

**OFFICE OF THE INTEGRITY
COMMISSIONER**

REPORT

of

**THE HONOURABLE GREGORY T. EVANS
COMMISSIONER**

**RE: THE HONOURABLE ALLAN LEACH
MINISTER OF MUNICIPAL AFFAIRS AND HOUSING
WITH RESPECT TO THE HEALTH SERVICES
RESTRUCTURING COMMISSION**

**TORONTO, ONTARIO
JUNE 25, 1997**

REPORT
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THE HONOURABLE GREGORY T. EVANS
INTEGRITY COMMISSIONER

RE: THE HONOURABLE ALLAN LEACH, MINISTER OF
MUNICIPAL AFFAIRS AND HOUSING
WITH RESPECT TO THE HEALTH SERVICES RESTRUCTURING COMMISSION

INTRODUCTION

On May 14, 1997, Gerard Kennedy, M.P.P. for York South, requested an opinion whether The Honourable Allan Leach, Minister of Municipal Affairs and Housing was in violation of the Members' Integrity Act, 1994 ("Act") by writing to the Health Services Restructuring Commission ("H.S.R.C.") on March 17, 1997 requesting the H.S.R.C. to extend the deadline for the receipt of submissions on behalf of Wellesley Central Hospital and Women's College Hospital, in opposition to the closure of these hospitals as recommended in the Report by the H.S.R.C. In response to Mr. Leach's request, the H.S.R.C. extended the former deadline.

Mr. Kennedy's letter, attached hereto as Exhibit 1, included the requisite affidavit in support, Exhibit 1(a), together with a copy of a letter dated April 10, 1997 from Mr. Leach to a constituent and a copy of a letter dated le 25 Mars 1997, Exhibit 1(b), from The Honourable Noble A. Villeneuve to Ms. Sandra Pupatello, M.P.P. An English translation of Mr. Villeneuve's letter is attached as Exhibit 1(c).

On June 5, 1997, Mr. Leach responded in writing, Exhibit 2, and attached a copy of his letter dated March 17, 1997 to Dr. Duncan Sinclair, Chair of the H.S.R.C., Exhibit 2(a). In addition, he enclosed a copy of "Guidelines Respecting Representations that may be made to the Commission", Exhibit 2(b), and a copy of the H.S.R.C. recommendations with respect to certain Toronto area hospitals, Exhibit 2(c).

Mr. Kennedy's reply dated June 9, 1997 to Mr. Leach's response to the complaint is attached hereto as Exhibit 3.

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.

BACKGROUND

The H.S.R.C. was established by Ontario Regulation 88/96 dated March 21, 1996 made under the Ministry of Health Act and came into force on April 1, 1996. It exercises a wide mandate delegated to it by the Minister of Health, The Honourable Jim Wilson, under the Public Hospitals Act.

“(1) The following are the duties of the Commission:

1. To consider local hospital restructuring plans provided by the Ministry and such other information relevant to the plans as it deems appropriate.
2. To determine which local hospital restructuring plans provided by the Ministry shall be implemented and to vary or add to those plans if it considers it in the public interest to do so.
3. To determine the timing of the implementation of local hospital restructuring plans and the manner in which they are to be implemented.
4. To set guidelines respecting representations that may be made to the Commission by a hospital that has received notice under subsection 6 (5) of the *Public Hospitals Act* that the Commission intends to issue a direction that the hospital cease to operate or that it amalgamate with another hospital.
5. To give the Minister quarterly reports on the implementation of local hospital restructuring plans.
6. To advise the Minister where the Commission is of the opinion that a local hospital restructuring plan should be developed for a specified hospital or for two or more hospitals in a geographic area.
7. Where a hospital fails to carry out a direction issued by the Commission under section 6 of the *Public Hospitals Act*, to advise the Minister as to appropriate actions, including the appointment of investigators under section 8 of the *Public Hospitals Act* and of hospital supervisors under section 9 of that *Act*.

(2) The guidelines established under paragraph 4 of subsection (1) shall set out the manner in which representations may be made and the procedure for making the representations. ...”

The Guidelines established under paragraph 4 above are set out in Exhibit 2(b), attached to Mr. Leach's letter of June 5, 1997.

The purpose of the legislation as explained by the Minister of Health and repeated on various other occasions, was as follows:

“Therefore, on the advice of our partners, on the advice of local communities, we are putting in place a system whereby a Health Services Restructuring Commission will be able to, at arms's length from government, use the authority in the act to work with local communities to implement--not write, but implement--their restructuring reports as recommended...” Hansard, December 6, 1995, page 1304
“The government was asked to do this by the hospital providers themselves, and

we are very confident that we will finally be able to get on with restructuring the hospital system, that it will be at arm's length from the government, take the politics out, and get these studies implemented..." Hansard, January 29, 1996, page 1469.

"The honourable member is well aware that a commission has been set up and that is, with respect to its decision-making processes and the decisions it will make, at arm's length from the government." Hansard, September 24, 1996, page 4125

The Commission is intended to operate at arm's length from government and without political interference--a clear direction to Cabinet Ministers and government members not to become involved with the Health Services Restructuring Commission.

ISSUE

The issue for determination is whether Mr. Leach, a Minister of the Crown, in his capacity as Minister of Municipal Affairs and Housing, advocated on behalf of private parties in forwarding a letter to the Health Services Restructuring Commission, an independent commission established by the Government of Ontario, requesting an extension of time for the filing of submissions by Wellesley Central Hospital and Women's College Hospital and did thereby violate parliamentary convention, contrary to the Members' Integrity Act, 1994.

SUBMISSION BY THE COMPLAINANT, MR. GERARD KENNEDY, M.P.P.

(1) Mr. Leach's letter dated March 17, 1997 to Dr. Duncan Sinclair, Chair of the H.S.R.C., was a breach of parliamentary convention, being a request by a Minister of the Crown to an independent commission to grant an extension for the filing of submissions, to hospitals ordered closed by the H.S.R.C., which would adversely affect his constituents.

