or

(b) a member of the reserve force of the Canadian Forces who is not on full-time service other than active service as a consequence of war.

13. Notwithstanding anything in this Act, a member of the House of Commons shall not vacate his seat by reason only of his acceptance of an office of profit under the Crown, if that office is an office the holder of which is capable of being elected to, or sitting or voting in, the House of Commons.

14. A person is not, by this Act, rendered ineligible as a member of the House of Commons or disqualified from sitting or voting in the House of Commons by reason only of his acceptance of travelling expenses paid out of public moneys of Canada where the travel is undertaken at the request of the Governor in Council on the public business of Canada.

15. A member of the Queen's Privy Council for Canada is not, by this Act, rendered ineligible as a member of the House of Commons or disqualified from sitting or voting in the House of Commons by reason only that he

(a) "holds an office for which a salary is provided in section 4 or 5 of the Salaries Act and receives that salary, or

(b) is a Minister of State, other than a Minister of State referred to in section 5 of the Salaries Act, or a Minister without Portfolio and receives a salary in respect of that position,"

if he is elected while he holds that office or position or is a member of the House of Commons at the date of his nomination by the Crown for that office or position.

16. No person, directly or indirectly, alone or with any other, by himself or by the interposition of any trustee or third party, holding or enjoying, undertaking or executing any contract or agreement, expressed or implied, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid, is eligible as a member of the House of Commons, or shall sit or vote in the said House.

17. If any member of the House of Commons accepts any office or commission, or is concerned or interested in any contract, agreement, service or work that, by this Act, renders a person incapable of being elected to, or of sitting or voting in the House of Commons, or knowingly sells any goods, wares or merchandise to, or performs any service for the Government of Canada, or for any of the officers of the Government of Canada, for which any public money of Canada is paid or to be paid, whether such contract, agreement or sale is expressed or implied, and whether the transaction is single or continuous, the seat of such member is thereby vacated, and his election is thenceforth void.

18. (1) If any person disqualified or by this Act declared incapable of being elected to, or of sitting or voting in the House of Commons, or if any person duly elected, who has become disqualified to continue to be a member or to sit or vote, under section 17, nevertheless sits or votes, or continues to sit or vote therein, he shall thereby forfeit the sum of two hundred dollars for each and every day on which he so sits or votes.

(2) Such sum is recoverable from him by any person who sues for the same in any court of competent civil jurisdiction in Canada.

19. Sections 16, 17 and 18 extend to any transaction or act begun and concluded during a recess of Parliament.

20. (1) In every contract, agreement or commission to be made, entered into or accepted by any person with the Government of Canada, or any of the departments or officers of the Government of Canada, there shall be inserted an express condition, that no member of the House of Commons shall be admitted to any share or part of such contract, agreement or commission, or to any benefit to arise therefrom.

(2) In case any person, who has entered into or accepted, or who shall enter into or accept any such contract, agreement or commission, admits any member or members of the House of Commons, to any part or share thereof, or to receive any benefit thereby, every such person shall, for every such offence, forfeit and pay the sum of two thousand dollars, recoverable with costs in any court of competent jurisdiction by any person who sues for the same.

21. This Act does not extend to disqualify any person as a member of the House of Commons by reason of his being

(a) a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work;

(b) a person on whom the completion of any contract or agreement, expressed or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months have elapsed after the same has so devolved on him; or

(c) a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons.

22. (1) No person, who is a member of the Senate, shall directly or indirectly, knowingly and wilfully be a party to or be concerned in any contract under which the public money of Canada is to be paid.

(2) If any person, who is a member of the Senate, knowingly and wilfully becomes a party to or concerned in any such contract, he shall forfeit the sum of two hundred dollars for each and every day during which he continues to be such party or so concerned.

(3) Such sum is recoverable from him by any person who sues for the same, in any court of competent jurisdiction in Canada.

(4) This section does not render any senator liable for such penalties, by reason of his being a shareholder in any incorporated company having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work.

(5) This section does not render any senator liable for such penalties by reason of his being, or having been, a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition, or by reason of his being, or having been, a contractor respecting the purchase or payment of the public stock or debentures of Canada, on terms common to all persons.

Members of the Senate and of the House of Commons

23. (1) No member of the Senate or of the House of Commons shall receive or agree to receive any compensation, directly or indirectly, for services rendered, or to be rendered, to any person, either by himself or another, in relation to any bill, proceeding, contract, claim, controversy, charge, accusation, arrest or other matter before the Senate or the House of Commons, or before a committee of either House, or in order to influence or to attempt to influence any member of either House.

(2) Every member of the Senate offending against this section is liable to a fine of not less than one thousand dollars and not more than four thousand dollars; and every member of the House of Commons offending against this section is liable to a fine of not less than five hundred dollars and not more than two thousand dollars, and shall for five years after conviction of such offence, be disqualified from being a member of the House of Commons, and from holding any office in the public service of Canada.

(3) Any person who gives, offers, or promises to any such member any compensation for such services as aforesaid, rendered or to be rendered, is guilty of an indictable offence, and liable to one year's imprisonment and to a fine of not less than five hundred dollars and not more than two thousand dollars.

Limitation of Actions

24. No person is liable to any forfeiture or penalty imposed by this Act, unless proceedings are taken for the recovery thereof within twelve months after such forfeiture or penalty has been incurred.

APPENDIX II

POST-EMPLOYMENT

A. Guidelines for Ministers

1) Ministers should not allow themselves to be influenced in their pursuit of their official duties by plans for or offers of outside employment:

a) Ministers should disclose to the Prime Minister all serious offers of positions outside Government service which in their judgment put them in a position of a real or apparent conflict of interest;

b) Ministers should not accept any offers of employment outside Government service without first informing the Prime Minister;

c) Ministers should, in seeking employment or an occupation outside Government service or in preparing themselves for commercial activities after they will have left Government service, ensure that these endeavours do not lead to real or apparent conflicts of interest or in any way interfere with their official duties.

2) In any official dealings with former office holders, Ministers must ensure that they do not provide grounds or the appearance of grounds for allegations of improper influence, privileged access or preferential treatment.

B. Guidelines Applying to Employment and Commercial Activities of Former Ministers

The following guidelines are pursuant to the principles set out in the conflict of interest guidelines, and are to be applied in accordance with those principles and with the aim of protecting the individual liberty of former Ministers to the fullest extent possible.

These guidelines do not apply to former Ministers who remain in the Senate or House of Commons to the extent that they would impede the performance of their duties as Parliamentarians, but in such circumstances the former Minister must take care to follow the appropriate Parliamentary laws, rules and conventions relating to conflict of interest.

1) Within a period of two years of leaving office, Ministers should not:

a) accept appointment to a board of directors of a commercial corporation which, as a matter of course, was in a special relationship with the department or agency for which they were responsible on an ongoing basis during the last two years of their participation in the Ministry;

b) change sides to act for or on behalf of any person or commercial corporation in connection with any specific proceeding, transaction, case or other matter to which the Government of Canada is a party and in which they had a personal and substantial involvement on behalf of the Government during the last two years of their participation in the Ministry;

c) lobby for or on behalf of any person or commercial corporation before any department or agency for which they were responsible on an ongoing basis during the last two years of their participation in the Ministry.

2) Within a period of one year of leaving office, Ministers should not:

a) accept employment with a commercial corporation with which they had significant direct official dealings as Ministers during the last year of their participation in the Ministry;

b) change sides to act for or on behalf of any person or commercial corporation in connection with any specific proceeding, case, transaction or other matter which fell under their authority during the last year of their participation in the Ministry;

c) give counsel for commercial purposes concerning the programs or policies of the department or agency for which they were responsible on an ongoing basis, or with which they had a direct and substantial relationship during the last year of their participation in the Ministry.

NOTES: For these purposes "department or agency" includes Crown corporations but not quasi-judicial bodies. "Special relationship" in respect of paragraph 1(a) means regulation of the corporation by the department or agency, receipt by the corporation of subsidies, loans or other capital assistance from the department or agency, and contractual relationships between the corporation and the department or agency.

Appendix F

Conflict of Interest and Post-Employment Code for Public Office Holders

September 1985

Revised Version, November 1985

Copies available from the Office of the
Assistant Deputy Registrar General of Canada
Ottawa, K1A 0C9

Table of Contents

CONFLICT OF INTEREST AND POST-EMPLOYMENT CODE FOR PUBLIC OFFICE HOLDERS

Short Title

1. This Code may be cited as the *Conflict of Interest Code*.

Part I

INTERPRETATION AND APPLICATION

2.(1) In this Code,

"ADRG" means the Assistant Deputy Registrar General; (SRGA)

"department" means any department as defined in the *Financial Administration Act*, other than the staffs of the Senate, the House of Commons and the Library of Parliament; (ministère)

"ministerial exempt staff" means those persons on the staff of a Minister of the Crown. (personnel soustrait d'un ministre)

(2) For the purposes of this Part, "public office holder" means any officer or employee of Her Majesty in Right of Canada and includes:

(a) a Minister of the Crown;

(b) a parliamentary secretary;

(c) a member of ministerial exempt staff;

(d) a ministerial appointee;

(e) a Governor in Council appointee, other than a judge receiving a salary under the *Judges Act*;

(f) an employee of a department;

(g) an employee of a separate employer as defined in the *Public Service Staff Relations Act*;

(h) an officer, director or employee of a federal board, commission or other tribunal as defined in the *Federal Court Act*;

(i) a member of the Canadian Armed Forces; and

(j) a member of the Royal Canadian Mounted Police. (titulaire d'une charge publique)

3. This Code does not apply to the staff of the Senate, House of Commons and Library of Parliament and to the persons holding the following offices:

(a) the Clerk of the Senate and Clerk of the Parliaments;

(b) the Law Clerk and Parliamentary Counsel of the Senate;

(c) the Assistant Clerk of the Senate;

(d) the Gentleman Usher of the Black Rod;

(e) the Clerk of the House of Commons;

(f) the Clerk Assistants of the House of Commons;

(g) the Sergeant-at-Arms;

(h) the Law Clerk and Parliamentary Counsel of the House of Commons;

(i) the Parliamentary Librarian; and

(j) the Associate Parliamentary Librarian.

OBJECT

4. The object of this Code is to enhance public confidence in the integrity of public office holders and the public service

(a) while encouraging experienced and competent persons to seek and accept public office;

(b) while facilitating interchange between the private and the public sector;

(c) by establishing clear rules of conduct respecting conflict of interest for, and post-employment practices applicable to, all public office holders; and

(d) by minimizing the possibility of conflicts arising between the private interests and public duties of public office holders and providing for the resolution of such conflicts in the public interest should they arise.

APPLICATION

5.(1) This Code provides general and specific direction to assist public office holders in the furtherance of the principles set out in section 7.

(2) Conforming to this Code does not absolve individual public office holders of the responsibility to take such additional action as may be necessary to prevent real, potential or apparent conflicts of interest.

(3) Conforming to this Code does not absolve public office holders from conforming to any specific references to conduct contained in the statutes governing their particular department or office and to the relevant provisions of legislation of more general application such as the *Criminal Code*, the *Canadian Human Rights Act*, the *Privacy Act*, the *Financial Administration Act* and the *Public Service Employment Act*.

6.(1) Nothing in this Code shall be interpreted in a way that would impede Ministers of the Crown and parliamentary secretaries in the performance of their duties as members of the Senate or the House of Commons.

(2) Conforming to this Code does not absolve Ministers of the Crown and parliamentary secretaries from conforming to the Standing Orders and Procedures of the Senate or the House of Commons, as the case may be, and to the conflict of interest provisions of the *Senate and House of Commons Act*.

PRINCIPLES

7. Every public office holder shall conform to the following principles:

(a) public office holders shall perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;

(b) public office holders have an obligation to act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law;

(c) public office holders shall not have private interests, other than those permitted pursuant to this Code, that would be affected particularly or significantly by government actions in which they participate;

(d) on appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise between the private interests of a public office holder and the official duties and responsibilities of that public office holder, the conflict shall be resolved in favour of the public interest;

(e) public office holders shall not solicit or accept transfers of economic benefit, other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the public office holder;

(f) public office holders shall not step out of their official roles to assist private entities or persons in their dealings with the government where this would result in preferential treatment to any person;

(g) public office holders shall not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public;

(h) public office holders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities; and

(i) public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office.

PROPAGATION

Certification

8.(1) Before or on assuming their official duties and responsibilities, Category A public office holders and Category B public office holders as defined in section 14 and public office holders as defined in section 54 shall sign a document certifying that they have read and understood this Code and that, as a condition of their holding office, they will observe this Code.

(2) Category A public office holders and Category B public office holders as defined in section 14 and public office holders as defined in section 54 shall sign the document described in subsection (1) within 120 days after the coming into force of this Code.

