

Legislative
Assembly
of Ontario



Assemblée
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de l'Ontario

OFFICE OF THE INTEGRITY COMMISSIONER



REPORT OF J. DAVID WAKE, K.C. INTEGRITY COMMISSIONER

Re: Lise Vaugeois, Member of Provincial Parliament for
Thunder Bay–Superior North

Toronto, Ontario
April 27, 2023

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Executive Summary

This report relates to a request made by Lorne Coe, Member of Provincial Parliament for Whitby, for my opinion pursuant to section 30 of the *Members' Integrity Act, 1994* as to whether Lise Vaugeois, Member of Provincial Parliament for Thunder Bay–Superior North, breached the parliamentary convention against using legislative and constituency resources for partisan purposes.

Specifically, Mr. Coe alleged that Ms. Vaugeois produced and circulated email newsletters that encouraged individuals to donate to and seek membership in the New Democratic Party of Ontario, featured the Legislative Assembly Coat of Arms, and included contact information for Ms. Vaugeois' Queen's Park and constituency offices.

Following the inquiry in the matter, it is my opinion that Ms. Vaugeois did not breach Ontario parliamentary convention. The evidence established that the newsletter in question is paid for by the Thunder Bay–Superior North New Democratic Party Riding Association, meaning that no legislative funds were used to produce it. The newsletter was prepared by a riding association volunteer, who is also a member of Ms. Vaugeois' constituency staff. For the most part, the newsletter was prepared during this individual's personal time and on a personal computer. While there were a few instances where the staffer worked on the newsletter while in the constituency office and using a constituency laptop, I find this relatively minor non-compliance should not be attributed to Ms. Vaugeois, who has assured me that the mistake will be addressed and will not occur going forward.

I note that the coat of arms in the newsletter was not the Legislative Assembly's coat of arms but rather the coat of arms for the Province of Ontario. I determined it would be inappropriate to use either coat of arms in a partisan newsletter but that there was no parliamentary convention yet established on this matter.

I. BACKGROUND TO THE INQUIRY

[1] On January 18, 2023 Lorne Coe, the Member of Provincial Parliament for Whitby, submitted an affidavit and supporting documents in accordance with section 30 of the *Members' Integrity Act, 1994* (the "**Act**") requesting my opinion as to whether Lise Vaugeois, the Member of Provincial Parliament for Thunder Bay–Superior North, had breached the Act and Ontario parliamentary convention by using government, legislative or constituency resources in producing email newsletters containing partisan material.

[2] Mr. Coe alleged that the newsletters encouraged individuals to donate to the New Democratic Party of Ontario ("**NDP**") and seek membership in that party. A hyperlink was embedded in each newsletter which linked recipients to the NDP website. Mr. Coe further alleged that the newsletters contained the Legislative Assembly Coat of Arms, as well as contact information for Ms. Vaugeois' Queen's Park and constituency offices and a list of the services that can be provided to constituents.

II. LEGAL FRAMEWORK OF THE INQUIRY

[3] Under section 30(1) of the Act, a member of the Legislative Assembly of Ontario who has reasonable and probable grounds to believe another member has contravened the Act or Ontario parliamentary convention, may request that I, as Integrity Commissioner, give an opinion as to the matter.

[4] Upon receiving such a request, I may conduct an inquiry and report my opinion to the Speaker of the Assembly.¹ Alternatively, I may refuse to conduct an inquiry if I am of the opinion that the referral was frivolous, vexatious, not made in good faith or that there are either no or insufficient grounds for an inquiry as set out in subsection 31(5) of the Act.

[5] "Ontario parliamentary convention" is not defined in the Act but consists of generally accepted rules or practices of members of the Ontario legislature.²

¹ *Members' Integrity Act, 1994* s. 31.

² Report re: The Honourable Lisa MacLeod, May 23, 2019, para.25 (quoting the Honourable Coulter A. Osborne).

[6] It has long been an accepted parliamentary convention in Ontario that a member's constituency office and legislative resources should not be used for partisan activities.³

III. THE INQUIRY PROCESS

[7] Pursuant to section 31 of the Act I commenced an inquiry into this request because, on their face, the newsletters looked like the newsletters commonly produced by members for their constituents. These are usually paid for through each member's global budget and ultimately the taxpayer. They are not to contain partisan content, which these newsletters clearly did.

[8] I wrote to Ms. Vaugeois and provided her with a copy of Mr. Coe's Affidavit and supporting documentation. I received a response from her which led me to write to her again with several questions, all of which she answered. She also provided me with the name of the person on her constituency staff who had prepared the newsletters "on his own time." My staff conducted a telephone interview of this person. Finally, I interviewed Ms. Vaugeois briefly concerning the evidence I received.