In support, Mr. Kennedy filed Mr. Leach's letter of April 10, 1997, Exhibit 1(b), which the latter states, "is a form letter to constituents". The letter refers to the recommendations of the Metropolitan Toronto District Health Council that both Wellesley and Women's College Hospital be closed and that Central Hospital, which later merged with Wellesley, be converted to an ambulatory care centre. The letter continues,

"Unfortunately, the Restructuring Commission which had been announced by the government on November 30, 1995 to implement hospital restructuring and is intended to function at arm's length from the government, accepted the recommendations of the District Health Council, and rejected the Alliance's plans for consolidated medical services and cost savings."

At the request of the two hospitals, I asked the Restructuring Commission to extend the deadline for submissions and they have done so. ..."(emphasis added)

Mr. Kennedy also filed a letter dated March 25, 1997, Exhibit 1(c), from The Honourable Noble A. Villeneuve, Minister of Agriculture, Food and Rural Affairs and Minister of Francophone Affairs to Ms. Sandra Pupatello, M.P.P., in which he states his reason for not acting on her concerns as follows:

“Given the independent nature of the Commission, it would however be inappropriate for me to intervene directly with the Commission.”

I assume the purpose in filing this letter was to demonstrate that Mr. Villeneuve appreciated the restriction to which Ministers were subject and that Mr. Leach, as a Minister, should have respected that restriction.

SUBMISSIONS BY THE HONOURABLE AL LEACH

- (1) The guidelines issued by the H.S.R.C. invite any person or organization to make written submission to it or to seek an extension of time within which submissions may be made and Mr. Leach's acceptance of the invitation was a proper exercise of his responsibilities as an M.P.P. and does not violate any parliamentary conventions.
- (2) The letter dated March 17, 1997, Exhibit 2(a), is the only communication which he or his staff had with the H.S.R.C. and the letter did not violate s.4 of the Members' Integrity Act, 1994.
- (3) That the H.S.R.C. is neither a judicial nor a quasi-judicial body, and accordingly his action was not inappropriate.

While Mr. Kennedy's complaint did not specifically refer to items (2) and (3), I feel that I should deal with them as they are raised as a defence by Mr. Leach and as they form part of the circumstances giving rise to the complaint.

In Mr. Leach's reply, Exhibit 2, he states that he had 21 meetings with constituents opposed to the closure of Wellesley Central Hospital in addition to 600 letters and calls, and further that he was aware that a petition bearing 30,000 signatures opposing closure was to be presented to the Legislature, and that his purpose in making representations to the Commission on March 17, 1997 was to obtain an extension of time for further submissions to the H.S.R.C. by the hospitals and their supporters. The usual period was 30 days from the release of the report by the H.S.R.C. on March 6, 1997, although the Commission, according to its guidelines, Exhibit 2(b), on written application or on its own initiative, may consider an extension of the time within which submissions may be made.

He further stated that such action could not reasonably be considered as an attempt to influence a decision of the H.S.R.C. to grant such extension, contrary to s.4 of the Members' Integrity Act.

1994.

FINDING

I propose to deal with Mr. Leach's submissions in reverse order.

(1) The H.S.R.C. is not a judicial or quasi-judicial tribunal.

I agree that the H.S.R.C. is not a judicial body, but I disagree with the submission that it is not a quasi-judicial body. Black's Law Dictionary defines "quasi-judicial" as follows:

"A term applied to the action, discretion, etc. of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature."

"Quasi-judicial power" is defined as:

"The power of an administrative agency to adjudicate the rights of persons before it."

The H.S.R.C. has been granted wide powers by the government. Its decisions will change drastically the manner in which health care will be provided in Ontario; the number of hospitals which will be closed; as well as the dislocation and the unemployment of medical and nursing personnel and their support staff. It is, therefore, essential that the members of the H.S.R.C. be free to discharge their onerous mandate without political interference. Their decisions are not simply administrative, but are of a quasi-judicial nature.

It is well recognized that Ministers may need to be in contact with agencies in their portfolio on a broad range of administrative, policy and regulatory matters when authorized to do so by legislation. However, the H.S.R.C. is not an agency of Mr. Leach's portfolio. It falls within the jurisdiction of the Minister of Health and Mr. Leach cannot intervene on behalf of any person or entity with the H.S.R.C. on any matters before it that requires a decision in its quasi-judicial capacity.

(2) Was there a violation of s.4 of the Members' Integrity Act, 1994?

Section 4 of the Act states:

"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."

The hospitals involved and their supporters were seeking Mr. Leach's support for an extension of the closing date for submissions against closure of the hospitals. His letter to the H.S.R.C. would indicate his support was not limited to a request for an extension of time, but for reconsideration of

issues relative to their decision to close. His letter to his constituents indicated dissatisfaction with the acceptance by the H.S.R.C. of the recommendation of the District Health Council. A Minister is deemed to agree with government policy and should not publicly indicate opposition to its implementation.

(3) Parliamentary Convention

Eugene A. Forsey, a retired Senator, and a distinguished teacher and writer on constitutional matters, is referred to in Canadian Who's Who as "a respected elder statesman, often interviewed by the media as the man who knows more about Parliament and constitutional law than anyone else in Canada". Mr. Forsey, in collaboration with G. C. Eglington, produced a two volume publication entitled The Question of Confidence in Responsible Government (available in the Legislative Library) in which the authors state in dealing with Cabinet solidarity (pages 84 and 85),

"A Minister must not speak about or otherwise become involved in a colleague's portfolio without first consulting him and gaining his approval..."

Certain general principles are dealt with in the publication which I have summarized as follows:

Conventions are observed rules of constitutional and political behavior. The conventions governing ministerial responsibility are most important because they define the essential characteristics of the way we are in fact governed.

The responsibility of Ministers, whether collective or individual, to the Assembly is not contained in any statute. All these matters are governed by conventions, that means precedent and common sense.

Most democratic governments accept the fundamental principles of ministerial responsibility and that the appearance and reality of integrity are indispensable parts of our system of government.

Gross breaches of ordinarily accepted codes of conduct which have been enshrined in legislation usually result in serious political consequences. However, ministerial bungling by way of an error of judgment while the subject of criticism, may not require a penalty unless there are extenuating circumstances.

