



OFFICE OF THE INTEGRITY
COMMISSIONER

REPORT

of

THE HONOURABLE ROBERT C. RUTHERFORD
COMMISSIONER

RE: MR. JOSEPH TASCONA, M.P.P., SIMCOE CENTRE
WITH RESPECT TO
THE EMPLOYMENT STANDARDS ACT

TORONTO, ONTARIO
JANUARY 15, 1998

REPORT
of
THE HONOURABLE ROBERT C. RUTHERFORD
INTEGRITY COMMISSIONER

RE: MR. JOSEPH TASCONA, M.P.P.
SIMCOE CENTRE
WITH RESPECT TO THE EMPLOYMENT STANDARDS ACT

INTRODUCTION

By letter dated December 9, 1997, David Christopherson, M.P.P., for Hamilton Centre, requested an opinion whether Mr. Joseph Tascona, M.P.P., Simcoe Centre, was in violation of the Members' Integrity Act, 1994 ("Act") by representing employers and employees in his capacity as a lawyer in employment standards cases and at the same time, actively participating in the Legislature and as a member of the Resources Development Committee considering Bill 49, which amended the Employment Standards Act.

Mr. Christopherson's letter, attached hereto as Exhibit 1, included Affidavits by Mr. Peter Matthews of Barrie and Mr. John Crawford of Oro Station [Exhibit 1(a)], excerpts from Hansard dated June 3, 1996, August 19, 1996, September 30, 1996, October 17, 1996 and March 26, 1997 [Exhibit 1(b)], and letter from Mr. Tascona to the Ministry of Labour dated March 26, 1997, [Exhibit 1(c)].

On December 18, 1997, Mr. Tascona responded in writing, [Exhibit 2], and included a letter dated October 15, 1997 from the former Integrity Commissioner, The Honourable Gregory T. Evans, [Exhibit 2(a)], excerpts from Hansard dated June 3, 1996, August 19 to 23, 1996, September 9 to 11, 1996, September 30, 1996, October 17, 1996 [Exhibit 2(b)], Bill 49, an Act to improve the Employment Standards Act, [Exhibit 2(c)], and sections 12 and 13 of the Employment Standards Act, (Exhibit 2(d)).

By letter from this office dated December 18, 1997, Mr. Christopherson was provided with a copy of Mr. Tascona's submissions and requested to respond by Monday, January 5, 1998. No response was received by that date.

On the basis of the material filed and marked as Exhibits attached to my Report, I have concluded that the information contained therein is sufficient to provide the opinion requested and that a more formal inquiry is not necessary.

ISSUE

The question for my consideration may be simply put as follows:

Does Mr. Joseph Tascona, while acting as a lawyer representing employees and employers in employment standards cases, violate the *Members' Integrity Act, 1994*, by participating as an elected Member of the Provincial Parliament serving as an active participant in the Legislative Assembly and as a member of the Resources Development Committee considering Bill 49, "An Act to improve the Employment Standards Act"?

SUBMISSION BY THE COMPLAINANT, MR. CHRISTOPHERSON

In Mr. Christopherson's letter to the Commissioner dated December 9th, he advised that there was reasonable and probable grounds to believe a contravention of the Act had occurred, specifically sections 2, 4 and 6(1) of the Act. I have had an opportunity to read all of the material forwarded to me including the extractions from Hansard and the two affidavits submitted by Mr. Christopherson and have considered their contents carefully.

SUBMISSION BY MR. TASCONA

In response to the letters submitted by Mr. Christopherson, by letter dated December 18, 1997, Mr. Tascona has set out in great detail his participation in the issue that has been raised as a complaint by Mr. Christopherson.

Mr. Tascona carries on a law practice in Barrie and has done so prior to his election as a member of the Legislature on the 8th of June, 1995. He has practised law in such areas as real estate, land development, civil litigation and labour/employment law, representing both employees and employers. As a member of the Legislature, and not a member of the Executive Council, Mr. Tascona is entitled to practice his profession, and this was confirmed in an opinion given by my predecessor, The Honourable Gregory T. Evans, on October 15, 1997, and attached hereto as Exhibit 2(a).