Annual Review

9. It is the responsibility of Category A public office holders and Category B public office holders as defined in section 14 and public office holders as defined in section 54 to review their obligations under this Code at least once a year.

Contracts

10.(1) It is the responsibility of every Category A public office holder and Category B public office holder as defined in section 14 who is negotiating a personal service contract to include in the contract appropriate provisions with respect to this Code in accordance with such directives as the Treasury Board may issue.

(2) Every Category A public office holder and Category B public office holder as defined in section 14 who is negotiating a government contract shall ensure that the contract includes safeguards, in accordance with such directives as the Treasury Board may issue, to prevent a former public office holder as defined in section 54, who does not comply with the compliance measures set out in Part III, from receiving benefit from the contract.

Education and Resource Centre

11.(1) The ADRG, in consultation with the Secretary of the Treasury Board, shall prepare informational and educational material about this Code for public office holders and the general public and, for the benefit of public officer holders, make appropriate arrangements for the preparation and implementation of training on conflict of interest and post-employment behaviour to promote compliance with the Code.

(2) The ADRG shall establish a resource centre of print, film, videotape and other material related to conflict of interest, post-employment behaviour and other ethical matters of concern to public office holders and to government.

SUPPLEMENTARY COMPLIANCE MEASURES

12.(1) The deputy head of a department in respect of whose employees the Treasury Board represents the Government as employer may augment the compliance measures set out in Parts II and III with supplementary procedures and guidance:

(a) respecting conflict of interest and post-employment situations peculiar to the unique and special responsibilities of the department; and

(b) reflecting any special requirements relating to employee conduct or interests contained in statutes governing the operations of the department.

(2) Before any supplementary procedures and guidance are implemented pursuant to subsection (1), Treasury Board approval is required.

DEALINGS WITH FORMER PUBLIC OFFICE HOLDERS

Obligation to Report

13.(1) Category A public office holders and Category B public office holders as defined in section 14 who have official dealings, other than dealings that consist of routine provision of a service to an individual, with former public office holders as defined in section 54, who are or may be governed by the measures set out in Part III, shall report those dealings to the designated official as defined in section 14.

(2) On receipt of a report under subsection (1), the designated official as defined in section 14 shall immediately determine whether the former public office holder as defined in section 54 is complying with the compliance measures set out in Part III.

(3) Category A public office holders and Category B public office holders as defined in section 14 shall not, in respect of a transaction, have official dealings with former public office holders as defined in section 54, who are determined pursuant to subsection (2) to be acting, in respect of that transaction, contrary to the compliance measures set out in Part III.

Part II

CONFLICT OF INTEREST COMPLIANCE MEASURES — GENERAL

INTERPRETATION

14. For the purposes of this Part and the Schedule,

"Category A public office holder" means:

(a) a Minister of the Crown;

(b) a parliamentary secretary designated as a Category A public office holder by the Minister of the Crown whom the parliamentary secretary assists;

(c) a senior member of ministerial exempt staff and, in addition, any other member of ministerial exempt staff designated by the appropriate Minister of the Crown as a Category A public office holder;

(d) subject to section 3, a full-time Governor in Council appointee, other than:

(i) a Lieutenant-Governor of a province,

(ii) a head of mission as defined in the *Department of External Affairs Act*,

(iii) a judge who receives a salary under the *Judges Act*, and

(iv) a commissioned officer of the Royal Canadian Mounted Police, other than the Commissioner of the Royal Canadian Mounted Police; or

(e) a full-time ministerial appointee designated by the appropriate Minister of the Crown as a Category A public office holder holder. (titulaire d'une charge publique de la catégorie A)

"Category B public office holder" means:

(a) an employee of a department for whom the Treasury Board represents the Government as employer;

(b) a head of mission as defined in the *Department of External Affairs Act*, and

(c) every member of ministerial exempt staff and every full-time ministerial appointee who is not designated as a Category A public office holder. (titulaire d'une charge publique de la catégorie B)

"designated authority" means:

(a) in respect of Category A public office holders and Category B public office holders described in paragraph (c) of the definition "Category B public office holder", the Prime Minister; and

(b) in respect of Category B public office holders described in paragraphs (a) and (b) of the definition "Category B public office holder", the Treasury Board. (autorité désignée)

"designated official" means:

(a) in respect of Category A public office holders and Category B public office holders described in paragraph (c) of the definition "Category B public office holder", the ADRG; and

(b) in respect of Category B public office holders described in paragraphs (a) and (b) of the definition "Category B public office holder", the deputy head of the office holder's department. (administrateur désigné)

"public office holder" means a Category A public office holder and a Category B public office holder. (titulaire d'une charge publique)

"Public Registry" means the registry where public documents are maintained by the ADRG for examination by the public. (Registre public)

OBJECT

15. This Part sets out the procedural and administrative requirements to be observed by public office holders in order to minimize the risk of conflict of interest and to permit the resolution of such conflicts of interest in favour of the public interest should any arise.

METHODS OF COMPLIANCE

16. The following conflict of interest compliance methods are used to comply with this Part:

(a) Avoidance, which is the avoidance of, or withdrawal from participation in, activities or situations that place public office holders in a real, potential or apparent conflict of interest relative to their official duties and responsibilities;

(b) Confidential Report, which is a written statement by a public office holder to a designated official of ownership of an asset, receipt of a gift, hospitality, or other benefit, or participation in any outside employment or activity. The designated official shall keep the statement confidential. Where a public office holder is subject to continuing direction in the performance of his or her official duties and responsibilities, a Confidential Report will, usually, be considered as compliance with the conflict of interest measures set out in this Part. In cases where a Confidential Report does not constitute such compliance, a Confidential Report is preliminary to a Public Declaration, resignation from activity or Divestment;

(c) Public Declaration, which is a written public statement by a public office holder of ownership of an asset, receipt of a gift, hospitality or other benefit, or participation in any outside employment or activity, where such ownership, receipt or participation could give rise to a conflict of interest or otherwise impair the ability of the public office holder to perform his or her official duties and responsibilities objectively; and

(d) Divestment, which is the sale at arm's length, or the placement in trust, of assets, where continued ownership by the public office holder would constitute a real or potential conflict of interest with the public office holder's official duties and responsibilities. The requirement to divest of such assets shall be determined in relation to the duties and responsibilities of the public office holder. For example, the more comprehensive the duties and responsibilities of the public office holder, the more extensive the Divestment needed and, conversely, the narrower the specialization of the duties and responsibilities of the public office holder, the narrower the extent of the Divestment needed.

17. Where there is doubt as to which method set out in section 16 is appropriate in order that a public office holder may comply with this Part, the designated official shall determine the appropriate method and, in doing so, shall try to achieve mutual agreement with the public office holder and shall take into account:

(a) the specific responsibilities of the public office holder;

(b) the value and type of the assets and interests involved; and

(c) the actual costs to be incurred by divesting the assets and interests as opposed to the potential that the assets and interests represent for a conflict of interest.

SALE FOR CIRCUMVENTION PROHIBITED

18. A public office holder shall not sell or transfer assets to family members or other persons for the purpose of circumventing the conflict of interest compliance measures set out in this Part.

EXEMPT ASSETS

19. Assets and interests for the private use of public office holders and their families and assets that are not of a commercial character are not subject to the methods set out in section 16. Such assets, hereinafter referred to as "exempt assets", include:

(a) residences, recreational property and farms used or intended for use by public office holders or their families;

(b) household goods and personal effects;

(c) works of art, antiques and collectibles;

(d) automobiles and other personal means of transportation;

(e) cash and deposits;

(f) Canada Savings Bonds and other similar investments in securities of fixed value issued or guaranteed by any level of government in Canada or agencies of those governments;

(g) registered retirement savings plans that are not self-administered;

(h) registered home ownership savings plans;

(i) investments in open-ended mutual funds;

(j) guaranteed investment certificates and similar financial instruments;

(k) annuities and life insurance policies;

(l) pension rights;

(m) money owed by a previous employer, client or partnership; and

(n) personal loans receivable from the members of the public office holder's immediate family and small personal loans receivable from other persons where the public office holder has loaned the moneys receivable.

CONFLICT OF INTEREST COMPLIANCE MEASURES — CATEGORY "A" PUBLIC OFFICE HOLDERS

DUTIES OF THE ADRG

20.(1) Under the general direction of the Clerk of the Privy Council, the ADRG is charged with the administration of this Code and the application of the conflict of interest compliance measures set out in this Part as they apply to Category A public office holders.

(2) Information concerning the private interests of a Category A public office holder provided to the ADRG is confidential until a Public Declaration, if any, is made with respect to that information.

(3) It is the responsibility of the ADRG to ensure:

(a) that information provided under subsection (2) is placed in personal confidential files and in secure safekeeping; and

(b) that any information provided by Category A public office holders for a public purpose is placed in personal unclassified files in the Public Registry.

METHODS OF COMPLIANCE

21. Compliance with the conflict of interest compliance measures set out in this Part for Category A public office holders is achieved, as required by sections 24 to 35, by the following methods set out in section 16:

(a) Avoidance;

(b) Confidential Report;

(c) Public Declaration;

(d) Divestment.

PUBLIC EVIDENCE OF COMPLIANCE

22.(1) Once the arrangements made by a Category A public office holder to comply with the conflict of interest compliance measures set out in this Part are completed, a Summary Statement described in subsection (2) and any Public Declaration made pursuant to section 25, 32 and 35 shall be signed by the office holder and a certified copy of the Statement and any Public Declaration shall be placed in the Public Registry.

(2) The Category A public office holder referred to in subsection (1) shall, in the Summary Statement,

(a) state the methods of compliance used to comply with the conflict of interest compliance measures set out in this Part; and

(b) certify that he or she is fully cognizant of the compliance measures set out in Part III.

(3) All arrangements made by a Category A public office holder to comply with the conflict of interest compliance measures set out in this Part shall be approved:

(a) in the case of Ministers of the Crown, by the Prime Minister; and

(b) in the case of all other Category A public office holders, by the ADRG.

TIME LIMITS

23. Unless otherwise authorized by the ADRG, every Category A public office holder shall,

(a) within 60 days after appointment, make a Confidential Report as required under sections 24 and 30;

(b) within 120 days after appointment,

(i) make a Public Declaration pursuant to section 25 and as required under section 32,

(ii) divest controlled assets as required under section 27, and

(iii) sign a Public Declaration and a Summary Statement for placing in the Public Registry pursuant to section 22;

(c) within 30 days after receipt of any gift, hospitality or other benefit, notify the ADRG as required under section 35; and

(d) within 60 days after receipt of any gift, hospitality or other benefit, make a Public Declaration as required under section 35.

ASSETS AND LIABILITIES

Confidential Report

24. A Category A public office holder shall make a Confidential Report to the ADRG of all assets that are not exempt assets as described in section 19 and of all direct and contingent liabilities. Assets that are not exempt assets are either "declarable assets" or "controlled assets" unless, after a Confidential Report, the ADRG determines that they are of such minimal value that they do not constitute any risk of conflict of interest.

Declarable Assets

25.(1) A Category A public office holder may elect to make a Public Declaration of assets that are not controlled assets, as defined under section 26, in order to allow the office holder to deal with those assets, subject only to exercising vigilance to ensure that such dealings cannot give rise to a conflict of interest.

(2) Declarable assets include:

(a) interests in family businesses and in companies that are of a local character, do not contract with the government, and do not own or control shares of public companies, other than incidentally, and whose stocks and shares are not traded publicly;

(b) farms under commercial operation;

(c) real property that is not an exempt asset as described in section 19; and

(d) assets that are beneficially owned, that are not exempt assets as described in section 19, and that are administered at arm's length.

(3) Declarable assets that are not publicly declared pursuant to subsection (1) shall, for the purposes of section 27, be considered to be controlled assets and divested.

Controlled Assets

26.(1) For the purposes of this section and section 27, "controlled assets" means assets that could be directly or indirectly affected as to value by Government decisions or policy.

(2) Controlled assets, other than assets that are determined under section 24 to be of minimal value, shall be divested.

(3) Controlled assets include:

(a) publicly traded securities of corporations and foreign governments;

(b) self-administered Registered Retirement Savings Plans, except when exclusively composed of exempt assets as described in section 19; and

(c) commodities, futures and foreign currencies held or traded for speculative purposes.

Divestment of Controlled Assets

27.(1) Subject to subsection (5), controlled assets are usually divested by selling them in an arm's length transaction or by making them subject to a trust arrangement, the most common of which are set out in the Schedule.

(2) Confirmation of sale and a copy of any executed trust instrument shall be filed with the ADRG. With the exception of a statement that a sale has taken place or that a trust exists, all information relating to the sale and the trust is confidential.

(3) For the purposes of this Code, trust arrangements shall be such that they do not leave in the hands of the Category A public office holder any power of management or decision over the assets placed in trust. The ADRG may serve as trustee of a frozen or retention trust but not of a blind trust.