Conventional principles are generalizations from a mass of usages flowing down from incident to incident. These incidents in the light of common sense are usually termed precedents which over a period of time reflect common usage and are consolidated ultimately into conventions.

A precedent may be followed on another occasion because the actions composing

the precedent are seen with hindsight to be correct, that is, to have constituted a common sense solution to a particular problem in conformity with the best general constitutional principles.

If the reasons for regarding those actions as correct are still applicable in a like political situation, they are likely to be followed. Once a new practice is followed, a precedent is established which will constitute a usage and in due time a convention. Conventions and usages are not cast in stone; they may be modified or even abandoned, if they are no longer germane to current conditions or to the underlying principles of the current political system. Some conventions are easily identified as cut and dried principles but most exist in variable states of elasticity.

Conventions have been defined as extra-legal rules of structure or procedure or principle established by precedent, consolidated by usage and generally observed by all concerned.

The practice has evolved whereby Ministers and their offices do not deal directly with public servants, but go through the office of the responsible Minister. However, Ministers and their staff may seek information on the status of a matter and the policies and procedures of any particular agency, board or commission.

A Minister's office can expect requests for assistance from other Ministers on behalf of their constituents. However, when such an intervention with an agency is not appropriate because the request concerns a quasi-judicial matter, the Minister's office should indicate that an intervention is not possible by any Minister and suggest that the constituent deal directly with that agency.

Mr. Leach's letter to the Chair of the H.S.R.C. was inappropriate. As a Minister, he should have directed his constituents to forward their complaints to the H.S.R.C. or he could have personally consulted Mr. Wilson, the responsible Minister who would determine whether the concerns were relevant to status, policies or procedures of the H.S.R.C. To by-pass the Minister of Health is not only a failure to show proper respect for the Minister, but in the present situation, is also a flagrant breach of parliamentary convention in that the H.S.R.C. was set up as an independent quasi-judicial tribunal to operate at arm's length from government. The meaning of "arm's length" in the present context is "without interference by members of the political party responsible for the enactment of the legislation creating the H.S.R.C." It is an accepted convention that there are limitations on the ability of a Minister to act on behalf of constituents as far as quasi-judicial tribunals are concerned.

The fact that Mr. Leach wrote on his M.P.P. letterhead does not alter the situation. A Minister is always a Minister and the recipient in the present case would be well aware of Mr. Leach's position in the Cabinet. Nor does the fact that H.S.R.C. invited "anyone" to make representations.

Mr. Leach is a member of the Executive Council which established the H.S.R.C. and is bound by parliamentary convention not to interfere

The Executive Council is by convention supposed to speak with one voice, since it is collectively responsible for initiating and implementing policies. Therefore, Cabinet solidarity requires that all Ministers must accept collective responsibility for the policies and actions of the government.

If I may refer to a recent incident which occurred in the Federal Parliament. Mr. Collenette, the Minister of National Defence, wrote to Mr. Marchi, the Minister of Citizenship and Immigration concerning a constituent who desired her husband to come to Canada as soon as possible because of her illness. Mr. Marchi replied that the constituent or her lawyer should contact the Chairperson of the Immigration and Refugee Board. The constituent did so. However, when no action resulted, Mr. Collenette wrote directly to the Chairperson asking the Board to review the constituent's request for an expedited hearing. He did not deal with the merits of the case, only the scheduling of the hearing.

The Federal Government does not have legislation but operates pursuant to guidelines which conform to accepted convention. When the matter was brought to Mr. Collenette's attention, he acknowledged that he had contravened the guidelines and resigned from the Cabinet.

Mr. Leach was elected to the Ontario Legislature and appointed to the Executive Council in 1995. Prior to his election, he had held several important and high profile positions in the field of public transportation and is well respected in the business community. He had no prior experience in government.

Public transportation, like other commercial enterprises, is an activity engaged in for profit. The fact that it may be subsidized by tax dollars does not change the character of the operation--the bottom line remains the same. It is an organization with a chain of command with fewer people at the top than at the bottom with well defined positions and responsibilities and with delegation of authority downward from top to bottom. It has traits similar to a peacetime army. It is a well established system based on power and control--in other words, authoritarian--and makes no pretense at being a democratic institution which is subject to constitutional restrictions or limitations. Its rules are those of the market place--a constant competitive struggle to survive or to improve. In such an atmosphere, it would be most unusual if top level management people did not acquire an attitude that resents any limitations which they perceive as an unwarranted obstruction in the attainment of their particular goals.

Following a previous complaint by Ms. Churley, M.P.P. for Riverdale, against Mr. Leach who approved of certain actions taken by Mr. John Matheson, his Executive Assistant and a lawyer, I gave an opinion dated February 3, 1997 in which I considered Mr. Matheson's actions with respect to a prospective legal action against Mr. Leach's Ministry to be inappropriate and, I had

occasion to remind Mr. Leach of the fourth principle in the Preamble to the Act which states:

“Members are expected to act with integrity and impartiality that will bear the closest public scrutiny.”

As the Ministry's legal department was already seized of the matter, I considered the intervention of Mr. Matheson not only unnecessary, but beyond the scope of his employment. When the issue was raised in the Legislature, Mr. Leach approved of Mr. Matheson's actions in calling a senior partner in the firm of which the lawyer in charge of the law suit was a junior member, with the result that the legal action did not proceed. He based his approval on the fact that in his opinion, the action was 'frivolous' and that it would be quite proper to call up a senior partner and ask, "Are you serious?" about the litigation. I doubt that the legal advisers in his Ministry would have approved of Mr. Leach's comments or Mr. Matheson's intervention.

In my opinion, Mr. Leach is having difficulty in adopting an attitude which is less confrontational, more consistent with his present office as a member of the Executive Council, and more appreciative of the parliamentary conventions associated therewith.

I am satisfied that The Honourable Allan Leach contravened the Members' Integrity Act, 1994 by communicating with the Chair of the Health Services Restructuring Commission.

I am of the further opinion that such action was an error in judgment, based on his limited experience in government, but made in good faith in the mistaken belief that he was entitled to do so.