As M.P.P., Mr. Tascona has been a member of a number of committees, including Legislative Assembly, Public Accounts, General Government and Resources Development, and at the time of the allegations herein set out, was a member of the Resources Development Committee which conducted public hearings on Bill 49, "An Act to improve the Employment Standards Act" between August 19, 1997 and September 30, 1997. The committee reported to the Legislature on October 1, 1997.

OPINION

I do not propose to deal at length with the issue of Adanac Security & Specialty Services Ltd., as set out in Mr. Christopherson's letter [Exhibit 1] and the Affidavits of Messrs. Matthews and Crawford, [Exhibit 1(a)]. It is my opinion that Mr. Tascona has responded in detail in this regard, and I accept his submissions with respect to sections 12 and 13 of the Employment Standards Act.

The Preamble to the *Members' Integrity Act, 1994*, states in part:

- (1) The Assembly as a whole can represent the people of Ontario most effectively if its members have experience and knowledge in relation to many aspects of life in Ontario and if they can continue to be active in their own communities, whether in business, in the practice of a profession or otherwise.
- (2) Members' duty to represent their constituents includes broadly representing their constituents' interest in the Assembly and to the Government of Ontario."

It is apparent that Mr. Tascona has had broad legal experience in many issues and in particular, acting on behalf of both employees and employers in employment standard matters. It is my opinion that such experience would be of benefit to the Resources Development Committee in reviewing the Employment Standards Act, and subsequently in debate in the Legislative Assembly.

On the material that has been filed, I find that Mr. Tascona was carrying on his responsibilities and duties as a lawyer representing his client, and at the applicable time, was making broadly based representations to the Resources Development Committee with respect to employment standards issues and subsequently to the Legislative Assembly.

However, Mr. Christopherson has alleged the following sections of the Act have been infringed by Mr. Tascona:

Section 2

"A member of the Assembly shall not make a decision or participate in making a decision in the execution of his or her office if the member knows or reasonably should know that in the making of the decision there is an opportunity to further the member's private interest or improperly to further another person's private interest."

Section 4

"A member of the Assembly shall not use his or her office to seek to influence a decision made or to be made by another person so as to further the member's private interest or improperly to further another person's private interest."

Section 6(1)

"A member of the Assembly shall not accept a fee, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office."

Sections 2 and 4 refer to the furthering of "the member's private interest..." and s.1 of the Act defines "private interest" as follows:

“private interest” **does not include** an interest in a decision,
(a) that is of general application,
(b) that affects a member of the Assembly as one of a broad class of persons, or
...” (*Emphasis added*)

It is my opinion that Mr. Tascona’s participation in the review of the Employment Standards Act was of a general application to the people of Ontario, benefiting both employers and employees, and that any amendments to the Employment Standards Act affect Mr. Tascona as one of a broad class of persons, i.e. lawyers, in Ontario. As a result, I find there was no conflict between his responsibilities and obligations to his client as a solicitor and his duties as a member of the Legislative Assembly.

As there is no evidence before me that Mr. Tascona received a fee, gift or personal benefit from any employer or employee to specifically pursue amendments to the Employment Standards Act, I find there is no violation of s.6(1) of the *Act*.

It is, therefore, my opinion that Mr. Tascona did not contravene the *Members’ Integrity Act, 1994* or Ontario parliamentary convention.

RECOMMENDATION

As I have stated above, it is important to elect members to the Legislative Assembly who have a certain amount of experience and knowledge to serve both in the Legislative Assembly and on committees, however, in order to promote public confidence in the integrity of not only the members, but the Legislative Assembly as a whole, it is my opinion a declaration as to the private interest of a member should be stated on the record of each committee hearing. I have confirmed with the Clerk of the Resources Development Committee that no such statements were made by any member of the Committee considering Bill 49.

On the 20th of September, 1993, my predecessor in office forwarded to the Members of the Legislative Assembly a memorandum, a copy of which is attached as Exhibit “3”, in which he stated:


Perhaps the Chair of each Committee would consider asking the question at the commencement of the hearings:

If there are any members of the committee who may have a private interest in the matter to be considered, would they please state their interest for the record.