(4) The ADRG has the responsibility for determining that a trust meets the requirements of this Code. Before a trust is executed or when a change from one trust option to another is contemplated a determination that the trust meets the requirements of this Code shall be obtained from the ADRG.

(5) Subject to the approval of the ADRG, a Category A public office holder is not required to divest controlled assets that are:

(a) pledged to a lending institution as collateral;

(b) of such value as to be practically non-marketable; or

(c) lost or not available for disposition by the office holder.

(6) On the recommendation of the ADRG, a Category A public office holder may be reimbursed for trust costs incurred in an amount set out in the Schedule.

OUTSIDE ACTIVITIES

General

28. Category A public office holders' participation in activities outside their official duties and responsibilities is often in the public interest. Subject to sections 29 to 32, such participation is acceptable where it is not inconsistent with their official duties and responsibilities and does not call into question their capacity to perform their official duties and responsibilities objectively.

Prohibited Activities

29. Subject to section 31, Category A public office holders shall not, outside their official duties,

(a) engage in the practice of a profession;

(b) actively manage or operate a business or commercial activity;

(c) retain or accept directorships or offices in a financial or commercial corporation;

(d) hold office in a union or professional association; or

(e) serve as a paid consultant.

Confidential Report of Outside Activities

30. Category A public office holders shall provide to the ADRG in a Confidential Report a listing of all their outside activities, including those in which they were engaged during the two year period before they assumed their official duties and responsibilities. That list shall include all involvements in activities of a philanthropic, charitable or non-commercial character and involvements as trustee, executor or under power of attorney.

31.(1) When the activities described in section 29 relate to the official duties and responsibilities of a Category A public office holder, the Category A public office holder may, in exceptional circumstances and with the approval required by subsection 22(3) become or remain involved in them, but may not accept remuneration for any activity, except as provided in subsection (3).

(2) A Category A public office holder may with the approval required by subsection 22(3) retain or accept directorships in organizations of a philanthropic, charitable or non-commercial character, but the office holder shall take great care to prevent conflict of interest from arising.

(3) Where the Prime Minister or a person designated by the Prime Minister is of the opinion that it is in the public interest, full-time Governor in Council appointees to Crown Corporations, as defined in the *Financial Administration Act*, may retain or accept directorships or offices in a financial or commercial corporation, and accept remuneration therefore, in accordance with compensation policies for Governor in Council appointees as determined from time to time.

Public Declaration of Outside Activities

32.(1) A Category A public office holder shall make a Public Declaration of the activities referred to in section 31 and of directorships and official positions listed in a confidential report under section 30.

(2) In co-operation with a Category A public office holder, the ADRG shall prepare the Public Declaration of outside activities to be made by that office holder.

GIFTS, HOSPITALITY AND OTHER BENEFITS

When Declined

33. Subject to section 34, gifts, hospitality or other benefits that could influence Category A public office holders in their judgment and performance of official duties and responsibilities shall be declined.

When Permissible

34.(1) Acceptance by Category A public office holders of offers of incidental gifts, hospitality or other benefits of nominal value arising out of activities associated with the performance of their official duties and responsibilities is not prohibited if such gifts, hospitality or other benefits:

(a) are within the bounds of propriety, a normal expression of courtesy or protocol or within the normal standards of hospitality;

(b) are not such as to bring suspicion on the office holder's objectivity and impartiality; and

(c) would not compromise the integrity of the Government.

(2) Official gifts, hospitality and other benefits of nominal value received from governments or in connection with an official or public event are permitted, as are gifts, hospitality and other benefits from family members and close friends.

Public Declaration Required

35.(1) Notwithstanding section 34, where a Category A public office holder directly or indirectly receives any gift, hospitality or other benefit that has a value of $200 or more, other than a gift, hospitality or other benefit from a family member or close friend, the Category A public office holder shall notify the ADRG and make a Public Declaration that provides sufficient detail to identify the gift, hospitality or other benefit received, the donor, and the circumstances.

(2) Where there is doubt as to the need for a Public Declaration or the appropriateness of accepting an offer of a gift, hospitality or other benefit, Category A public office holders shall consult the ADRG.

AVOIDANCE OF PREFERENTIAL TREATMENT

36.(1) A Category A public office holder shall not accord preferential treatment in relation to any official matter to family members or friends or to organizations in which they, family members or friends have an interest.

(2) A Category A public office holder shall take care to avoid being placed or the appearance of being placed under an obligation to any person or organization that might profit from special consideration on the part of the office holder.

FAILURE TO AGREE

37. Where a Category A public office holder and the ADRG disagree with respect to the appropriate arrangements necessary to achieve compliance with this Code, the appropriate arrangements shall be determined by the Prime Minister or by a person designated by the Prime Minister.

FAILURE TO COMPLY

38. Where a Category A public office holder does not comply with Parts I and II, the office holder is subject to such appropriate measures as may be determined by the designated authority, including, where applicable, discharge or termination of appointment.

SUBSEQUENT CHANGES

39. A Category A public office holder shall forthwith inform the ADRG of any changes in his or her assets, liabilities and outside activities that would be subject to a Confidential Report.

CONFLICT OF INTEREST COMPLIANCE MEASURES— CATEGORY "B" PUBLIC OFFICE HOLDERS

DUTIES OF THE DESIGNATED AUTHORITY

40. The designated authority may develop procedures and administrative arrangements for the implementation and administration of the conflict of interest compliance measures set out in this Part for Category B public office holders.

CONFIDENTIALITY

41. Information concerning the private interests of Category B public office holders provided to the designated official is confidential. It is the responsibility of the designated official to ensure that this information is placed in personal confidential files and in secure safekeeping.

METHODS OF COMPLIANCE

42. Compliance with the conflict of interest compliance measures set out in this Part for Category B public office holders is achieved, as required by sections 44 to 49, by the following methods set out in section 16:

(a) Avoidance;

(b) Confidential Report;

(c) Divestment.

TIME LIMITS

43. Unless otherwise authorized by the designated official, every Category B public office holder shall:

(a) within 60 days after appointment, make a Confidential Report as required under sections 44 and 47; and

(b) within 120 days after appointment, divest assets as required under section 46.

ASSETS AND LIABILITIES

Confidential Report

44. A Category B public office holder shall make a Confidential Report to the designated official of all assets that are not exempt assets as described in section 19 and of all direct and contingent liabilities, where such assets and liabilities might give rise to a conflict of interest in respect of the office holder's official duties and responsibilities.

Assets and Liabilities Subject to Confidential Report

45. Assets and liabilities described under section 44 include:

(a) publicly traded securities of corporations and foreign governments and self-administered Registered Retirement Savings Plans composed of such securities;

(b) interests in partnerships, proprietorships, joint ventures, private companies and family businesses, in particular those that own or control shares of public companies or that do business with the Government;

(c) farms under commercial operation;

(d) real property that is not an exempt asset as described in section 19,

(e) commodities, futures and foreign currencies held or traded for speculative purposes;

(f) assets that are beneficially owned, that are not exempt assets as described in section 19 and that are administered at arm's length;

(g) secured or unsecured loans granted to persons other than to members of the Category B public office holder's immediate family;

(h) any other assets or liabilities that could give rise to a real or potential conflict of interest due to the particular nature of the Category B public office holder's duties and responsibilities; and

(i) direct and contingent liabilities in respect of any of the assets described in this section.

Divestment of Assets

46.(1) A Category B public office holder shall divest assets where, following a Confidential Report, it is determined by the designated official that such assets constitute a real or potential conflict of interest. Such assets are usually divested either by selling them in an arm's length transaction or by making them subject to a trust arrangement, the most common of which are described in the Schedule.

(2) For the purposes of this Code, any trust arrangements shall be such that they do not leave in the hands of the Category B public office holder any power of management or decision over the assets placed in trust. The ADRG may serve as trustee of a frozen or retention trust but not of a blind trust.

(3) The ADRG has the responsibility for determining that a trust meets the requirements of this Code. Before a trust is executed or when a change from one trust option to another is contemplated, a determination that the trust meets the requirements of this Code shall be obtained from the ADRG.

(4) On the recommendation of the ADRG, the department of a Category B public office holder may reimburse the Category B public office holder for trust costs incurred in an amount set out in the Schedule.

OUTSIDE ACTIVITIES

47. Involvement in outside employment and other activities by Category B public office holders is not prohibited if such activities do not place on them demands inconsistent with their official duties and responsibilities or call into question their capacity to perform their

official duties and responsibilities objectively. It is the responsibility of a Category B public office holder to make a Confidential Report to the designated official of any outside activity in which the office holder is involved that is directly or indirectly related to the office holder's official duties and responsibilities. The designated official may require that such activity be curtailed, modified or cease when it has been determined that a real or potential conflict of interest exists.

GIFTS, HOSPITALITY AND OTHER BENEFITS

When Declined

48.(1) Subject to section 49, gifts, hospitality or other benefits that could influence Category B public office holders in their judgment and performance of official duties and responsibilities shall be declined.

(2) Acceptance, directly or indirectly, by Category B public office holders of any gifts, hospitality or other benefits not included under subsection 49(1) that are offered by persons, groups or organizations having dealings with the Government is not permitted.

When Permissible

49.(1) Acceptance by Category B public office holders of offers of incidental gifts, hospitality or other benefits of nominal value arising out of activities associated with the performance of their official duties and responsibilities is not prohibited if such gifts, hospitality or other benefits:

(a) are within the bounds of propriety, a normal expression of courtesy or protocol or within the normal standards of hospitality;

(b) are not such as to bring suspicion on the office holder's objectivity and impartiality; and

(c) would not compromise the integrity of the Government.

(2) Where it is impossible to decline unauthorized gifts, hospitality or other benefits, Category B public office holders shall immediately report the matter to the designated official. The designated official may require that a gift of this nature be retained by the department or be disposed of for charitable purposes.

AVOIDANCE OF PREFERENTIAL TREATMENT

50.(1) A Category B public office holder shall not accord preferential treatment in relation to any official matter to family members or friends or to organizations in which the office holder, family members or friends have an interest.

(2) A Category B public office holder shall take care to avoid being placed or the appearance of being placed under an obligation to any person or organization that might profit from special consideration on the part of the Category B public office holder.

(3) A Category B public office holder shall seek the permission of his or her supervisor before offering assistance in dealing with the Government to any individual or entity where such assistance is outside the official role of that Category B public office holder.

FAILURE TO AGREE

51. Where a Category B public office holder and the designated official disagree with respect to the appropriate arrangements necessary to achieve compliance with this Code, the disagreement shall be resolved through grievance procedures that have been established for the Category B public office holder.

FAILURE TO COMPLY

52. Where a Category B public office holder does not comply with Parts I and II, the office holder is subject to such appropriate measures as may be determined by the designated authority, including, where applicable, discharge or termination of appointment.

SUBSEQUENT CHANGES

53. A Category B public office holder shall forthwith inform the designated official of any changes in his or her assets, liabilities and outside activities that would be subject to a Confidential Report.

Part III

COMPLIANCE MEASURES FOR FORMER PUBLIC OFFICE HOLDERS AND PUBLIC OFFICE HOLDERS ANTICIPATING DEPARTURE FROM PUBLIC OFFICE

INTERPRETATION

54. For the purposes of this Part,

"designated authority" means

(a) the Prime Minister in the case of public office holders who are:

(i) Ministers of the Crown,

(ii) parliamentary secretaries,

(iii) full-time ministerial appointees,

(iv) members of ministerial exempt staff, designated by their Minister to be subject to this Part, and

(v) full-time Governor in Council appointees, other than commissioned officers of the Royal Canadian Mounted Police and heads of missions as defined in the *Department of External Affairs Act*;

(b) the Treasury Board in the case of public office holders:

(i) who are employees of a department for whom the Treasury Board represents the Government as employer, and

(ii) heads of missions as defined in the *Department of External Affairs Act*;

(c) the Minister of National Defence in the case of public office holders who are members of the Canadian Armed Forces; and

(d) the Commissioner of the Royal Canadian Mounted Police in the case of public office holders who are members of the Royal Canadian Mounted Police. (autorité désignée)

"designated official" means:

(a) in the case of a public office holder under paragraph (a) of the definition "designated authority", the ADRG under the general direction of the Clerk of the Privy Council;

(b) in the case of a public office holder under paragraph (b) of the definition "designated authority", the deputy head of the public office holder's department or a person designated by the deputy head to administer the Code;

(c) in the case of a public office holder under paragraph (c) of the definition "designated authority", the Chief of the Defence Staff or a person designated by the Chief of the Defence Staff to administer the Code, and

(d) in the case of a public office holder under paragraph (d) of the definition "designated authority", the person designated by the Commissioner of the Royal Canadian Mounted Police to administer the Code. (administrateur désigné)

"public office holder" means:

(a) a Minister of the Crown;

(b) a parliamentary secretary;

(c) a full-time Governor in Council appointee, other than a Lieutenant-Governor of a province and a judge who receives a salary under the *Judges Act*;

(d) an employee of a department classified at a level of, or above, Senior Manager, or the equivalent, for whom Treasury Board represents the Government as employer;

(e) every member of ministerial exempt staff designated by their Minister to be subject to this Part;

(f) a full-time ministerial appointee designated by their Minister to be subject to this Part;

(g) every member of the Canadian Armed Forces at a rank of, or above, Colonel, or the equivalent;

(h) a Commissioned Officer of the Royal Canadian Mounted Police; and

(i) every incumbent in a position designated pursuant to section 55. (titulaire d'une charge publique)

DESIGNATED POSITIONS

55.(1) Where a position in a department in respect of whose employees Treasury Board represents the Government as employer is classified at a level below Senior Manager, or the equivalent, and involves duties and responsibilities that raise post-employment concerns with respect to the possibilities set out in section 57, the Treasury Board may, on the recommendation of the Minister responsible for the department, designate that position as being subject to this Part.