Accordingly, I recommend that no penalty be imposed.

Dated at Toronto this 25th day of June, 1997.



The Honourable Gregory T. Evans



LEGISLATIVE ASSEMBLY

GERARD KENNEDY, M.P.P.
York South

May 14, 1997

The Honourable Gregory T. Evans
Commissioner
Office of the Integrity Commissioner
101 Bloor Street West
Suite 1301
Toronto, Ontario
M5S 2Z7

Dear Mr. Evans:

I am writing to you to request an opinion from the Integrity Commissioner as to whether or not, the Minister of Municipal Affairs and Housing, the Honourable Al Leach, has violated Ontario Parliamentary Convention. A copy of this request has been provided to the Speaker today pursuant to Section 30(3) of the *Members' Integrity Act*.

I believe that Mr. Leach has done so by advocating on behalf of a private party with a Commission appointed by an Order in Council, specifically the Health Services Restructuring Commission.

I would first refer you to your opinion offered relating to Inquiry 23 in the 1995-1996 *Annual Report of the Office of the Integrity Commissioner*. This clearly states the following:

"However, parliamentary convention prohibits all Ministers from personally appearing on behalf of a private party with any agency, board or commission."

It continues in the same response:

"Ministers always wear the cloak of ministerial responsibility. There is no way that their actions, or those of their staff, whether verbal or written, and whether in the member's position as an elected member of the Legislature or as a Minister or Parliamentary Assistant, can be considered by the recipient as other than actions by a Minister or Parliamentary Assistant, and this could reasonably be considered as attempting to influence a decision."

.../ 2

I have attached to this request a copy of a letter from the Minister to a constituent. I have attested to its validity in the affidavit which is also attached. In this letter, the Minister states that:

"At the request of the two hospitals I asked the Restructuring Commission to extend the deadline for submissions and they have done so."

I have also attached a copy of a letter from the Hon. Noble Villeneuve on the matter of raising issues of concern with the Health Services Restructuring Commission. I have also attested to its validity in the attached affidavit. In this response he states:

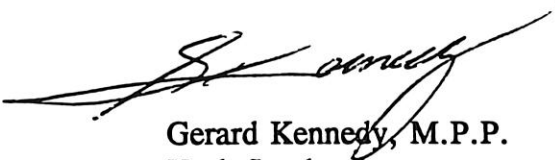
"Compte-tenu du caractère indépendant de la Commission, il serait toutefois inapproprié que j'intervienne directement auprès de la Commission."

It seems clear to me that this Minister feels that contact with this commission is inappropriate. I would agree with him.

I would appreciate your assistance with an early answer to this question. With the ongoing work of the Health Services Restructuring Commission, it is imperative that this issue be resolved so that there are no further questions of conduct relating to the actions of Ministers vis-a-vis this Commission.

If you have any questions regarding the attached, or require more material for your deliberations, please do not hesitate to contact me at my office at 325-2884.

Sincerely,



Gerard Kennedy, M.P.P.
York South

Enclosures

CANADA
PROVINCE OF ONTARIO
COUNTY OF METROPOLITAN TORONTO

IN THE MATTER OF AN
INVESTIGATION INTO THE
CONDUCT OF THE HONOURABLE AL
LEACH, MINISTER OF MUNICIPAL
AFFAIRS AND HOUSING BY THE
INTEGRITY COMMISSIONER FOR
THE PROVINCE OF ONTARIO

I, Gerard Kennedy, of the Province of Ontario, in the City of Toronto, Member of
Provincial Parliament for York South, make oath and say that:

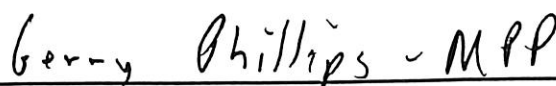
1. The letter marked Exhibit 1 is a copy of a letter signed by the Honourable Al Leach
to a constituent in his riding.
2. The name and address of the constituent in Exhibit 1 has been deleted to protect the
privacy of the individual concerned.
3. The letter marked Exhibit 2 is a copy of a letter signed by the Honourable Noble
Villeneuve to Sandra Pupatello, M.P.P. (Windsor Sandwich).

Sworn before me at the City of
Toronto, in the County of
Metropolitan Toronto, this 14th day of May,
1997.


GERARD KENNEDY



A Commissioner, etc.





LEGISLATIVE ASSEMBLY

AL LEACH, M.P.P.
St. George - St. David

Constituency Office
365 Bloor Street
Suite 202
Toronto, Ontario
M4W 3L4
Tel. (416) 972-7
Fax (416) 972-7

April 10, 1997

Dear

Thank you for contacting me regarding the hospital recommendations of the Health Services Restructuring Commission, released on March 6, 1997. I understand your concerns about the proposed hospital closings.

In the fall of 1995, the Metropolitan Toronto District Health Council, which had been charged with the task of reorganizing the hospital system by the previous government, released a report recommending the closure of the Wellesley and Women's College Hospitals and the conversion of Central Hospital into an ambulatory care centre. Our local hospitals responded to this by establishing a merger that created the Wellesley Central Hospital and by the formation of the Alliance.

I was very pleased to see the Wellesley Central Hospital and Women's College Hospital embark on an Alliance in 1996. Unfortunately, the Restructuring Commission which had been announced by the government on November 30, 1995 to implement hospital restructuring and is intended to function at arm's length from the government, accepted the recommendations of the District Health Council, and rejected the Alliance's plans for consolidated medical services and cost savings.

At the request of the two hospitals I asked the Restructuring Commission to extend the deadline for submissions and they have done so. The Alliance hospitals are anxious to have sufficient time to prepare a submission that will highlight cost savings and other efficiencies while ensuring that the commission is aware of specific programs such as those that focus on HIV/AIDS patients, perinatal services, and programs for immigrants and the homeless that are respectful of the unique needs of these groups and involve them in a meaningful way, since these communities have not always been well served by our health care institutions.

The Commission can be reached at 327-5919, Fax: 327-5689, and their address is 56 Wellesley Street West, Toronto, Ontario, M5S 2S3. The last day for submissions is April 18.