While not every private interest would create a violation of s.2 of the *Act*, such a statement by the Chair would remind the Committee members that they should address their attention to the provisions of the *Act*.”

I endorse this recommendation, however, failing such a statement by the Chair, I suggest that there is an onus on Members of the Legislative Assembly who may have an interest, to so state for the record.

DATED at Toronto, Ontario, this 15th day of January, 1998.


The Honourable Robert C. Rutherford



David Christopherson, MPP
Hamilton Centre

Legislative Building
Toronto, Ontario
M7A 1A5

December 9, 1997

Telephone: (416) 325-3188
Fax: (416) 325-3189

The Hon. Gregory T. Evans
Integrity Commissioner
4th Floor, 101 Bloor Street West
Toronto, Ontario
M5S 2Z7

Dear Judge Evans:

I am writing under Section 30 of the Members' Integrity Act to ask you to give an opinion as to whether the Member from Simcoe Centre, Joseph N. Tascona, has contravened the Act or Ontario parliamentary convention by his involvement, in various capacities, in Employment Standards cases and in influencing changes in the Employment Standards Act in ways that benefit his clients.

I believe there are reasonable and probable grounds to believe that a contravention has occurred. Enclosed are excerpts of Hansard and affidavit evidence to support this belief.

Mr. Tascona has represented clients -- mostly employers but sometimes employees -- in Employment Standards cases both before and after his election to the Ontario Legislature in June 1995. He also participated very actively in the Legislature and as a member of the Resources Development Committee considering Bill 49, which amended the Employment Standards Act.

Rather than provide an exhaustive record of Mr. Tascona's frequent and aggressive interventions on Bill 49, I have enclosed a small selection of Hansard excerpts, including his participation in clause-by-clause debate opposing amendments that would have lessened the bill's tilt towards employers.

Also enclosed are the affidavits of Peter Matthews and John Crawford, two of the employees who found that their efforts to secure their rights under the Employment Standards Act, supported by Ministry of Labour officials, were opposed by a government MPP under retainer by the employer.

Mr. Matthews and Mr. Crawford describe their frustration in being disadvantaged by what they consider a clear conflict of interest. In the case of Mr. Matthews, a resident of Simcoe Centre, he faces the further obstacle of being opposed by his own MPP, who is being paid by the other side in this dispute.



As additional evidence, I am enclosing a letter written by Mr. Tascona on his law firm's stationary to the Ministry of Labour, which I believe is one of many times Mr. Tascona has intervened in writing or by telephone with Employment Standards Officers, who are very aware of his dual role as advocate and elected member of the government party.

I have sought additional evidence of this kind through the Freedom of Information Act, but responses to those requests have been slow and uncertain, and I wanted to put the key facts before you at this time. If more documents become available I will provide them to you.

I believe Mr. Tascona's actions may infringe section 2 of the Members Integrity Act (Conflict of interest) and section 4 (Influence).

I also invite your consideration of section 6 (1) which says "A member of the Assembly shall not accept a fee, gift or personal benefit that is connected directly or indirectly with the performance of his or her duties of office."

Although Mr. Tascona's employer clients may well have retained him before his election to the Legislature, it is difficult to believe that they do not think at least indirectly about his involvement in changing the law to their benefit as they pay his fees for continuing efforts on their behalf in Employment Standards cases.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'David Christopherson', with a large, stylized flourish extending to the right.