(2) Where a position in the Canadian Armed Forces that is classified at a rank below the rank of Colonel, or the equivalent, involves the duties and responsibilities described in subsection (1), the Minister of National Defence may designate that position as being subject to this Part.

(3) Where a position in the Royal Canadian Mounted Police that is classified at a rank below Commissioned Officer involves the duties and responsibilities described in subsection (1), the Solicitor General may designate that position as being subject to this Part.

EXCLUSION

56.(1) The Treasury Board may, on the recommendation of the Minister responsible for a department in respect of whose employees the Treasury Board represents the Government as employer, exclude positions or groups of positions in that department that are classified at a level of, or above, Senior Manager, or the equivalent, from the application of sections 59 and 60 if the positions or groups of positions meet the conditions set out in subsection (4).

(2) The Minister of National Defence may exclude positions or groups of positions in the Canadian Armed Forces that are classified at a rank of and above Colonel, or the equivalent, from the application of sections 59 and 60, if the positions or groups of positions meet the conditions set out in subsection (4).

(3) The Solicitor General may exclude positions or groups of positions that are classified at a rank of Commissioned Officer from the application of sections 59 and 60, if the positions or group of positions meet the conditions set out in subsection (4).

(4) Positions or groups of positions may be excluded under subsections (1) to (3) if the positions or groups of positions:

(a) do not involve duties and responsibilities that raise post-employment concerns with respect to the possibilities set out in section 57; or

(b) are occupied by persons with knowledge and skills that, in the public interest, should be transferred rapidly from the Government to private and other governmental sectors.

OBJECTS

57. Public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous public office. Observance of this Part will minimize the possibilities of:

(a) allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public office holders while in public office;

(b) obtaining preferential treatment or privileged access to government after leaving public office;

(c) taking personal advantage of information obtained in the course of official duties and responsibilities until it has become generally available to the public; and

(d) using public office to unfair advantage in obtaining opportunities for outside employment.

COMPLIANCE MEASURES

Before Leaving Office

58.(1) Public office holders should not allow themselves to be influenced in the pursuit of their official duties and responsibilities by plans for or offers of outside employment.

(2) Subject to subsection (4), a public office holder shall disclose in writing to the designated official all firm offers of outside employment that could place the public office holder in a position of conflict of interest.

(3) Subject to subsection (4), a public office holder who accepts an offer of outside employment shall immediately disclose in writing to the designated official the acceptance of the offer. In such an event, where it is determined by the designated official that the public office holder is engaged in significant official dealings with the future employer, the public office holder shall be assigned to other duties and responsibilities as soon as possible. The period of time spent in public office following such an assignment shall be counted towards the limitation period on employment imposed under sections 60 and 61.

(4) Disclosure under subsections (2) and (3), shall be:

(a) in the case of Ministers of the Crown, to the Prime Minister;

(b) in the case of deputy heads, to a person designated by the Prime Minister;

(c) in the case of ministerial exempt staff, full-time ministerial appointees and full-time Governor in Council appointees other than those referred to in paragraph (b), to the appropriate Minister of the Crown; and

(d) in the case of parliamentary secretaries, to the Minister of the Crown whom the parliamentary secretary assists.

After Leaving Office

Prohibited Activities

59. At no time shall a former public office holder act for or on behalf of any person, commercial entity, association, or union in connection with any specific ongoing proceeding, transaction, negotiation or case to which the Government is a party:

(a) in respect of which the former public office holder acted for or advised a department; and

(b) which would result in the conferring of a benefit not for general application or of a purely commercial or private nature.

Limitation Period

60. Former public office holders, except for Ministers of the Crown for whom the prescribed period is two years, shall not, within a period of one year after leaving office,

(a) accept appointment to a board of directors of, or employment with, an entity with which they had significant official dealings during the period of one year immediately prior to the termination of their service in public office;

(b) make representations for or on behalf of any other person or entity to any department with which they had significant official dealings during the period of one year immediately prior to the termination of their service in public office; or

(c) give counsel, for the commercial purposes of the recipient of the counsel, concerning the programs or policies of the department with which they were employed, or with

which they had a direct and substantial relationship during the period of one year immediately prior to the termination of their service in public office.

Reduction of Limitation Period

61.(1) On application from a public office holder or former public office holder, the designated authority may reduce the limitation period on employment imposed under section 60.

(2) In deciding whether to reduce the limitation period on employment imposed under section 60, the designated authority shall consider the following factors:

(a) the circumstances under which the termination of their service in public office occurred;

(b) the general employment prospects of the public office holder or former public office holder making the application;

(c) the significance to the Government of information possessed by the public office holder or former public office holder by virtue of that office holder's public office;

(d) the desirability of a rapid transfer from the Government to private or other governmental sectors of the public office holder's or former public office holder's knowledge and skills;

(e) the degree to which the new employer might gain unfair commercial advantage by hiring the public office holder or former public office holder;

(f) the authority and influence possessed by the public office holder or former public office holder while in public office; and

(g) the disposition of other cases.

(3) Decisions made by the designated authority shall be provided in writing to the applicant under subsection (1) and to all departments affected by the decision.

ADVISORY PANELS

62. The designated authority may convene advisory panels to advise the designated authority on the application of the compliance measures set out in this Part in particular cases and to help a public office holder or former public office holder understand how the compliance measures set out in this Part apply to his or her particular case. Advisory panels shall respond without delay to any requests for advice.

EXIT ARRANGEMENTS

63. Prior to a public office holder's official separation from public office, the designated official shall, in order to facilitate the observance of the compliance measures set out in this Part, communicate with the public office holder to advise about post-employment requirements.

RECONSIDERATION

64. A public office holder or former public office holder may apply to the designated authority for reconsideration of any determination respecting that office holder's compliance with this Part or any decision respecting the reduction of the limitation period. On receipt of an application for reconsideration, the designated authority may convene an advisory panel to make recommendations respecting the reconsideration.

FAILURE TO COMPLY

65. Where a public office holder does not comply with the compliance measures set out in this Part, the office holder is subject to such appropriate measures as may be determined by the designated authority, including, where applicable, discharge or termination of appointment.

Part IV

COMPLIANCE MEASURES FOR EMPLOYEES OF CROWN CORPORATIONS AND FOR PUBLIC OFFICE HOLDERS AS DEFINED IN SECTION 2 WHO ARE NOT SUBJECT TO PART II OR PART III

CROWN CORPORATIONS

66. Crown corporations that are subject to Divisions I to IV of Part XII of the *Financial Administration Act* shall be subject to compliance measures established by, and in accordance with, the established practices of their own organization.

LIEUTENANT-GOVERNORS OF A PROVINCE

67. Such provisions of the conflict of interest compliance measures set out in Part II as may be relevant shall be brought to the attention of Lieutenant-Governors at the time of their appointment.

CANADIAN ARMED FORCES

68. Part I applies to members of the Canadian Armed Forces but in lieu of the conflict of interest compliance measures set out in Part II, members of the Canadian Armed Forces shall be governed in accordance with the Code of Service Discipline and any regulations and orders made pursuant to the *National Defence Act* respecting conflict of interest.

ROYAL CANADIAN MOUNTED POLICE

69. Part I applies to members of the Royal Canadian Mounted Police but in lieu of the conflict of interest compliance measures set out in Part II, members of the Royal Canadian Mounted Police shall be governed in accordance with the conflict of interest provisions of the *Royal Canadian Mounted Police Act* and the Commissioner's Standing Orders.

INTERCHANGE CANADA

70.(1) Before entering into an Interchange Canada agreement to accept a person on assignment, the parties to the agreement shall satisfy themselves that there is no risk of conflict of interest or that the risk of conflict of interest is not significant. If the parties determine that the risk of conflict of interest is significant, the parties shall make such provisions as are necessary to prevent the conflict of interest from arising.

(2) Persons entering public office on an Interchange Canada assignment shall not act, after they leave such office, in such a manner as to take improper advantage of that office.

BOARDS, COMMISSIONS AND OTHER TRIBUNALS

71.(1) Officers, directors and employees of any federal board, commission or other tribunal as defined in the *Federal Court Act* shall be subject to the compliance measures established by their own board, commission or other tribunal.

(2) Federal boards, commissions and other tribunals as defined in the *Federal Court Act* shall establish, in consultation with the ADRG, written compliance measures that shall be adopted within one year of the coming into force of the Code and published in the first annual report of the board, commission or tribunal following the adoption of the compliance measures.

SEPARATE EMPLOYERS

72.(1) Part II in respect of Category B public office holders applies, with such modifications as the circumstances require, to the employees of a separate employer as defined in the *Public Service Staff Relations Act*, with the exception that the designated authority for such employees is the Chief Executive Officer, or the equivalent, of the separate employer.

(2) Part III applies, with such modifications as the circumstances require, to the employees of a separate employer as defined in the *Public Service Staff Relations Act* who are classified at a level of, or above, the equivalent of Senior Manager, with the exception that the designated authority for such employees is the Chief Executive Officer, or the equivalent, of the separate employer.

Part V

TRANSITION

73. Where a person has been appointed to hold office during good behaviour prior to the coming into force of this Code, adherence to the compliance measures set out in this Code is voluntary unless the public office holder is reappointed after the coming into force of this Code.

74. Where a Category A public office holder, Category B public office holder as defined in subsection 2(2) or a public office holder as defined in section 54 was, immediately prior to the coming into force of this Code, subject to any conflict of interest guidelines or post-employment guidelines of the Government, the public office holder shall continue to be subject to those guidelines, in lieu of this Code, until a review of his or her compliance arrangements under this Code is completed by the designated official. The designated official shall complete the review of those compliance arrangements within one year after the date that the public office holder signs a document pursuant to subsection 8(2).

Schedule

TRUSTS

1. The following trusts are examples of the most common trusts that may be established by public office holders for the purpose of divestment under the Code:

a) *BLIND TRUST*

A blind trust is one in which the trustee makes all investment decisions concerning the management of the trust assets with no direction from or control by the public office holder who has placed the assets in trust.

No information is provided to the public office holder (settlor) except information that is required by law to be filed. A public office holder who establishes a blind trust may receive any income earned by the trust, add or withdraw capital funds, and be informed of the aggregate value of the entrusted assets.

b) *FROZEN TRUST*

A frozen trust is one in which the trustee maintains the holdings essentially as they were when the trust was established. Public office holders who establish a frozen trust are entitled to any income earned by the trust.

Assets requiring active decision making by the trustee (such as convertible securities and real estate) or assets easily affected by Government action are not considered suitable for a frozen trust.

c) *RETENTION TRUST*

A retention trust is one in which the trustee maintains rights in holding companies, established for estate planning purposes, essentially as they were when the trust was established. The settlor makes arrangements to have third parties exercise his or her voting rights in relation to the shares in the holding company as long as such arrangements will not result in a conflict of interest. Retention trusts usually do not generate income for the settlor.

This form of divestment is useful for a public office holder who has assets to be held under special proper management through a holding company for estate planning purposes.

PROVISIONS COMMON TO ALL TRUSTS

2. Provisions common to all trusts are:

(a) Custody of the Assets:

The assets to be placed in trust must vest in the trustee.

(b) Power of Management or Control:

The public office holder (settlor) may not have any power of management or control over trust assets. The trustee, likewise, may not seek or accept any instruction or advice from the public office holder concerning the management or the administration of the assets.

(c) Schedule of Assets:

The assets placed in trust shall be listed on a schedule attached to the trust agreement.

(d) Duration of Trust:

The term of any trust is to be for as long as the public office holder who establishes the trust continues to hold an office that makes that method of divestment appropriate. A trust may be dismantled once the trust assets have been depleted.

(e) Return of Trust Assets:

Whenever a trust agreement is dismantled, the trustee shall deliver the trust assets to the public office holder.