Thank you again for sharing your concerns with me, and please call me if you have any further comments or concerns.

Sincerely,

Al Leach, M.P.P.
St. George-St. David

Minister
Responsible for
Francophone Affairs

4th Floor, Mowat Block
900 Bay St.
Toronto ON M7A 1C2
(416) 326-3074
Fax: (416) 326-3083

Ministre
délégué aux
Affaires francophones

4^e étage, édifice Mowat
900, rue Bay
Toronto ON M7A 1C2
(416) 326-3074
Télécopieur : (416) 326-3083



Le 25 mars 1997

RECEIVED BY

APR 2 1997

Sandra Pupatello, M.P.P.

Madame Sandra Pupatello, députée
Pièce 1411, Édifice Whitney
99, rue Wellesley Ouest
Toronto (Ontario)
M7A 1A4

Madame la députée,

J'accuse réception de votre lettre dans laquelle vous exprimez vos préoccupations relativement à l'avenir de l'hôpital Montfort. Il ne fait aucun doute que l'hôpital Montfort est une institution francophone importante non seulement pour la région de la Capitale nationale mais également pour l'ensemble de la province. Je vous remercie sincèrement de m'avoir transmis vos observations.

Pour faire suite à votre demande, je m'assurerai que vos commentaires soient acheminés à la Commission de restructuration des services de santé. En tant que ministre délégué aux Affaires francophones, j'encourage fortement le regroupement S.O.S. Montfort ainsi que la communauté francophone à partager leurs solutions avec la Commission et ce, avant le 8 avril 1997.

Compte-tenu du caractère indépendant de la Commission, il serait toutefois inapproprié que j'intervienne directement auprès de la Commission.

Veuillez agréer, madame la députée, mes salutations les plus cordiales.

Le ministre,

Noble A. Villeneuve -
Député de Stormont-Dundas-Glengarry
et Grenville Est

c.c. Commission de restructuration des services de santé



March 25, 1997

Sandra Pupatello, M.P.P.
Room 1411, Whitney Block
99 Wellesley Street West
Toronto, Ontario
M7A 1A4

Dear Member,

I herewith acknowledge receipt of your letter in which you express your concerns regarding the future of Hôpital Montfort. This francophone institution is no doubt important, not only for the National Capital Region, but for the province as a whole. I very much appreciate the comments you forwarded to me.

To follow up your request, I will see to it that your comments are forwarded to the Health Services Restructuring Commission. As minister responsible for Francophone Affairs, I strongly encourage the association S.O.S. Montfort, as well as the entire francophone community, to make their solutions known to the Commission before this April the 8th.

Given the independent nature of the Commission, it would however be inappropriate for me to intervene directly with the Commission.

Kind regards,

[signed]

Noble A. Villeneuve,
Minister
Member for Stormont-Dundas-Glengarry
and Grenville East

cc. : Health Services Restructuring Commission



LEGISLATIVE ASSEMBLY

AL LEACH, M.P.P.

St. George - St. David

June 5, 1997

The Honourable Gregory T. Evans
Integrity Commissioner
101 Bloor St. West
Suite 1301
Toronto, Ontario
M5S 2Z7

Constituency Office:

365 Bloor Street E.

Suite 202

Toronto, Ontario

M4W 3L4

Tel. (416) 972-7683

Fax (416) 972-7686

Dear Sir:

I am writing in response to your letter of May 22, 1997, wherein you informed me of the complaint brought against me by Mr. Gerard Kennedy, M.P.P. in relation to an alleged violation of Ontario Parliamentary Convention, and/or the *Members' Integrity Act* (the "Act").

Mr. Kennedy provided you with a copy of a form letter to constituents which he marked as Exhibit 1 to his affidavit. In addition to that I attach a copy of a letter dated March 17, 1997 (the "March 17th letter"), which I sent to Dr. Duncan Sinclair, Chair of the Health Services Restructuring Commission (the "HSRC"). The March 17th letter is the only communication that I or any member of my staff has had with any member of the HSRC in regard to this matter.

The HSRC is a body established under the *Ministry of Health Act* which exercises a certain mandate delegated to it by the Minister of Health under the *Public Hospitals Act*. As you know, the HSRC reported on its plan for the hospitals of Metro Toronto on March 6th, 1997. Among other things, that report recommended the closure of the Wellesley Hospital.

The Wellesley Hospital is very important to the people of St. George-St. David. Since August 1995, I have had 21 meetings at my constituency office with representatives and supporters of hospitals, and I have received over 600 calls and letters opposed to closure. My office has been informed by representatives of the Wellesley that a 30,000 signature petition opposed to closure will be presented to the Legislature in the weeks ahead. I have received a very clear message from the people of St. George-St. David that the Wellesley Hospital is important to them.

Through those letters, calls and meetings I have been told that the Wellesley is viewed as a provider of unique and accessible services to the disadvantaged.

I have also been told that the Wellesley Hospital has undertaken vigorous efforts to cut its costs in the last two years. In 1996, the Wellesley Hospital embarked on an alliance with Women's College Hospital. The purpose of the alliance was to reduce the cost of health care services generally, while preserving unique programs for HIV/AIDS patients, newborn children, recent immigrants and the homeless.

Representatives of the Wellesley Hospital and Women's College Hospital (the "Alliance Hospitals") have told me that they believe these important developments in cost reduction may not have been considered by the HSRC in reaching its recommendation, because the alliance occurred at the same time or after the deliberations of the HSRC on the future of the Alliance Hospitals.

When the HSRC released its report on March 6, it indicated that interested parties had 30 days to make submissions on its recommendations. The Alliance Hospitals told me that they were anxious to explain the cost savings brought about by the alliance, but were concerned by the short deadline for submissions. In particular, they were alarmed that their actual preparation time would be less than 30 days provided, because both the March Break and Easter holiday fell within the 30-day period. Their concern, together with the many representations I had received from constituents concerned about change in healthcare services, led me to write to request that the HSRC extend the deadline from 30 to 60 days.