David Christopherson, MPP
Hamilton Centre
NDP Labour Critic

Opseu:593

AFFIDAVIT OF PETER MATTHEWS
(sworn December 9, 1997)

I, Peter Matthews of Barrie, Ontario, MAKE OATH AND SAY:

1. I have direct knowledge of the matters deposed to in this affidavit.
2. I was employed by Adanac Security Inc. in Barrie until October 1995 when this company entered bankruptcy proceedings.
3. Soon afterwards, a new company called Adanac Security & Specialty Services Ltd. purchased assets of Adanac Security Inc. and continued pursuing much the same business.
4. I filed an Employment Standards claim for approximately \$9000 owing to me for severance and lost wages. Because Adanac Security Inc. does not have assets remaining to pay me what I am owed, the Ministry of Labour has sought to collect the money from Adanac Security & Specialty Services Ltd. as a "related employer" under the law.
5. Adanac Security & Specialty Services Ltd. has retained my MPP, Joseph N. Tascona, as their lawyer seeking to persuade the Employment Standards branch that I should not be allowed to collect.
6. I have been unable to make use of the assistance of my MPP as I have pursued my claim, since he is already being paid by the other side.
7. While this matter was under way, the Minister of Labour introduced amendments to the Employment Standards Act which, although they do not apply retroactively to my case, would be detrimental to future claimants in my situation and favourable to employers such as Mr. Tascona's client.
8. While Mr. Tascona was opposing my claim for severance and lost wages, he was also vigorously supporting the pro-employer changes to the Employment Standards Act in the Legislature and in Committee, while opposing amendments that would have favoured employees.

9. I make this affidavit in support of a request to the Integrity Commissioner of Ontario for an opinion as to whether Mr. Tascona has contravened the Members' Integrity Act.

SWORN BEFORE ME at the City of

Toronto, in the Municipality of

Metropolitan Toronto, on

December 9, 1997



Peter Matthews



MPP

Ex-officio Commissioner for
Taking Affidavits

AFFIDAVIT OF JOHN CRAWFORD
(sworn December 9, 1997)

I, John Crawford, of Oro Station, Ontario, MAKE OATH AND SAY:

1. I have direct knowlege of the matters deposed to in this affidavit.
2. I was employed by Adanac Security Inc. in Barrie until October 1995 when this company entered bankruptcy proceedings.
3. Soon afterwards, a new company called Adanac Security & Specialty Services Ltd. purchased assets of Adanac Security Inc. and continued pursuing much the same business.
4. I filed an Employment Standards claim for approximately \$9000 owing to me for severance and lost wages. Because Adanac Security Inc. does not have assets remaining to pay me what I am owed, the Ministry of Labour has sought to collect the money from Adanac Security & Specialty Services Ltd. as a "related employer" under the law.
5. Adanac Security & Specialty Services Ltd. has retained MPP Joseph N. Tascona, as their lawyer seeking to persuade the Employment Standards branch that I should not be allowed to collect.
6. While this matter was under way, the Minister of Labour introduced amendments to the Employment Standards Act which, although they do not apply retroactively to my case, would be detrimental to future claimants in my situation and favourable to employers such as Mr. Tascona's client.
7. While Mr. Tascona was opposing my claim for severance and lost wages, he was also vigorously supporting the pro-employer changes to the Employment Standards Act in the Legislature and in Committee, while opposing amendments that would have favoured employees.

8. I make this affidavit in support of a request to the Integrity Commissioner of Ontario for an opinion as to whether Mr. Tascona has contravened the Members' Integrity Act.


SWORN BEFORE ME at the City of

Toronto, in the Municipality of

Metropolitan Toronto, on

December 9, 1997


John Crawford


MPP
Ex-officio Commissioner for
Taking Affidavits

Joseph N. Tascona

Law Firm

MINISTRY OF LABOUR

MAR 27 1997

March 26, 1997



BARRIE, ONT.

Delivered by Hand

Ministry of Labour
 Employment Standards Program
 114 Worsley Street, Suite 201
 Barrie, Ontario
 L4M 1M1

Attention: Joseph M. Doeswald, Employment Standards Officer

Dear Sir:

Re: Adanac Security & Specialty Services Ltd. -
Your File No. 42001981

I confirm our meeting of Wednesday, February 26, 1997, regarding the production of records requested in your letter dated November 25, 1996.