TRUSTEES

3. Care must be exercised in selecting trustees for each type of trust arrangement. If a single trustee, other than the ADRG, is appointed, the trustee should be:

(a) a public trustee;

(b) a company, such as a trust company or investment company, that is public and known to be qualified in performing the duties of a trustee; or

(c) an individual who performs trustee duties in the normal course of his or her work.

4. If a single trustee is appointed he or she shall clearly be at arm's length from the public office holder.

5. If more than one trustee is selected, at least one of them shall be a public trustee or a company at arm's length from the public office holder.

TRUST INDENTURE

6. Acceptable blind, frozen and retention trust indentures are available from the ADRG. Any amendments to such trust indenture shall be submitted to the ADRG before it is executed.

FILING OF TRUST DOCUMENTS

7. Under the trust options available, public office holders are required to file with the ADRG a copy of any trust instrument. Except for the fact that a trust exists, detailed trust information will be kept in the public office holder's confidential file and will not be made available to anyone for any purpose.

REIMBURSEMENT FOR COSTS INCURRED

8. On the recommendation of the ADRG, the following reimbursements for costs of trusts established to comply with the Conflict of Interest Compliance Measures set out in this Code may be permitted:

(a) reasonable legal, accounting and transfer costs to establish the trust;

(b) reasonable legal, accounting and transfer costs to dismantle the trust; and

(c) annual, actual and reasonable costs to maintain and administer the trust, as follows:

(i) up to a maximum of $500 for a portfolio with a market value of $100,000 or less, or

(ii) up to a maximum of $5,000 for a portfolio with a market value over $100,000, 1/2 of 1% on the first $400,000 and 1/4 of 1% on the remaining value.

The public office holder is responsible for any income tax adjustment that may result from the reimbursement of trust costs.

Appendix G

Letter of Prime Minister Pierre Elliott Trudeau, April 28, 1980

CANADA

PRIME MINISTER • PREMIER MINISTRE

April 28, 1980

My dear Colleague:

I am writing to bring to your attention the enclosed guidelines which establish the conflict of interest régime for Ministers and set the standards of conduct expected of them and their exempt staff in the performance of their duties.

The precept of fulfilling one's official responsibilities in an objective and disinterested manner lies at the very heart of our system of government. Ministers, therefore, have an obligation to arrange and conduct their personal affairs in a manner which does not conflict or appear to conflict with their public duties and responsibilities.

I would remind you of our decision not to apply the requirements of these guidelines to our spouses and dependent children. The notion that husbands and wives may wish to pursue careers and activities independent from each other is increasingly prevalent in our society and I believe we are agreed that it is unfair to impose restrictions considered unacceptable in the society as a whole on the spouses of Cabinet Ministers. Similarly, arrangements made in respect of dependent children, in which spouses have a vital concern and interests as the partner in the family unit, should not be considered to fall under such guidelines.

The Honourable Allan J. MacEachen,
Deputy Prime Minister and
Minister of Finance,
Room 209-S, Centre Block,
House of Commons,
Ottawa, Ontario.

This course of action does not, of course, relieve Ministers and those most closely related to them from the need to exercise vigilance and restraint in order to avoid apparent conflicts of interest. I am sure Ministers will be able to count upon the support of their families in meeting the high standards of conduct imposed upon them as the holders of public office.

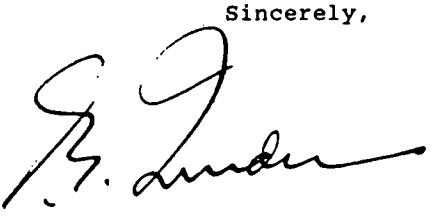
Ministers must fully declare on a confidential basis their assets, liabilities and activities, including executorships and trusteeships, to the Assistant Deputy Registrar General within 60 days of appointment of the Cabinet or of coming into force of these Guidelines. Ministers must complete all arrangements necessary to achieve full compliance within 120 days of appointment or of the coming into force of these Guidelines.

I will soon be writing you at length about the conflict of interest requirements applicable to exempt staff members. I would like to take this opportunity, however, to ask you to ensure that all your exempt staff members understand that they are expected to meet the same high standards of conduct as do Ministers and that they must, as a basic requirement, comply with the Public Servants' Conflict of Interest Guidelines (PC-1973-4065).

It is also appropriate at this time to impress upon you, and through you on the members of your exempt staff, the importance of at all times avoiding any dealings with members of judicial or quasi-judicial bodies that might be construed as an improper interference with their proceedings.

Mr. D.R. Taylor, Assistant Deputy Registrar General (4th Floor, Trafalgar Building, 207 Queen Street, Ottawa, Ontario, K1A 0C9. Tel: 995-0721) will administer the enclosed guidelines on my behalf and any questions about their application may be addressed to him.

Sincerely,



Appendix H

Letter of Prime Minister Brian Mulroney, September 9, 1985

CANADA

PRIME MINISTER • PREMIER MINISTRE

September 9, 1985

AN OPEN LETTER TO MEMBERS OF PARLIAMENT AND SENATORS

Dear Colleagues:

It is a great principle of public administration -- I would even say an 'imperative' -- that to function effectively the government and the public service of a democracy must have the trust and confidence of the public they serve. In order to reinforce that trust, the government must be able to provide competent management and, above all, to be guided by the highest standards of conduct.

To this end, I am tabling today a set of documents providing detail on a package of major initiatives on public sector ethics now being undertaken by this Government. In this letter I wish to provide you with some thought in explanation of the documents, and to acquaint you with other elements of the package which will soon be put in documentary form. There are seven components in the overall program.

1. A new Conflict of Interest-Post-Employment Code for Public Office Holders **(tabled)**;

2. Instructions to Ministers imposing specific and strict limitations on the hiring of family members **(tabled)**;

3. Letters to Opposition Leaders on the subject of ethical standards for MPs and Senators **(tabled)**;

4. An experimental program of Parliamentary scrutiny of Governor in Council appointments;

5. The registration of lobbying activity;

6. Advice to Crown corporations respecting appropriate conduct in their dealings with the Government **(tabled)**; and,

7. A review of the judicial appointments process.

We have not made final decisions in all of the component areas, but we are putting forward an authoritative outline of our intentions. Some elements such as the new Conflict of Interest/Post-Employment Code for Public Office Holders are ready for implementation. The Code will take effect January 1, 1986, once the necessary infrastructure is in place. In the interim, Ministers and Governor in Council appointees will conduct themselves in accordance with its provisions. Other elements, such as the experimental program of Parliamentary oversight of Governor in Council appointments, will be refined through discussion with Opposition leaders and with the benefit of experience. Still others, such as the review of the judicial appointments process, will require more consultation before detailed proposals can be advanced.

The important point is that for the first time a government has placed before Parliament a comprehensive program of initiatives on public sector ethics. It provides tangible evidence to the people of Canada of the determination of this Government to ensure that its actions will be governed by the highest standards of conduct.

Let me deal with each component in turn.

1. CONFLICT OF INTEREST CODE

Among my first actions upon assuming office was to give the Deputy Prime Minister a mandate to:

> "[review] existing conflict of interest and post-employment guidelines ... with a view to making recommendations on whether any changes in the current two régimes are required."

The Deputy Prime Minister's recommendations provided the basis for the Conflict of Interest/Post-Employment Code tabled today.

The new Code represents a marked strengthening over the current régime. In particular:

- It covers a much broader population in definitive fashion than does the current régime. The principles

apply to virtually everyone whose salary is paid for by the Canadian taxpayers. Notable exceptions are judges and the officers and employees of Parliament who have been excluded from the application of the Code for constitutional reasons. However, I have written to the Speakers suggesting that both Houses may wish to consider adopting a similar course in respect of those serving them. These letters are among the material to be tabled.

- It includes enforcement mechanisms, which are currently lacking in the post-employment régime. For example, public office holders are forbidden to deal with those operating in contravention of the post-employment provision.

- It places an absolute prohibition on switching sides, just as a lawyer is barred from changing from one side of a case to the other.

- It clearly allocates responsibility and provides for accountability.

- It is fairer to the individuals affected because it permits greater reasonableness in its application by taking into account both individual circumstances and the public interest.

- It is clearer and more precise, presenting in a single consolidated document what is currently found in five.

The precision and fairness of the new Code is important because, in the end, the success of the régime will depend upon the goodwill and the sense of public service of public office holders. The correct balance between fairness to the individual and protection of the public interest is delicate and difficult to attain, but I believe it exists in the new Code.

The first effort to provide ethical guidance to public office holders was made by Prime Minister Pearson more than two decades ago. This was followed by some improvements introduced by Prime Minister Trudeau a decade later. In developing the new Code we have been able to build on the Guidelines and the experience of working with them.

We have also had the advantage of being able to avail ourselves of the thinking and analysis that went into the Report of the Task Force on Conflict of Interest. I want again to pay tribute to the efforts of the Honourable Michael Starr, the Honourable Mitchell Sharp and, I must add, to those of our

colleague the Honourable member for Etobicoke-Lakeshore who, in his previous capacity, acted as executive-director of the Task Force. These gentlemen will find some of their thinking and, on occasion, their very words enshrined in the new Code.

In short the new Code, while it bears the unmistakable stamp of this Government, is clearly an evolutionary step.

We have taken great pains to ensure that the new Code leaves no doubt that the ultimate responsibility for the ethical standards of the federal government rests with the Cabinet and, more particularly, with me.

In carrying out that responsibility the Government is directly accountable to Parliament and through Parliament to the people of Canada. You will find no quasi-independent agencies in this Code that will allow the Government to shirk its responsibility by saying that the problem belongs to someone else. Nor will you find anything which will relieve me and my colleagues of the necessity of exercising judgement. Obviously, from time to time, circumstances may arise that call for an impartial person to conduct and investigation as to fact. Instruments already exist which permit the Government to respond appropriately to such a requirement. But making use of these instruments will not relieve the Government of the responsibility to decide and to stand accountable before Parliament. The principles of responsible government and the supremacy of Parliament are respected and reinforced.

Although there are undoubtedly circumstances which demand such an approach, Canadian government have too often set up permanent quasi-independent agencies to deal with important areas of public policy. Rules and regulations become a substitute for the exercise of judgement. The intent has usually been to remove the matters concerned from the somewhat disorderly and often confusing arena of politics. The effect, all too frequently, has been simply to substitute an appointed decision-maker for an elected one, and to leave Parliament in the invidious and frustrating position of not being able to influence policy and not being able to exact accountability.

While ultimate accountability for ethical standards is that of the Government, the Code continues to place the onus of responsibility on the individual public office holder for his or her own conduct. What is expected of each individual is clearly stated in the Code, which also provides a clear basis for assessing those individual judgements, as well as prescribing penalties for those who fail to meet expected standards.

More streamlined, more equitable, yet stronger than previous efforts, I am convinced that this new Code represents a significant advance in the safeguarding of the public interest.

2. HIRING PRACTICES

I now wish to turn to the matter of the hiring of family members. The second half of the letter conveying the Conflict of Interest Code to Ministers contains my instructions to Ministers in this regard.

It has been the practice in Parliamentary democracies, even in those like Canada where an impartial appointment process covers the vast majority of positions in the public service, to reserve a number of key senior positions to be filled on a discretionary basis by the Government of the day.

There are important reasons of public policy for leaving certain appointments entirely to the judgement of the Government of the day. Governments change because the electors wish to see changes in public policy, and in the Government's methods of, and approaches to, dealing with the public.

The machinery of government is now so vast and complex that forty Cabinet Ministers acting without assistance could not hope rapidly to bring about desired changes in direction. to do so, they require the assistance of others of like mind, in whom they can have confidence, and who have the same commitment to change. That often means looking to political and even personal associates to undertake such duties -- competent, qualified people of like philosophy and approach. Custom and convention limit the degree of discretion to be exercised in some cases. Overall, the process of political accountability ensures that judgement will be weighted on the side of ability, qualification and competence. To act otherwise would be to invite embarrassment in Parliament and punishment for elected Members at the hands of the electorate -- to say nothing of placing the actual objectives of the Government at risk.

However, there are boundaries which should not be crossed in the exercise of this discretionary authority. My letter to Ministers sets them out in precise detail as they apply to family members. In summary, they are the following:

- No Cabinet Minister or department or agency subject to his or her direction should hire or contract with a member of his or her immediate family.

- No Cabinet Minister, or department or agency subject to his or her direction should, except through an impartially administered hiring process in which the Minister plays no part, hire or contract with members of the immediate family of her or her spouse, the immediate family of Cabinet colleagues, or of the immediate family members of caucus colleagues. An exception to this rule would be the hiring or contracting of ministerial exempt staff.

- The same impartial processes must be applied in the cases of organizations in which such family members hold senior positions of authority.

Obviously, there will be occasions in which it is in the public interest to act otherwise. My letter sets out the conditions under which such action may be contemplated.