In writing my letter of March 17, I do not believe that I furthered a "private interest." The availability of quality health care services to the public generally, and to disadvantaged groups in particular, speaks to the public interest. I further note that in his letter of complaint, Mr. Kennedy did not specify the private party whose interests were allegedly sought to be advanced by my letter. Similarly, he has not alleged that I have profitted personally in any way from the letter. There is therefore reason for you to find this complaint is not before you in the proper form. Re: The Hon. John Snobelen, Minister of Education et al., Annual Report of the Office of the Integrity Commissioner, 1995 - 1996, at p. 22-23.

Secondly, my letter of March 17 did not attempt to influence "a decision made or to be made" as to the future of the Alliance Hospitals. My letter did not speak to the decision or outcome the HSRC should reach in regard to the Alliance, or any other hospital. It conveyed a request for a procedural indulgence to allow for additional time to submit information to the HSRC.

In writing to Dr. Sinclair, I believe that I properly conveyed to the HSRC the concern of my constituent, the Wellesley Hospital, that it needed more time to prepare submissions than the 30 days given to it. I further believe that in so doing, I represented the public interest of my constituents whose access to health care services will be influenced by the important work of the HSRC.

I note that the HSRC invited comment from "any person or organization" interested in the substance of its decisions. Attached is a guideline issued by the HSRC, under the authority of ss. 1 of O/Reg. 88/96 under the *Ministry of Health Act*. That guideline indicates at s. 1 that any hospital, and "any other person or organization may make written submissions to the Commission". It further invites "any other person or organization" to seek an extension in the time to respond at paragraph 2. Given the intense interest in hospital restructuring among my constituents in St. George-St. David, I submit it was appropriate for me to represent their interest by conveying to the HSRC the Alliance Hospitals' request for an extension, as contemplated by paragraph 2 of the guideline.

Because of the foregoing, I do not believe that my letter could be considered "improper" for the purposes of section 4 of the *Act*.

I believe that requesting time so that more information could be put before a policy-making body, which is neither an judicial nor a quasi-judicial tribunal, is consistent with the duty of an M.P.P. and section 5 of the *Act*.

Please do not hesitate to contact me should you require any further information in regard to this matter.

Yours truly

A handwritten signature in dark ink, appearing to read 'A. F. Leach', with a long horizontal flourish extending to the left.

Allan F. Leach



LEGISLATIVE ASSEMBLY

AL LEACH, M.P.P.
St. George - St. David

Constituency Office:
365 Bloor Street E.
Suite 202
Toronto, Ontario
M4W 3L4
Tel. (416) 972-7683
Fax (416) 972-7686

March 17, 1997

Dr. Duncan Sinclair
Chair
Health Services Restructuring Commission
56 Wellesley Street West, 12th Floor
Toronto, Ontario
M5S 2S3

Dear Dr. Sinclair:

I am writing to you on behalf of the Wellesley Central Hospital and Women's College Hospital, who as you know have recently entered into an Alliance, to request that you extend the deadline for submissions on your restructuring recommendations from 30 days to 60 days.

The Alliance hospitals are anxious to have sufficient time to prepare a submission that will highlight cost savings and other efficiencies while ensuring that the commission is aware of specific programs such as those that focus on HIV/AIDS patients, perinatal services, and programs for immigrants and the homeless that are respectful of the unique needs of these groups and involve them in a meaningful way, since these communities have not always been well served by our health care institutions.

With the 30 day deadline including the March Break and the Easter Holidays, more time is needed for these two hospitals to make their written comments to the commission.

I am informed that hospitals in Thunder Bay were given an extension due to the Christmas holidays, and would urge you to use this precedent to extend the deadline in Toronto.

Sincerely,

SIGNED BY
AL LEACH, M.P.P.

Al Leach, M.P.P.
St. George-St. David

Al/djl

cc: Carol Cowan-Levine, Larry Wright, Amanda Walton

HEALTH SERVICES RESTRUCTURING COMMISSION**GUIDELINES
RESPECTING REPRESENTATIONS
THAT MAY BE MADE TO THE COMMISSION**

These Guidelines are issued by the Health Services Restructuring Commission ("Commission") under the authority of ss1 of Ontario Regulation 88/96 made under the *Ministry of Health Act*.

1. Any hospital that is the subject of a direction of which the notice is given, and any other person or organization, may make written submissions to the Commission within thirty (30) days of the notice. The Commission expects that the hospital(s) to which the notice is given will involve any other person or organization affected in any submissions made by the hospital(s).
2. The Commission, on written application or on its own initiative, may consider an extension of the time within which submissions may be made. If any hospital, or any other person or organization, seeks such an extension, the application for such extension shall be submitted to the Commission within ten (10) days after the notice, giving reasons, not exceeding the limit set out in Paragraph 6.2, that may persuade the Commission to permit such excess; under no circumstances will oral representations be permitted on this issue. Within ten (10) days after receipt of such application, the Commission will advise the applicant of its decision on such application.
3. Any person or organization, other than a hospital that is the subject of a direction of which the notice is given, seeking to make representations to the Commission shall identify the person or organization making the representations, and shall include a concise statement not exceeding the length set out in Paragraph 4.2 establishing the reasons why the Commission should consider the representations of that person or organization; the submission of such a person or organization shall otherwise conform to these Guidelines.
4. Submissions shall conform to the following:
 - 4.1 The title page shall include the full legal name of the organization, and the name, full address, postal code, telephone and FAX numbers of the person with whom the Commission may correspond;
 - 4.2 A summary of not exceeding 325 words shall be included, setting out the significant points that are addressed in the submission;

4.3 The following specifications shall be observed:

Font:	12 point
Page Size:	8 ½" x 11", single sided
Margins:	1" on all sides
Line Spacing:	1 ½
Maximum Pages:	20 including summary (Paragraph 4.2), plus title page

4.4 The submission shall be divided into sections to address separately the representations related to:

Data and Analysis

Direction and Advice of the Commission, and any other matter;

and may otherwise be divided as the submitter considers appropriate.

4.5 Appendices are not encouraged, but if submitted, each must include a summary conforming to the limits set out in Paragraph 4.2; it is the responsibility of the hospital, or other person or organization, submitting the representation, to ensure the accuracy of the summary.