I have enclosed herein the documents in alphabetical tab order as follows:

- A-1. Corporate - Articles of Incorporation - Nov. 29, 1995
 - Articles of Amendment - Jan. 3, 1996
 (Appendix "A")
- B-2. Employees - Claimant List
 - New Hires (Appendix "B")
- C-3. Inventory Control Report - None
 - Accounts Receivable (Appendix "C")
- 4. Current Service Contracts - National Trust and Royal Bank of Canada
- 5. Service/Equipment Report - None
- D-6. Supplies/Contractors - Suppliers (Appendix "D")
 - Contractors (Appendix "E")
- E-7. Advertising/Product/Price Lists - Dealer List (Appendix "F")
 - Brochure (Appendix "G")

With respect to Current Service Contracts, the documents are confidential but you may visit my offices to review.

BARRISTERS, SOLICITORS AND NOTARIES

P.O. Box 907, 81 Worsley Street, Barrie, Ontario L4M 1E1
 (416) 291-1700 / (705) 725-1700 / Fax (705) 725-1701

RELEVANT INFORMATION

SECTION 13 - SALE OF BUSINESS

You have provided Referee decision, Three Penguins Inc., O/A Sketchley Cleaners involving section 13 under the Employment Standards Act. The Referee held that the Receiver in bankruptcy sold to a new company a going concern, whereby the activities were carried on without interruption. In fact, the employee claimant on the same date was given a Notice of Bankruptcy from the Receiver and an offer of employment by the new company.

In our situation, the Receiver operated the bankrupt company for a two month period before selling certain assets to my client. 1157585 Ontario Limited offer to purchase certain assets of Adanac Security Inc. ("ASI") was confirmed by the Receiver by letter dated December 6, 1995, with a close date of December 22, 1995. The relevant documentation is found in Appendix "II" herein. In fact, my client never operated the bankrupt company as a going concern resulting from the assets purchased. Therefore, it is my opinion that the Three Penguins Inc. decision does not apply.

With respect to your vacation pay letter dated March 17, 1997, the section 13 issue has not been determined and as such your request is premature. In any event, we do not subscribe to your separation of the section 12 and section 13 issues as indicated in your letter. Finally, the alleged "historical basis for paying out accrued vacation pay at the end of June" and the vacation pay calculation will be reviewed in due course.

SECTION 12 - RELATED EMPLOYER

There are a number of considerations that should be considered:

1. Corporate Ownership

Adanac Security & Specialty Services Ltd. ("ASSSL") has different corporate shareholders, directors and officers.

ASSSL was incorporated on November 29, 1995 (1157585 Ontario Limited) and changed its current name on January 3, 1996.

2. Financial/Banking Arrangements

ASSSL has different banking arrangements and a different bank. There is no financial connection between ASSSL and ASI.

3. Market

ASSSL is involved in new activities and such services as:

- . Access Control Systems
- . Electronic Locks & Electric Combination Locks
- . Electronic Retrieval System for Night Depository Safes and ATM Bank Machines
- . Research and Development for weapons detection, customized window guards and security controlled areas
- . Electronic operated hotel and residential safes
- . Protection equipment for "cashless" society
- . Security consulting
- . Security audits for banks
- . Servicing of other products - office equipment, VCR etc.

The market focus of ASSSL is on developing new services and new products through direct sales in the commercial and financial sectors.

517

4. Name. Identity. Colours. Logo

ASSSL differs from ASI, the bankrupt company, in all respects.

5. Location

ASSSL operates out of one location at 40 Lennox Drive, Barrie, Ontario, and is a smaller square footage operation than ASI, the bankrupt company, which operated out of two separate locations.

I note ASSSL operated out of ASI, the bankrupt company, 15 Morrow Road location until June, 1996 prior to relocation. I understand that the Ministry never visited the ASSSL operation at 15 Morrow Road. A visit would have clearly demonstrated the operational differences between the two companies.

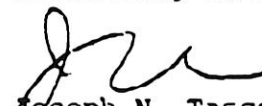
6. Operation

ASI's bankruptcy occurred on October 20, 1995, and the receivership ended on December 29, 1995. In the interim period, the Receiver operated ASI, the bankrupt company as a going concern.