I have done my best to reassure Canadians that favouritism will no govern the hiring practices of this Government without, at the same time, arbitrarily denying, to those whose fortune it is to be related to a member of the Government, the opportunity to serve their country.

3. STANDARDS OF ETHICAL CONDUCT FOR MPs AND SENATORS

In conjunction with the issuance of the Code, I have written to the Leaders of the Opposition parties to explore the desirability of working with the Government House Leader towards the adoption of similar standards of ethical conduct for all Members of Parliament.

It may be recalled that a Green Paper entitled Members of Parliament and Conflict of Interest was tabled by the President of the Privy Council in July 1973. This was referred to the Standing Committee on Privileges and Elections the following year and tabled in the Senate in 1975. In 1975 and 1976 the House Standing Committee on Privileges and Elections and the Senate Standing Committee on Legal and Constitutional Affairs submitted reports on the Green Paper. Neither report was debated in the respective Houses.

Later, an Independence of Parliament Act was given first reading in June 1978. Having been reintroduced in October, it was given second reading and was referred to the Sanding Committee on Privileges and Elections on March 9, 1979. This Bill died on the order paper when, eighteen days later, the session of Parliament ended.

It seems to me, at a time when the Government has taken on itself increased and more precise accountability for ethical standards, that Members of Parliament and Senators would find this to be an opportune time to examine their present rules to see whether they, too, should be brought up to date. I believe such action on their part would provide even more assurance to the public that all their elected representatives and those who have been chosen to serve their country in the Senate, are determined to govern themselves according to the highest standards.

4. PARLIAMENTARY SCRUTINY OF APPOINTMENTS

The fourth initiative in this package is that of beginning -- and I want to emphasize this -- on an experimental basis, the Parliamentary scrutiny of Governor in Council appointments.

The establishment of such a process was an undertaking made by this Government during the election campaign. Early in our mandate, we led the House of Commons in establishing a special committee under the chairmanship of the Honourable Member for St. John's East to provide recommendations on this and other matters of Parliamentary Reform. We took no action on the appointments process until we could benefit from the advice of that Committee. It has now presented its excellent report. I congratulate the Chairman, the Honourable James McGrath, and his colleagues from all parties, on the thoughtfulness and thoroughness with which they have addressed the issues, and on the creativity and originality of their thinking. The Government is, as I have said before, very favourable disposed towards the Committee proposals. My colleague, the President of the Privy Council, is hard at work on the Government's response.

In the interim, and as an earnest demonstration of our commitment, we have decided to offer the opportunity to review, on an experimental basis, all of the Governor in Council appointments made since this Government took office, and those to be made in the future.

I cannot provide immediately all of the details of the process. For one thing, we will be consulting with the Leaders of the Opposition parties. The process will, to some extent, be defined during those discussions. For example, there obviously will have to be parameters established about the appropriate lines of questioning to be pursued. We cannot look to the United States for a model because their system is so different from ours. Our deputy ministers, again as an example, have neither the right nor the responsibility to comment upon policies adopted or contemplated by the Government, except to explain. This alone will make for great differences with what we are accustomed to seeing take place across the border.

Because, to my knowledge, this approach has not been attempted in any other jurisdiction with a British Parliamentary form of government, we will have to move with some caution and with due regard to the fact we have embarked on a new path where the end is not in sight. Parliament is not an institution which responds well to radical changes in its operations. It is for that reason we will begin at a point short of where some believe we should end.

Some constitutional experts have warned me that I am wrong to take this step, that it is foreign to our system of government and incompatible with it. These gentlemen and I have agreed to differ, but I an not unconscious of the risks involved. That is why I am fully prepared to end this experiment and to re-think the approach if it seems to be taking a wrong turn.

I ask each if you to see this ground-breaking step for what it is -- an opportunity and a beginning -- and to work with my colleagues and me to ensure that it evolves into a process worthy of emulation by other Parliamentary democracies.

5. LOBBYING LEGISLATION

The fifth component of this comprehensive approach to public sector ethics is the undertaking of this Government to introduce into the House of Commons, at an early date, legislation to monitor lobbying activity and to control the lobbying process by providing a reliable and accurate source of information on the activities of lobbyists. We will require, among other things, paid lobbyists to register and identify their clients. This will enable persons who are approached by unions, and by agents on behalf of foreign governments and other foreign interests, to be clearly aware of who is behind the representation.

I have accordingly asked my colleague, the Minister of Consumer and Corporate Affairs, to prepare, on an urgent basis, legislation to govern lobbying activity.

This initiative should be be misinterpreted to mean that this Government is aware of particular improprieties in the conduct of lobbyists or that is considers lobbying to be an inappropriate activity. On the contrary, the practice of lobbying plays an important role in ensuring that government, in taking the decisions which affect the lives of all of us, are able to take properly into account the multitude of diverse interests involved. This Government is simply saying that something so important should not be shrouded in mystery.

6. ADVICE TO CROWN CORPORATIONS

On a related matter, and as the sixth component of this public sector ethics package, I have tabled a letter, which the Secretary to the Cabinet has written to the Presidents of all Crown corporations, advising them that this Government believes that the corporations' dealings with the Government should be conducted directly between their senior officers and members of the Government -- and without the use of intermediaries. I am sure that they will see the wisdom of the advice and act on it.

The practice, while not a new one, thankfully has not been widespread. Indeed, any instances have been exceptional. However, we do not through inaction wish to see it grow or continue. It is wasteful of pubic funds and a breach of the candid and direct (albeit arms-length) relationships which Parliament envisaged.

7. JUDICIAL APPOINTMENTS

Seventh, and finally, I wish to announce that my colleague the Minister of Justice has the judicial appointments process under active review. The Minister, from the outset of his mandate, has taken steps to improve the practice of consultation with the provinces, Bench and Bar.

One interesting approach that will assist the Minister in his review is a study of the matter recently completed by a Committee of the Canadian Bar Association. I wish to commend the Bar on its initiative and say that we will be following its review of the Committee's report, and awaiting its conclusions, with great interest. In the meantime, the Minister is proceeding forthwith with consultations in this area of vital importance.

Having dealt with each of its components in turn, may I say in conclusion that this package of reforms is evidence of the Government's intent to adopt ethical standards worthy of the respect of the Canadian people. In so doing, we wish to further the process of national renewal by revitalizing the faith of the citizens of this country in their institutions of government. Many of these steps are long overdue, and heaven knows this Government has had cause to regret their absence. But now they are in place, or in the process of being put in place, and we can look forward together to the dawning of a new day of trust and confidence.

Yours sincerely,

Appendix I

Blind Trust Agreement Between Sinclair McKnight Stevens and The National Victoria and Grey Trust Company

THIS AGREEMENT made this 19th day of October, 1984.

BETWEEN:

SINCLAIR McKNIGHT STEVENS, of the Township of King in the Regional Municipality of York and Province of Ontario herein called the Settlor,

OF THE FIRST PART

- and -

THE NATIONAL VICTORIA AND GREY TRUST COMPANY herein called the Trustee,

OF THE SECOND PART

WHEREAS the Settlor is subject to the Conflict of Interest Guidelines for Ministers of the Crown (herein called the "Guidelines");

AND WHEREAS the Settlor, in compliance with the Guidelines, has transferred to the Trustee the property set forth in Schedule "A" annexed hereto upon certain trusts herein set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and of the mutual covenants herein contained, it is hereby mutually covenanted, agreed and acknowledged by and between the parties hereto that the said property, together with any other property which may from time to time be held by the Trustee in lieu thereof or in addition thereto (all of which is hereinafter referred to as the trust fund) shall be held by the Trustee upon the following trusts:

1. During the lifetime of the Settlor, to invest and keep invested the trust fund or the amount thereof from time to time remaining and to pay the net income therefrom to or for the Settlor; provided that the Trustee shall at any time or times pay to or for the Settlor such amount or amounts out of the capital of the trust fund as the Settlor may in writing direct; provided further that, during the obligatory trust period herein defined, any such payment out of capital shall be in cash only and not in specie.

2. Upon the death of the Settlor, to pay or transfer the trust fund or the amount thereof then remaining to the personal representatives of the Settlor to be dealt with as part of the estate of the Settlor, and the receipt of such personal representatives therefor shall be an absolute discharge to the Trustee.

3. The obligatory trust period shall be that period of time during which the Settlor shall be subject to the Guidelines.

4. Subject as herein provided, this Agreement is intended and is hereby declared to be irrevocable during the obligatory trust period and after the obligatory trust period, the Settlor may in writing revoke, alter or amend this Agreement in any manner whatsoever; provided that during the obligatory trust period, subject always to the provisions of the Guidelines, the Settlor and the Trustee by agreement in writing, may make alterations and amendments to this Agreement including such alterations and amendments as may be required from time to time under the terms of the Guidelines in furtherance of the policy to set out standards of conduct to be expected of persons subject to the Guidelines.

5. After the obligatory trust period, upon the revocation of this Agreement by the Settlor, the Trustee shall pay or transfer the trust fund or the amount thereof remaining to the Settlor.

6. Notwithstanding any rule of law or equity to the contrary, it shall be an express responsibility of the Trustee not to divulge to or otherwise inform the Settlor, directly or

indirectly, of any matter concerning the assets of the trust fund or the management of the trust fund, except as herein expressly provided; provided that the Trustee shall deliver to the Settlor annual statements showing only those cash amounts necessary to enable the Settlor to prepare the annual income tax return of the Settlor or to enable the Settlor to comply with any other legislation or legal requirements in force from time to time; provided further that the Trustee may at any time or times, upon the Settlor's request, inform the Settlor of the total value only of the trust fund.

7. Subject as provided in paragraph 6. hereof, the Settlor hereby expressly renounces any rights as Settlor and as beneficiary to an accounting by the Trustee of its administration of the trust fund until after the expiration of the obligatory trust period, and in particular, but not in limitation of the foregoing, hereby waives all rights as a settlor or beneficiary to require the accounts of the Trustee to be audited during the obligatory trust period by a judge having jurisidiction over such matters.

8. Notwithstanding the provisions of paragraph 7. hereof, the Settlor from time to time may engage an independent auditor to examine the accounts of the Trustee. Any expense in connection therewith, including the remuneration of such auditor, shall be paid by the Trustee and charged to the capital or income of the trust fund in such manner as the Trustee considers advisable. Upon the Trustee having obtained from such auditor an affidavit that he will not disclose any information concerning the trust fund or the accounts pertaining thereto which may be acquired by such auditor during such examination, other than to advise the Settlor whether in the opinion of such auditor such accounts are being properly kept, the Trustee, at such time or times as is convenient to it, shall make available to such auditor its accounts pertaining to the trust fund.

9. It is hereby acknowledged and agreed that the Trustee is empowered during the obligatory trust period to make all decisions concerning the management of the trust fund free

of direct or indirect control or influence by the Settlor and free of any duty or obligation whatsoever to inform, consult with or seek the advice of the Settlor directly or indirectly.

10. The Settlor hereby expressly releases, exonerates and absolves the Trustee from all liability to the Settlor and to the Settlor's executors, administrators or assigns for all acts or omissions of the Trustee during the obligatory trust period with the exception of fraudulent acts or omissions.

11. Subject to the foregoing provisions, the Trustee, in addition to all other power available to it by law or otherwise, shall have the power, authority and discretion as follows:

(a) To invest the cash funds from time to time constituting part of the trust fund in such investments as the Trustee in its absolute discretion considers advisable including, without limiting the generality of the foregoing, certificates or receipts of The National Victoria and Grey Trust Company issued for moneys received for guaranteed investment and the Trustee shall not be limited to investments authorized by law for Trustee.

(b) From time to time and at any time to sell, transfer, assign, exchange, convey, mortgage, lease or otherwise dispose of any of the property, securities or investments from time to time constituting the trust fund in any manner the Trustee may deem proper at any price and terms considered desirable by the Trustee, and the Trustee shall not be bound to secure the consent or approval of any person, official, authority, tribunal or Court whomever or whatsoever.

(c) To vote all stocks and shares, to exercise all rights, incidental to the ownership of stocks, shares, bonds or other securities and investments and property held as part of the trust fund, and to issue proxies to others; to sell or exercise any subscription rights and in connection with the exercise of subscription rights to use trust moneys for the purpose; to consent to and join in any plan, reorganization, readjustment or amalgamation or consolidation with respect to any corporation whose stock, shares,

bonds or other securities at any time form part of the trust fund, and to authorize the sale of the undertaking or assets or a substantial portion of the undertaking or assets of any corporation, and generally to act in respect of the trust fund as fully and effectually from time to time as if the same were not trust property but always for the benefit of the trust fund.

(d) Any cash balances in the hands of the Trustee at any time may, pending investment, be held by The National Victoria and Grey Trust Company in its Savings Department and on such balances interest shall be paid at the rate prevailing from time to time computed in the usual manner.