5. The Commission, on written application or on its own initiative, may consider an extension to the limits on the number of pages. If a hospital or other person or organization considers that, for the Commission to understand the point or points sought to be made, it is essential to exceed the maximum limits prescribed, the application for such excess shall be submitted to the Commission within ten (10) days after the notice, giving reasons, not exceeding the limit set out in Paragraph 6.2, that may persuade the Commission to permit such excess; under no circumstances will oral representations be permitted on this issue. Within ten (10) days after receipt of such application, the Commission will advise the applicant of its decision on such application.

6. The Commission, on written application or on its own initiative, may consider oral representations; where application is made to have the Commission consider oral representations, that application must:

6.1 be made in the written submission noted in Paragraph 1;

6.2 contain a summary of the point(s) that the applicant wishes to make in the oral representations;

6.3 identify the person who will be the spokesperson for the applicant;

6.4 include the certificate of the spokesperson stating how much time (expressed in hours or fractions of an hour) the spokesperson estimates will be required for the oral representation; generally, the Commission will not permit more than one hour for oral representations unless convinced that such limitation will not afford the applicant sufficient time to identify the point(s) in issue;

6.5 satisfy the Commission that the applicant has a real and substantial interest;

6.6 satisfy the Commission that the point(s) set out in writing is/are not capable of adequate understanding without oral representations;

unless the Commission otherwise orders, such oral representations, if permitted, will be limited to the points raised in the written submission. The Commission will issue directions as to the conduct of any such hearing if, as and when such a hearing is permitted.

Summary of Restructuring Recommendations: by Hospital

Hospital	Status of Physical Facility	Health Services Restructuring Commission Decisions	Status of Corporate Entity
Acute Care Hospitals			
- Central Hospitals -			
Doctors Hospital	Close	<ul style="list-style-type: none"> Transfer all programs to The Toronto Hospital, Western Division 	Remain for two years in an advisory capacity to Toronto Hospital until the programs are integrated, then cease to operate as public hospital.
Hospital for Sick Children	Retain	<ul style="list-style-type: none"> Coordinate the development and work of the Child Health Network. Participate in Provincial Paediatric Task Force 	No change
Mount Sinai Hospital	Retain	<ul style="list-style-type: none"> Joint committee with Toronto Hospital, Princess Margaret Hospital and the University of Toronto to make binding decisions on program realignment across the University Avenue Hospitals 	No change
Orthopaedic & Arthritic Hospital	Close	<ul style="list-style-type: none"> Integrate clinical programs at the Sunnybrook site 	Amalgamate with Sunnybrook Health Science Centre and Women's College Hospital
Princess Margaret Hospital	Retain	<ul style="list-style-type: none"> Joint committee with Toronto Hospital, Mount Sinai and the University of Toronto to make binding decisions on program realignment across the University Avenue Hospitals 	No change
Sunnybrook Health Science Centre	Retain	<ul style="list-style-type: none"> Integrate clinical programs with those of Women's College Hospital and Orthopaedic & Arthritic Hospital; Assume regional burn unit role, absorbing the programs now sited at Scarborough General and Wellesley Central hospitals. 	Amalgamate with Women's College Hospital and Orthopaedic & Arthritic Hospital
The Toronto Hospital <ul style="list-style-type: none"> General Division Western Division 	Retain both sites	<ul style="list-style-type: none"> Integrate clinical programs from Doctors Hospital and designate ambulatory multi-cultural health services as a priority program; Receive sexual assault service from Women's College Hospital, to be operated at the Western site; Joint committee with Mount Sinai, Princess Margaret Hospital and the U of T to make binding decisions on program realignment across the University Avenue Hospitals. 	No change

Hospital	Status of Physical Facility	Health Services Restructuring Commission Decisions	Status of Corporate Entity
Wellesley Central Hospital <ul style="list-style-type: none"> Wellesley Site Central Site 	<ul style="list-style-type: none"> Close Wellesley Site Retain Central Site 	<ul style="list-style-type: none"> Transfer ownership, operation, management and control to St. Michael's Hospital; Transfer most programs to St. Michael's Hospital; Transfer burn unit to Sunnybrook; Dialysis resources to be distributed to new programs at Humber/Northwestern/York-Finch Hospital, York Central Hospital and Scarborough General Hospital; The Central site to provide AIDS/HTV ambulatory services and designated other primary and secondary level ambulatory services of the Wellesley Central Hospital. 	Cease to operate as public hospital; new corporation to govern the Central Site.
St. Michael's Hospital	Retain	<ul style="list-style-type: none"> Absorb most programs from Wellesley Central Hospital, except burn, dialysis and specified ambulatory care services. 	No change
Women's College Hospital	Close	<ul style="list-style-type: none"> Transfer all programs to the Sunnybrook site; The amalgamated corporation to make decisions concerning the siting of ambulatory women's health programs; Transfer Sexual Assault service to The Toronto Hospital to be operated at the Western site. 	Amalgamate with Sunnybrook Health Science Centre and Orthopaedic & Arthritic Hospital
- Southwest Hospitals -			
Queensway General Hospital	Convert to ambulatory care centre	<ul style="list-style-type: none"> Transfer clinical programs to The Mississauga Hospital and the St. Joseph's Health Centre; Retain chronic care program; Provide ambulatory care programs at the Queensway site. 	Amalgamate with The Mississauga Hospital
Mississauga Hospital	Retain	<ul style="list-style-type: none"> Integrate with clinical programs at Queensway Hospital. 	Amalgamate with Queensway Hospital
St. Joseph's Hospital	Retain	<ul style="list-style-type: none"> Receive clinical programs from Queensway General Hospital; Assume Level II NICU and Inpatient Paediatrics regional referral role; Provide MRI services; Discontinue chronic care role (Our Lady Of Mercy Pavilion) and transfer patients to Queen Elizabeth Hospital and long-term care facilities, based on care needs. 	No change
- Northwest Hospitals -			
Etobicoke General Hospital	Retain	<ul style="list-style-type: none"> No change 	No change
Humber/Northwestern/York-Finch Hospital: Humber site	Retain	<ul style="list-style-type: none"> Integrate clinical programs from Northwestern site; Receive inpatient surgical activity from York-Finch site; and Dialysis activity from Wellesley Central Hospital; Provide MRI services. 	No change