It is my opinion that section 12 does not apply for two fundamental reasons. First, ASSSL and ASI activities or businesses are not carried under common control or direction on consideration of such factors as financial, asset ownership, management and actual control or direction. On Second, ASSSL and ASI activities or businesses are not associated or related in function or operation on consideration of such factors as character, general market, modes/means of production, employee skills utilized and relationship of principles of both companies.

Yours truly,

TASCONA, ALOUSIS
Practising in Association



Joseph N. Tascona
JNT:kf
enclosure

CONFIDENTIAL

December 12, 1997

Mr. Joseph Tascona, M.P.P.,
Room 434,
Main Legislative Building,
Queen's Park,
Toronto, Ontario,
M7A 1A8

Dear Mr. Tascona:

I enclose herewith Notice pursuant to s.31(1) of the *Members' Integrity Act, 1994*, together with supporting documentation as follows:

- (1) Letter dated December 9, 1997 from Mr. David Christopherson, M.P.P., Hamilton Centre;
- (2) Affidavits of Peter Matthews and John Crawford;
- (3) Excerpts from Hansard, June 3, 1996, August 19, 1996, October 17, 1996;
- (4) Letter dated March 26, 1997, from you to the Ministry of Labour, Employment Standards Program.

For your information, I am enclosing a copy of the December 2, 1996 memorandum sent to all Members of the Legislative Assembly. Please note a reply is required to be filed with this office **no later than Monday, December 22, 1997.**

I would appreciate you acknowledging receipt of this letter and Notice by signing, dating and returning the copy of this letter.

Yours very truly,

Encls.

I hereby acknowledge receipt of a copy of this letter and Notice under s.31(1) of the *Members' Integrity Act, 1994*.

Joseph Tascona, M.P.P.

Date

CONFIDENTIAL

December 12, 1997

Mr. David Christopherson, M.P.P.,
Room 375, East Wing,
Main Legislative Building,
Toronto, Ontario, M7A 1A5

Dear Mr. Christopherson:

Re: Joseph Tascona, M.P.P., Simcoe West

I am in receipt of your letter dated December 9th, addressed to The Hon. Gregory T. Evans. As you may be aware, Mr. Evans retired from his position as Commissioner on November 30, 1997, and I have been appointed the Integrity Commissioner, effective December 1, 1997.

Please be advised that I have given Mr. Tascona Notice under s.31 of the *Members' Integrity Act, 1994*. A response from Mr. Tascona is required to be filed in this office by Monday, December 22, 1997.

For your information, I am enclosing a copy of the December 2, 1996 memorandum sent to all Members of the Legislative Assembly.

Yours very truly,

Encl.



LEGISLATIVE ASSEMBLY

JOE TASCONA, M.P.P.

SIMCOE CENTRE

CONFIDENTIAL

December 18, 1997

MAILING ADDRESS:

ROOM 434
LEGISLATIVE BUILDING
QUEEN'S PARK
TORONTO, ONTARIO
M7A 1A8
TEL. (416) 325-4579
FAX (416) 325-4620

CONSTITUENCY OFFICES:

36 MULCASTER ST.
BARRIE, ONTARIO
L4M 3M1
TEL. (705) 737-4242
1-800-461-5473
FAX (705) 737-1085
MON. - FRI.: 9AM - 5PM
THURS.: 9AM - 7PM

61 HOLLAND ST. E.
BRADFORD, ONTARIO
TEL. (905) 778-0121
FRI.: 9AM - 2PM

Office of the Integrity Commissioner
101 Bloor Street West
13th Floor
Toronto, Ontario
M5S 2Z7

Attention: The Honourable Robert C. Rutherford,
Integrity Commissioner

Dear Sir:

I acknowledge receipt of your letter dated December 12, 1997.
I have set out my response below.