(e) To borrow money upon the security of the assets of the trust fund in such manner, on such terms and conditions, for such length of time and for such purposes as the Trustee in its absolute discretion considers advisable.

12. The Settlor or any other party may at any time and from time to time add to the trust fund assets acceptable to the Trustee.

13. The Trustee shall retire upon the expiration of thirty days following the receipt of a written request to do so from the Settlor and the Trustee may resign upon the expiration of thirty days following the receipt of notice in writing to the Settlor. In the event of the retirement or resignation of the Trustee, the Settlor shall appoint, in compliance with the Guidelines, a succeeding Trustee.

Upon the retirement or resignation of the Trustee, as soon as conveniently may be, the Trustee shall submit its accounts for audit and passing and transfer the assets of the trust fund to the succeeding Trustee so appointed.

14. The remuneration of The National Victoria and Grey Trust Company shall be Fifty Dollars per annum plus Ten Dollars per transaction.

15. The National Victoria and Grey Trust Company shall be entitled to set aside and

apply for its own use absolutely (and not just as a reserve with respect to compensation to be claimed) such amounts out of the income and capital of the trust fund as The National Victoria and Grey Trust Company in its absolute discretion may determine from time to time on account of its remuneration, notwithstanding The National Victoria and Grey Trust Company shall have the use of the said funds prior to any order of any court of competent jurisdiction.

16. The trust established under this Agreement shall be deemed to be established under the laws of the Province of Ontario and this Agreement shall be governed by the laws of that Province.

17. For convenience, this trust shall be known as the Sinclair McKnight Stevens Blind Trust.

IN WITNESS WHEREOF the Settlor has hereunto set his hand and seal and the Trustee has hereunto affixed its corporate seal attested by the hands of its proper officers in that behalf.

SIGNED, SEALED AND DELIVERED)
in the presence of)
)
)
)
Joan Fowlie)

THE NATIONAL VICTORIA AND GREY TRUST COMPANY

APPROVED
FOR EXECUTION
N.T. CO.

VICE-PRESIDENT, PERSONAL SERVICES

VICE-PRESIDENT AND ASSISTANT SECRETARY

SCHEDULE "A"

This is Schedule "A" annexed to the Agreement dated the 19th day of October, A.D. 1984, made between Sinclair McKnight Stevens as Settlor and The National Victoria and Grey Trust Company as Trustee.

81 common	shs.	Gill Construction Ltd.
20,500 preference	shs.	Gill Construction Limited

The National Victoria and Grey Trust Company - Self-Administered R.R.S.P. containing $549.03 cash and 13,800 shs. York Centre Corp.

Appendix J

The Criminal Code: Sections 110(1), (2), (3); 111

110. (1) **[Frauds upon the government]** Every one commits an offence who
(*a*) directly or indirectly
(i) gives, offers, or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or
(ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person,
a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
(iii) the transaction of business with or any matter of business relating to the government, or
(iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow,
whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;
(*b*) having dealings of any kind with the government, pays a commission or reward to or confers an advantage or benefit of any kind upon an employee or official of the government with which he deals, or to any member of his family, or to any one for the benefit of the employee or official, with respect to those dealings, unless he has the consent in writing of the head of the branch of government with which he deals, the proof of which lies upon him;
(*c*) being an official or employee of the government, 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 directly or indirectly, by himself or through a member of his family or through any one for his benefit, unless he has the consent in writing of the head of the branch of government that employs him or of which he is an official, the proof of which lies upon him;
(*d*) having or pretending to have influence with the government or with a minister of the government or an official, demands, accepts or offers or agrees to accept for himself or another person a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with
(i) anything mentioned in subparagraph (*a*)(iii) or (iv), or
(ii) the appointment of any person, including himself, to an office;

(*e*) offers, gives or agrees to offer or give to a minister of the government or an official a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with

(i) anything mentioned in subparagraph (*a*)(iii) or (iv), or

(ii) the appointment of any person, including himself, to an office; or

(*f*) having made a tender to obtain a contract with the government

(i) gives, offers or agrees to give to another person who has made a tender, or to a member of his family, or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or

(ii) demands, accepts or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind as consideration for the withdrawal of his tender.

(2) **[Contractor subscribing to election fund]** Every one commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes, gives, or agrees to subscribe or give, to any person any valuable consideration

(*a*) for the purpose of promoting the election of a candidate or a class or party of candidates to the Parliament of Canada or a legislature, or

(*b*) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in the Parliament of Canada or a legislature.

(3) **[Punishment]** Every one who commits an offence under this section is guilty of an indictable offence and is liable to imprisonment for five years.

1953–54, c. 51, art. 102.

111. [Breach of trust by public officer] Every official who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and is liable to imprisonment for five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

1953–54, c. 51, art. 103.

Appendix K

Rulings

1. Ruling Regarding Television in the Hearing Room, July 14, 1986

THE COMMISSIONER: Over the lunch hour, I considered this matter and I am reminded that this is not a trial; it is an inquiry to ascertain facts under the Public Inquiries Act. As such, it is in the public interest that the hearing be open to the public as much as possible. We are dealing with a public matter that took place in a televised forum. Under the circumstances, I think it is in the public interest that television be allowed in the hearing room under controlled conditions. If any witness objects, that witness can make a submission, and I will consider whether the objection is for a legitimate reason. I say "under controlled conditions." I understand that, if permission is granted, only one camera will be used in the hearing room.

(Transcript, vol. 2, p. 137)

2. Ruling Regarding Funding of Parties, August 20, 1986

THE COMMISSIONER: I am not going to reserve my decision on this matter.

This Commission was appointed by Parliament to inquire into the facts and to make recommendations. It was my responsibility to appoint counsel, and I have done so. It is the responsibility of those counsel to inquire into all the facts. I take the responsibility for their actions. I feel they are attempting to be fair and to bring out all the facts.

Some counsel are here because they represent various parties who may be affected by the outcome of this Commission. They, perhaps, are in a different position than some of the other counsel who appear for witnesses, say, who are only here to advise their client while that client is giving evidence. Then, again, there are counsel here who have standing because they are interested in the Commission, but they do not act for parties that are being affected or may be affected.

The two that have asked for funding so far are in the last category. They are not acting for parties that may be directly affected by the outcome in the sense that Mr. Stevens is. It is true that, on occasion, funding has been granted to parties. In certain circumstances funding may be justified. A clear case, it

would seem to me, would be the inquiry into the Hospital for Sick Children where certain persons were funded for their costs.

However, so far as this Inquiry is concerned, the terms of reference themselves make no reference to public funding. It would, therefore, seem to be in my discretion whether or not I recommend to the government that funding be provided to the applicants. I am not satisfied that such a request is justified under the present circumstances and I decline to recommend.

(Transcript, vol. 23, pp. 3747–49)

3. Ruling Regarding an Application for Letters of Request, an Application to Quash a Subpoena, and the Relevance of Certain Evidence Relating to the Chase Manhattan Bank, October 28, 1986

THE COMMISSIONER: This is an application by Commission counsel to issue a letter of request directed to the judicial authorities of the United States of America with regard to certain evidence of the Chase Manhattan Bank, and also an application to quash a subpoena issued to Noreen Stevens.

Commission counsel submitted that there were two issues that must be satisfied before the request to issue a letter of request is granted. First, the evidence requested should be relevant, and, second, that the court applied to would likely grant my request.

The evidence indicates that Mr. and Mrs. Stevens were present at a meeting at the office of Chase Manhattan with James Stewart, an employee of Chase Manhattan, when government business was discussed. At this time, the appointment of Chase Manhattan as a consultant regarding the privatization of Sysco and the sale of the Candu reactor to Turkey was under consideration. At the meeting in New York, private business relating to the sale of commemorative gold coins and their redemption by stripped bonds was also discussed. The purchase and sale of stripped bonds was part of the business of Georgian Equity, one of the York Centre group of companies.

Subsequently, Chase Manhattan advised Mr. and Mrs. Stevens that they were not interested in the project. Chase Manhattan was never retained as a consultant, and the concept of selling gold coins was never carried out by any company in the York Centre group.

Commission Counsel submits that the evidence sought indicates an apparent or actual conflict of interest by mingling of government and private business, which was a subject matter of some allegations. It is evidence which might indicate that a blind trust was not blind and that the Minister was engaged in discussions which might generate income for a company in which he had an interest.

Counsel for Mr. Stevens submitted that the requirement of relevance was common to both the application for letters of request and the application to quash the subpoena. He submitted that any investigation was restricted to three specific allegations relating to conflict of interest and that evidence of a breach of a blind trust was only relevant if it related to one of the three. He further submitted that the alleged breach did not relate to one of these allegations and, therefore, it was not relevant.

I cannot agree that any inquiry is limited to the three specific incidents he refers to.

Counsel for Mr. Stevens further submitted that a Commission had no power to issue a letter of request; that, if issued, it would not be enforced by an American court; and to issue a request under such circumstances would serve no useful purpose.

Counsel for Mrs. Stevens, on his application to quash the subpoena served on his client, supported the submissions of counsel for the Minister and pointed out that the list of allegations, although it contained allegations relating to the blind trust, contains no allegation relating to Chase Manhattan. He further submitted that even if the evidence might be marginally relevant, where the time, effort and cost of acquiring such evidence outweighs its probative value, I have a discretion to exclude it or to quash a subpoena.

I find that section 5 of the Inquiries Act is broad enough to allow a Commissioner to issue a letter of request and that I have the power to do so. However, the exercise of that power should not be lightly invoked. There must be two aspects to create conflict of interest, one public and the other private. Here there is evidence that private business was contemplated. There is also evidence to indicate that the Minister was interested in appointing Chase Manhattan as an adviser. This could create the appearance of conflict and had the potential for potential conflict. The evidence is, therefore, relevant.

The evidence sought, although relevant, is not of sufficient weight to justify asking a foreign court to take evidence. To issue a request based on the evidence available might appear to a foreign court to be an abuse of the comity extended. The application to issue a letter of request is, therefore, refused; the application to quash the subpoena is also dismissed.

(Transcript, vol. 12, in-camera, pp. 789–92)

4. Ruling Regarding the Preservation of the Identities of Confidential Sources, October 28, 1986

THE COMMISSIONER: I am very conscious of the fact that there are actions pending and that this matter will no doubt be raised in those actions. The Commission Counsel has already interviewed the persons regarding the factual situation. Who advised the reporter of the situation is not really relevant as to whether or not there was a conflict of interest. I can understand it being of interest to Mr. Stevens, particularly in his action, because at that time he will be concerned about whether or not there is bias and other matters, but I do not think it is necessary for these proceedings.

Even if it were, I might have some hesitation in ordering the reporter to disclose it if I balance the good and the bad results. So, I will not order the witness to answer the question.

(Transcript, vol. 58, pp. 10,255–6)

Sources for the Study of Conflict of Interest

The following is a short list of materials on conflict of interest gathered by the Commission and pertaining to Canada and other countries. The first section consists of primary materials — legislation, regulations, testimony, or reports by government-sponsored bodies — organized by jurisdiction. The second section consists of a selective list of secondary literature on the subject.

I Primary Sources

CANADA

Federal Legislation and Reports

Criminal Code, R.S.C. 1970, c. C–34, ss. 110–12.

Financial Administration Act, R.S.C. 1970, c. F–10.

Independence of Parliament Act, Bill C–6, 4th Sess., 30th Parl., Can., 27 Eliz. II, 1978.

Rand, I.C. *Report of the Inquiry into the Dealings of the Honourable Mr. Justice Leo A. Landreville with Northern Ontario Natural Gas Limited*. Ottawa: Queen's Printer, 1966.

Senate and House of Commons Act, R.S.C. 1970, c. S–8.

Starr, Michael, and Mitchell Sharp. *Ethical Conduct in the Public Sector: Report of the Task Force on Conflict of Interest*. Ottawa: Minister of Supply and Services, 1984.

Provincial

Alberta

Legislative Assembly, *Debates*, 26 May 1975, pp. 159–60. Peter Lougheed, "Statement to Legislature."

Legislative Assembly Act, S.A. 1983, c. L–10.1.

British Columbia

Constitution Act, R.S.B.C. 1979, c. 62.

Financial Disclosure Act, R.S.B.C. 1979, c. 130.

Vander Zalm, William. *Conflict of Interest Guidelines for Cabinet Ministers*. Press Release, 15 January 1987. Victoria.

Manitoba

Freedman, Samuel. "Report of the Commission of Inquiry in the Matter of Wilson D. Parasiuk." Manitoba Commission of Inquiry Report. Unpublished. Winnipeg, 1986.

The Legislative Assembly Act, R.S.M. 1970, c. L110.

New Brunswick

Conflict of Interest Act, S.N.B. 1978, c. C–16.1.

Conflict of Interest Regulation — Conflict of Interest Act, N.B. Reg. 83–134.