Hospital	Status of Physical Facility	Health Services Restructuring Commission Decisions	Status of Corporate Entity
Humber/Northwestern/ York-Finch Hospital: York-Finch site	Retain	<ul style="list-style-type: none"> Receive clinical programs from North York Branson Hospital; Assume Level II NICU and Inpatient Paediatrics regional referral role. 	No change
Humber/Northwestern/ York-Finch Hospital: Northwestern site	Close	<ul style="list-style-type: none"> Transfer programs to the Humber and York-Finch sites. 	No change
- North Hospitals -			
North York Branson Hospital	Close	<ul style="list-style-type: none"> Transfer operation and management to North York General Hospital; Clinical program volumes to be redistributed to North York General Hospital, Humber/Northwestern/York-Finch Hospital: York-Finch site, and York Central Hospital. 	Cease to operate as a public hospital
North York General Hospital	Retain	<ul style="list-style-type: none"> Integrate clinical programs from North York Branson Hospital; Assume Level II NICU and Inpatient Paediatrics regional referral role; Provide MRI services. 	No change
Salvation Army Scarborough Grace Hospital	Retain	<ul style="list-style-type: none"> Joint East Metro Task Force, with Scarborough General, Centenary Health Centre and Toronto East General & Orthopaedic hospitals, to make binding decisions on the realignment of clinical programs and services. 	No change
- East Hospitals -			
Centenary Health Centre	Retain	<ul style="list-style-type: none"> Assume Level II NICU and Inpatient Paediatrics regional referral role; Joint East Metro Task Force, with Scarborough General, Salvation Army Scarborough Grace and Toronto East General & Orthopaedic hospitals, to make binding decisions on the realignment of clinical programs and services. 	No change
Toronto East General and Orthopaedic Hospital	Retain	<ul style="list-style-type: none"> Assume Level II NICU and Inpatient Paediatrics regional referral role; Joint East Metro Task Force, with Scarborough General, Centenary Health Centre and Salvation Army Scarborough Grace hospitals, to make binding decisions on the realignment of clinical programs and services; Provide MRI services. 	No change
Scarborough General Hospital	Retain	<ul style="list-style-type: none"> Transfer burn unit to the Sunnybrook Health Science Centre site; Receive Wellesley dialysis program activity; Joint East Metro Task Force, with Toronto East General & Orthopaedic and Salvation Army Scarborough Grace hospitals and Centenary Health Centre to make binding decisions on the realignment of clinical programs and services; Provide MRI services. 	No change



LEGISLATIVE ASSEMBLY

GERARD KENNEDY, M.P.P.
York South

June 9, 1997

The Honourable Gregory T. Evans
Commissioner
Office of the Integrity Commissioner
101 Bloor Street West
Suite 1301
Toronto, Ontario
M5S 2Z7

Sent by fax and regular mail to 314-8987

Dear Mr. Evans:

Thank you for forwarding me a copy of the response of Mr. Al Leach to my complaint of May 14, 1997. Pursuant to Section 30 of the *Member's Integrity Act*, please find below my response to the aforementioned submission.

First and foremost, I continue to be concerned that Mr. Leach did not address the issue of the "cloak of ministerial responsibility" directly in his response. Although he describes the many meetings that he attended and the many letters that he received, he does not make a strong case, from my perspective for having regard for the special obligation he has as Minister in his contact with the Health Services Restructuring Commission ("HSRC"). You have been very clear in your previous rulings on this issue.

The issue is not one of the very considerable merit of Wellesley and Women's College Hospitals as necessary and indeed unique health presences in the Toronto community nor the intensity of interest in the Minister's riding: rather it is whether it is proper for cabinet ministers to advocate directly with cabinet appointed commissions.

In fact, the Minister not only does not acknowledge the responsibility attendant with his status, but in my view also emphasizes the need for your ruling when he references the regulations of the HSRC "inviting any person or organization to comment" as justification. If general exemption were to apply to the same Cabinet which confers the individual HSRC commissioners with their power, it would be a dangerous means of affecting the HSRC's deliberations.

.../ 2

There is an implicit disadvantage to other hospitals (and constituent users of those hospitals) who do not have the benefit of cabinet representation, when dealing with the Commission.

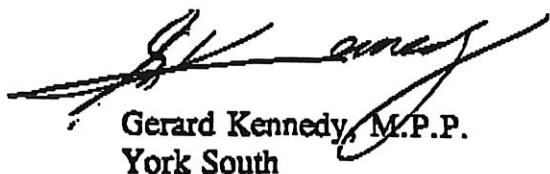
I have no doubt that the granting of an extension led to the submission of information that could very well change the decision of this commission. Many other hospitals and other parties have been refused the same "procedural indulgence". If there were an issue before the Ontario Securities Commission that required some procedural leniencies for his constituents, I am sure that even Mr. Leach would think twice before contacting this Commission. The Health Minister has made it clear on an infinite number of occasions that the HSRC is an "arms-length" body from the government. The Hon. Noble Villeneuve agreed in the letter that was provided to you in my original submission. Mr. Leach should have also treated it in that way and taken his ministerial responsibility more seriously.

I feel strongly that these conventions are not adaptable given the political volatility of a situation in the Minister's riding. They cannot be if one is to preserve the integrity of the Ministerial role and the work of Order in Council appointed Boards and Commissions. The guidelines he cited do not give exemptions to members of the Cabinet from their Ministerial obligations, and I would encourage you not to grant him the same latitude.

I thank you for your work to date on this issue. It is imperative that this issue be resolved so that there are no further questions of conduct relating to the actions of Ministers vis-a-vis this Commission.

If you have any questions regarding the attached, or require more material for your deliberations, please do not hesitate to contact me at my office at 325-2884.

Sincerely,



Gerard Kennedy, M.P.P.
York South