1. Prior to and after being elected on June 8, 1995, as a member of the Ontario Legislature I practised as a lawyer in such areas as real estate, land development, civil litigation and labour/employment law representing both employees and employers.
2. As a member of the Ontario Legislature who is not a member of the Executive Council, and who is a lawyer, I am entitled to practice my profession. I have attached hereto as Appendix "A" a letter from The Honourable Gregory T. Evans, then Integrity Commissioner.
3. Since my election I have provided advice in the capacity as a lawyer at my law office to both employees and employers in matters involving employment standards.
4. In my duties as M.P.P. I have set up two offices in addition to my Queen's Park office in the City of Barrie and the Town of Bradford West Gwillinbury. I have made myself available to constituents 24 hours per day on a 7 day per week basis and my staff are instructed to provide constituents with the name of another M.P.P. from the list kept in my offices and Ministry information in the event that I cannot assist for whatever reason. I have assisted constituents of other M.P.P.s that were not able to service their constituents.

5. Government backbenchers and opposition members may appear personally before provincial agencies, board or commissions (unless prohibited by statute or convention) to deal with constituent problems.
6. As M.P.P. I have served on several Standing Committees being Legislative Assembly, Public Accounts, General Government and Resources which have been involved in public hearings on both government bills and private member bills. The purpose of public hearings is to seek a broad based opinion on the impact of any bill on all residents of Ontario.
7. I was a member of the Resources Committee that conducted public hearings on Bill 49 (An Act to improve the Employment Standards Act) between August 19, 1997, and September 30, 1997, and which reported to the legislature on Bill 49 on October 1, 1997.
8. Bill 49 is a government bill which amended the Employment Standards Act in such areas as improving employee service entitlement on pregnancy leave, vacation pay and streamlining the collection process to the benefit of employment standards claimants.
9. I am proud to say that my involvement on the Resources Committee and in house debate involving Bill 49 has helped create a well balanced piece of legislation that is of benefit to both employees and employers. I have attached hereto as Appendix "B" a copy of the Hansard Reports.
10. As admitted by Messrs. Crawford and Matthews in their Sworn Affidavits, at paragraphs 6 and 7 respectively, Bill 49 did not impact them. I have attached hereto as Appendix "C" a copy of Bill 49.
11. I have never acted in any capacity for Adanac Security which employed Messrs. Crawford and Matthews. I understand that Adanac Security declared bankruptcy on October 20, 1995.
12. I have never acted in any capacity for Messrs. Crawford and Matthews. In addition, Messr. Crawford is not a constituent in my riding of Simcoe Centre.

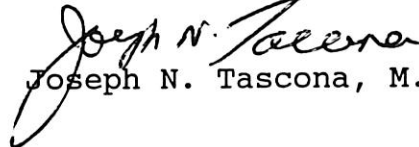
13. The Employment Standards Act provides that an employee may complain to the Employment Standards Branch of the Ministry of Labour and an employment standards officer will be appointed to investigate the complaint. The employment standards officer has the statutory power to investigate and adjudicate the matter subject to the requirements of natural justice: Re Downing and Graydon et al. (1978), 92 D.L.R. (3d) 355 (Ont. C.A.). The next legal step is an appeal of the employment standards officer decision by either an employee or employer before the Ontario Labour Relations Board which is an independent decision-making board separate and apart from the Ministry of Labour. I can act in my capacity as a lawyer before the Ontario Labour Relations Board.
14. On September 6, 1996, I was contacted in my capacity as lawyer by Adanac Security & Specialty Services Ltd., a different company than the bankrupt Adanac Security, to provide a general understanding of sections 12 and 13 of the Employment Standards Act. I have attached hereto as Appendix "D" a copy of sections 12 and 13 of the Employment Standards Act.
15. On that same date September 6, 1996, I contacted the Employment Standards Branch in my capacity as a lawyer to obtain a general understanding of the investigation.
16. Bill 49 which received Royal Assent on October 31, 1996 did not impact on, relate to or amend in any way sections 12 and 13 of the Employment Standards Act.
17. I had no further direct contact with the Employment Standards Branch as a lawyer re Adanac Security & Specialty Services Ltd. until December 19, 1996 in which the Production of Records (pursuant to section 63 of the Employment Standards Act) as provided in my March 26, 1997, letter were discussed.
18. My legal involvement with Adanac Security & Specialty Services Ltd. during the employment standards officer investigation was confined to advising on the sections 12 and 13 issues.
19. The employment standards officer decision was rendered on October 6, 1997. Such decision is reviewable by the employer in a hearing before the Ontario Labour Relations Board.