Legislative Assembly Act, R.S.N.B. 1973, c. L–3.

Newfoundland

The Conflict of Interest Act, S.N. 1973, c. 113.

Conflict of Interest Regulations, Nfld. Regs. 389/78, 390/78, 310/82, 311/82, 167/84.

Nova Scotia

House of Assembly Act, R.S.N.S. 1967, c. 128.

Ontario

Aird, John B. *The Standing Committee of the Legislative Assembly Report on the Report on Ministerial Compliance with the Conflict of Interest Guidelines and Recommendations with Respect to Those Guidelines*. Report prepared for the Ontario premier. Toronto, 1986.

Members' Standards of Office Act, Bill 160, 2d. Sess. 33rd Leg., Ont., 35 Eliz. II, 1986 (1st reading, November 27, 1986).

Standing Committee on Public Accounts. *Report on the Allegation of Conflict of Interest Concerning Elinor Caplan, M.P.P.* Toronto: Queen's Printer, 1986.

Prince Edward Island

Conflict of Interest Act, S.P.E.I. 1986, c. 9.

Legislative Assembly, *Debates*, 27 March 1984, pp. 46–50. "Report of Select Committee on Conflict of Interest."

Report of the Special Committee of the Legislature on Conflict of Interest, 27 May 1975. Charlottetown.

Quebec

Bourassa, Robert. *Directives aux membres du Conseil exécutif concernant les conflits d'intérêts*. 10 April 1986. Québec.

Executive Power Act, R.S.Q. 1977, c. E–18.

Lévesque, René. *Directives aux membres du Conseil exécutif concernant les conflits d'intérêts*. 9 July 1981. Québec.

National Assembly Act, R.S.Q. 1977, c. A–23.1.

Saskatchewan

Culliton, E.M. *Report on the White Paper on a Proposed Code of Ethical Conduct for Saskatchewan Public Office Holders*. Paper prepared for Saskatchewan government. Regina, 1986.

Devine, Grant. *White Paper on a Proposed Code of Ethical Conduct for Saskatchewan Public Office Holders*. Paper prepared by Saskatchewan government. Regina, 1986.

The Members of the Legislative Assembly Conflict of Interest Act, S. 1979, c. M–11.2.

Municipal

Manitoba. *The Municipal Council Conflict of Interest Act*, C.C.S.M., c. M255.

Manitoba Law Reform Commission. *Report on Conflict of Interest of Municipal Councillors*. Winnipeg, 1981.

Ontario. *Municipal Conflict of Interest Act, 1983*, S.O. 1983, c. 8.

UNITED STATES

Legislation, Regulations, Reports

5 C.F.R. Ss. 735–37. Regulations Concerning Employee Responsibilities and Conduct, Investigations, and Post-Employment Conflict of Interest. 1985.

2 U.S.C.A., S. 441i, Acceptance of Excessive Honorariums (1987, West Publ'g. Co., Cum. Ann. Pocket Pt.).

2 U.S.C.A., Ss. 701–9, Legislative Personnel Financial Disclosure Requirements (1987, West Publ'g. Co., Cum. Ann. Pocket Pt.).

5 U.S.C.A., App. 4, Executive Personnel Financial Disclosure Requirements (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

5 U.S.C.A., App. 5, Office of Government Ethics (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

18 U.S.C.A., S. 201, Bribery of Public Officials and Witnesses (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

18 U.S.C.A., S. 203, Compensation to Members of Congress, Officers, and Others in Matters Affecting the Government (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

18 U.S.C.A., S. 205, Activities of Officers and Employees in Claims against and Other Matters Affecting the Government (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

18 U.S.C.A., S. 207, Disqualification of Former Officers and Employees: Disqualification of Partners of Current Officers and Employees (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

18 U.S.C.A., S. 431, Contracts by Members of Congress (1987, West Publ'g Co., Cum. Ann. Pocket Pt.).

Congress. House. Committee on Standards of Official Conduct. Code of Official Conduct — Rule XLIII of the Rules of the House of Representatives. Washington, D.C.: Government Printing Office, 1984.

————. Committee on Standards of Official Conduct. *Report on Investigation of Alleged Improper Political Solicitation.* Washington, D.C.: Government Printing Office, 1986.

————. *Ethics Manual for Members and Employees of the U.S. House of Representatives.* Washington, D.C.: Government Printing Office, 1984.

————. *Instructions for Completing Financial Disclosure Statement Required by Ethics in Government Act of 1978 for Use by Members, Officers, Certain Employees of the Legislative Branch, and Candidates for the House of Representatives.* Washington, D.C.: Government Printing Office, 1986.

————. *Report on Investigation of Financial Transactions of Representative James Weaver with His Campaign Organization.* Washington, D.C.: Government Printing Office, 1986.

————. *Report on Investigation of Travel on Corporate Aircraft Taken by Representative Dan Daniel.* Washington, D.C.: Government Printing Office, 1986.

————. *Regulations Applicable to Acceptance of Gifts and Decorations from Foreign Governments by Members, Officers, and Employees.* Washington, D.C.: Government Printing Office, 1978.

————. *Rules of Procedure.* Washington, D.C.: Government Printing Office, February 6, 1985.

————. *Summary of Activities, 99th Cong.* Washington, D.C.: Government Printing Office, 1986.

Congress. Senate. Select Committee on Ethics. *Interpretive Rulings of the Select Committee on Ethics.* Washington, D.C.: Government Printing Office, 1986.

————. *Rules of Procedure.* Washington, D.C.: Government Printing Office, 1982.

Cox, Archibald. Testimony before the Judiciary Committee of the U.S. Senate in Opposition to the Confirmation of Edwin Meese, III to be Attorney General, January 29, 1985. Washington, D.C.: Common Cause. Photocopy.

Ethics in Government Act, 1978. Washington, D.C.: Government Printing Office, 1984.

Executive Order No. 11,222 — Standards of Ethical Conduct for Government Officers and Employees.

"Executive Personnel Financial Disclosure Requirements; Employees' Responsibilities and Conduct; Final Rule." 45 *Fed. Reg.* 69,775–93 (1980).

General Accounting Office, Office of General Counsel. *Guidance on Employee Ethics and Conduct.* Washington, D.C.: General Accounting Office, 1986.

McBride, Ann. Testimony on Revolving Door and Other Post-Employment Conflict of Interest Problems, before the Subcommittee on Administrative Law and Governmental Relations of the House Judiciary Committee, May 21, 1986. Washington, D.C.: Common Cause. Photocopy.

———. Testimony on S. 2214, before the Subcommittee on Oversight of Government Management of the Senate Governmental Affairs Committee, June 25, 1986. Washington, D.C.: Common Cause. Photocopy.

Office of Personnel Management. "Office of Government Ethics." 46 *Fed. Reg.* 2581–87 (1981).

———. *Office of Government Ethics: Proceedings of the Third Annual Conference, 1982.* Washington, D.C.: Government Printing Office.

"Post Employment Conflict of Interest; Restriction of Activities of Certain Former Federal Employees." 45 *Fed. Reg.* 7401–31 (1980).

Post-Employment Conflicts of Interest, 1986: Hearings on H.R. 5097 and Related Bills before the Subcomm. on Administrative Law and Governmental Relations of H.R. Comm. on the Judiciary, 99th Cong., 2d sess., 1986.

Wertheimer, Fred. Testimony on Ethics in Government: The Office of Government Ethics, before the Subcommittee on Investigations of the House Committee on Post Office and Civil Service, September 29, 1986. Washington, D.C.: Common Cause. Photocopy.

AUSTRALIA

Bowen, Sir Nigel. *Report of the Committee of Inquiry Concerning Public Duty and Private Interest.* Canberra: Australian Government Publishing Service, 1979.

Odges, J.R. *Australian Senate Practice*, 5th ed. Canberra: Australian Government Publishing Service, 1976.

Parliament. Joint Committee on Pecuniary Interests of Members of Parliament. *Report on Declaration of Interest.* Canberra: Government Printer of Australia, 1976.

Pettifer, J.A., ed. *House of Representatives Practice.* Canberra: Australian Government Publishing Service, 1981.

Western Australia. Law Reform Committee. *Report on Disqualification for Membership of Parliament; Offices of Profit under the Crown and Government Contracts.* Perth: Law Reform Committee, 1971.

FRANCE

Code électoral. Article L.O. 135–55, Paris, 1986.

Loi organique 85–1405 (31 December 1985): 15,503–5.

Lois organiques 85–688, 85–689, 85–690, 85–691, 85–692. Journal officiel de la République française (11 July 1985): 7800–8.

NEW ZEALAND

"Ministers' Private Interests." In Cabinet Office Manual. Unpublished manual.

State Services Act 1962, R.S.N.Z. 1984, Vol. 14, p. 601.

UNITED KINGDOM

Parliament. House of Commons. *Report from the Select Committee on Members' Interests (Declarations).* London: Her Majesty's Stationery Office, 1969.

———. *Resolutions Concerning Members' Interests*: 22 May 1974, 12 June 1975, 17 December 1985.

———. *Select Committee on Members' Interests — 1st Report Session 1986–87.* London: Her Majesty's Stationery Office, 1986.

Salmon, Lord. *Royal Commission on Standards of Conduct in Public Life.* London: Her Majesty's Stationery Office, 1976.

WEST GERMANY

Gesetz über die Rechtsverhältnisse der Mitglieder der Bundesregierung [Law concerning Legal Relations Governing Members of the Federal Cabinet].

Bekanntmachung von Änderungen der Geschäftsordnung des Deutschen Bundestages. Bonn, 18 December 1986. Includes "Verhaltensregeln für Mitglieder des Deutschen Bundestages" [Rules of Conduct for Members of the German Bundestag].

II Secondary Sources

Atkinson, Michael M., and Maureen Mancuso. "Do We Need a Code of Conduct for Politicians? The Search for an Elite Political Culture of Corruption in Canada." *Canadian Journal of Political Science* 18 (1985): 459–80.

Evans, Gareth. "Pecuniary Interests of Members of Parliament under the Australian Constitution." *Australian Law Journal* 49 (1975): 464–77.

Finsten, Hugh. "A Comparison of Conflict of Interest Rules for Legislators in Canada, the United States, Britain and Australia." Paper prepared by Research Branch, Library of Parliament, Ottawa, 1979.

Freedman, Michal. *The Case against Edwin Meese, III for Attorney General: A Review of the Independent Counsel's Report.* Washington, D.C.: Common Cause, 1984.

Gibbons, Kenneth M., and Donald C. Rowat, eds. *Political Corruption in Canada: Cases, Causes and Cures.* Toronto: McClelland and Stewart, 1976.

Hart, Lee, Peter Kovter, Peter Lindstrom, and Ellen Miller. *Ethics in Government: The Impact of Financial Disclosure on Spouses.* Washington, D.C.: The Center for Responsive Politics, 1985.

Hughes, Colin A. "Public Duty and Private Interest: An Australian Report." *The Parliamentarian* 61 (1980): 72–78.

Johansen, David. "Conflict of Interest Rules for Parliamentarians in Britain, Australia, New Zealand, the United States, France and West Germany." Paper prepared by Research Branch, Library of Parliament, Ottawa, 1981.

Kernaghan, Kenneth, ed. *Public Administration in Canada.* 5th ed. Toronto: Methuen, 1985.

Kneier, Andrew. *Serving Two Masters: A Common Cause Study of Conflicts of Interest in the Executive Branch.* Washington, D.C.: Common Cause, 1976.

Leno, Janet. *Bureaucratic Orphans: The Administration of Government Ethics Programs as Viewed by Agency Ethics Officials.* Washington, D.C.: Common Cause, 1984.

McNeely, Brian. "The Municipal Conflict of Interest Act, 1983, Ontario." *Municipal and Planning Law Reports* 21 (1983): 24–27.

Perkins, Roswell B. "The New Federal Conflict-of-Interest Law." *Harvard Law Journal* 76 (1963): 1113–69.

Rogers, Ian MacF. "Conflict of Interest. A Trap for Unwary Politicians." *Osgoode Hall Law Journal* 11 (1973): 537–44.

Sexton, J.E. "Conflict of Interest of Municipal Politicians." Law Society of Upper Canada, *Special Lectures, 1973*, 373–400.

Smither, Michael J. *Municipal Conflict of Interest*. St. Thomas, Ont.: Municipal World, 1983.

————. "Municipal Conflict of Interest Act, 1983." *Municipal World* (March 1983): 66–68.

White Collar Crime: Third Annual Survey of Law. "Conflicts of Interest." *American Criminal Law Review* 22 (1984): 545–58.

Williams, Sandra. *Conflict of Interest: The Ethical Dilemma*. Brookfield, Vt.: Gower, 1985.

————. "Conflict of Interest: The Experience of the American Congress." *The Parliamentarian* 64 (1983): 138–45.