- 4 -

It is regrettable that Mr. Christopherson has chosen by innuendo to create a conflict of interest where the facts do support same.

I appreciate the opportunity to respond in this matter. I would appreciate a timely response to this matter. If you require any further information, please do not hesitate to contact me.

Yours Sincerely,


Joseph N. Tascona, M.P.P.

Office of the
Integrity Commissioner



Bureau du
commissaire à l'intégrité

The Honourable Gregory T. Evans
Q.C., LL.D., K.C.S.G.
Commissioner

L'honorable Gregory T. Evans
C.R., LL.D., Ch.O.S.G.
Commissaire

CONFIDENTIAL

October 15, 1997

Mr. Joseph Tascona, M.P.P.,
Room 434,
Main Legislative Building,
Queen's Park,
Toronto, Ontario,
M7A 1A2

Dear Mr. Tascona:

Pursuant to our discussion today, this will confirm my opinion that a member of the Ontario Legislature who is not a member of the Executive Council, and who is a lawyer, is entitled to practice his profession.

Yours very truly,

Commission
on
Conflict of Interest
(Ontario)



Commission
sur les
conflits d'intérêts
(Ontario)

The Honourable Gregory T. Evans
Q.C., B.A., LL.D., Ph.D., K.C.S.G.
Commissioner

L'honorable Gregory T. Evans
C.R., B.A., LL.D., Ph.D., K.C.S.G.
Commissaire

MEMORANDUM

TO: ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY

FROM: THE HONOURABLE GREGORY T. EVANS

DATE: SEPTEMBER 20, 1993

RE: COMMITTEE MEETINGS

We recently received an inquiry with respect to the possible conflict of interest of some committee members engaged in the consideration of Bill 42, who were members of farm organizations which would benefit if the Bill became law. The Standing Committee on Resources Development was hearing submissions on the proposed Farm Registration and Farm Organizations Funding Act 1993.

During the course of the committee hearings, the issue of conflict of interest was raised on numerous occasions by various witnesses appearing before the committee, and in some cases, members of the committee did not declare their interest in the subject matter until after evidence was presented by the witnesses.

Section 2 of the *Members' Conflict of Interest Act, 1988* states:

"For the purposes of this Act, a member has a conflict of interest when the member makes a decision or participates in making a decision in the execution of his or her office and at the same time knows that in the making of the decision there is the opportunity to further his or her private interest."

The definition of "private interest" is set out in s.1 of the *Act* as follows:

"private interest" does not include an interest in a decision,

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

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My opinion to the Chair of the Committee was as follows:

"As each Member is only one of a broad class of electors affected by the Bill, it is the Commissioner's opinion that Members of the Standing Committee on Resources Development who are members of one or more of the organizations listed in s.7 of Bill 42, can take part in discussions and vote on the Bill and would not be in a conflict of interest."

It is obviously important to have members who have a certain amount of expertise in the matter to be discussed to serve on a committee. In this case, the organizations to be accredited had a membership of some 20,000 out of 60,000 Ontario farmers. Although 20,000 may be considered a minority, it is still a broad class of electors.

In this particular situation, members of the committee were aware of their membership in various organizations which would be affected by the legislation. Although the membership did not place them in a conflict of interest under the *Members' Conflict of Interest Act, 1988*, I would like to suggest in future that such a membership or interest be put on the record at the commencement of the committee hearings.

Perhaps the Chair of each Committee would consider asking the question at the commencement of the hearings:

If there are any members of the committee who may have a private interest in the matter to be considered, would they please state their interest for the record.

While not every private interest would create a violation of s.2 of the *Act*, such a statement by the Chair would remind the Committee members that they should address their attention to the provisions of the *Act*.

If you are in doubt as to whether the interest is one which may place you in a conflict situation, please do not hesitate to contact my office. We will respond with an opinion as quickly as possible.

A handwritten signature in cursive script, reading "Leroy T. Evans". The signature is written in dark ink and is positioned in the lower center of the page.