IV. EVIDENCE

[9] Essentially Ms. Vaugeois has taken the position that the newsletters at issue were produced and paid for by the Thunder Bay–Superior North NDP riding association and that neither she nor her staff used legislative resources for partisan purposes. Later she confirmed that neither were constituency office resources used. She produced receipts confirming the Mailchimp account used to send the newsletter was paid for by the riding association.

[10] Ms. Vaugeois advised the staff person who created the newsletter did so "on his personal time" and is a member of the riding association. She advised that other members of the

³ Examples from the 42nd Parliament: Report re. Andrea Horwath, April 27, 2022; Report re. Randy Hillier, April 13, 2022 (MPP Hillier No. 1); Report re. Jessica Bell, March 31, 2022; Report re. Vijay Thanigasalam, December 21, 2021; Report re. Catherine Fife, September 14, 2021; Report re. Stan Cho, September 14, 2021; Report re: the Honourable Peter Bethlenfalvy, October 21, 2020.

riding association contributed content. She reviews the content of these newsletters by logging in directly to the Mailchimp account online.

[11] Ms. Vaugeois further advised, in response to my written question, that Calendars and Householders that are sent through Canada Post by her office follow Assembly guidelines and are non-partisan.

[12] My staff interviewed the constituency office assistant who was candid and helpful. He joined the riding association shortly after he started working for MPP Vaugeois and is a member of several committees, including the newsletter committee. He is aware of the need to keep riding association and constituency work separate. It was his idea to produce a partisan newsletter from the riding association rather than through the constituency office, since the rules from my Office and NDP caucus are restrictive. He received Ms. Vaugeois' approval to go ahead.

[13] He did state that he generally uses his personal devices to prepare the newsletters but he candidly admitted that on a couple of occasions he did use his office laptop. As he was working in the constituency office on his lunch hour he did not turn his mind to it, but he will now.

[14] Finally he confirmed that none of the constituency office's databases are shared with the riding association for the newsletter circulation.

V. ANALYSIS AND FINDINGS

[15] There is no issue that legislative and constituency office resources should not be used for partisan purposes. There are a number of reports issued by me and other Commissioners from this Office over the years on this parliamentary convention.⁴ Similarly, there is no question that the newsletters here were partisan. The only issue is whether they were produced using legislative or constituency office resources.

⁴ See note 3. From previous Parliaments or Commissioners, see Report re. Patrick Brown, July 14, 2016; Report re. Daiene Vernile and the Honourable Jeff Leal, December 22, 2015; Report re. Jagmeet Singh, June 26, 2015 ["Singh Report"]; Report re. Laurie Scott, October 1, 2013; Report re. the Honourable Brad Duguid, July 11, 2013; Report re. Randy Hillier, July 6, 2011; Report re. Ted Chudleigh, December 11, 2008.

[16] I am prepared to accept Ms. Vaugeois' evidence that the newsletters in question were paid for by her riding association and that although they were prepared by her constituency office assistant, he did so on his own time. The only problem with his evidence was his open disclosure that on a couple of occasions he worked on this partisan material while he was in the constituency office and he used his office laptop rather than his personal device which he generally used. Had he used his personal device and done the work in his car or some location other than the constituency office he would have been in compliance with parliamentary convention. It is well-established that the constituency office must be available to all constituents and that there must be no partisan activity on the premises, even during a staffer's lunch hour.

[17] The staffer here was relatively inexperienced and had only just been hired by Ms. Vaugeois, who is herself a newly elected member. As one might expect, the early days after the election when these newsletters were being produced were, as the staffer has told us, "chaotic."

[18] In some cases it may be appropriate to attribute a staff error to the member where the member knew, or should have known, that the staffer had acted in breach of parliamentary convention. Sometimes this is as a result of failing to ensure that staff have been properly trained.⁵

[19] In this case, given the relatively minor nature of the non-compliance by the staffer, the fact that it was early days after the June election and subsequent hiring of staff, and the undertaking given by Ms. Vaugeois to me that this honest mistake will be addressed within her office, I am not prepared to attribute it back to her and make a finding of a breach of parliamentary convention on her part.

VI. OTHER ISSUES

[20] One of Mr. Coe's complaints about the newsletters in question was that they contained "the Legislative Assembly Coat of Arms." In fact, the coat of arms displayed on the newsletters is not the Legislative Assembly coat of arms but rather the coat of arms of the Province of Ontario.

⁵ Singh Report at page 14.

In 1991 the Speaker of the day petitioned the Chief Herald of Canada to grant the Assembly a unique coat of arms to emphasize the Legislative Assembly's independence from the government (as formalized by the *Legislative Assembly Act* in 1974). This was granted in September 1992⁶ and can be seen on the cover sheet of this report. It features a stag and doe on either side of the shield topped by a gryphon. The coat of arms for the Province of Ontario features a moose and deer topped by a bear.

[21] It would seem to be inappropriate to use either coat of arms on a partisan newsletter. Public servants in the Assembly can only use the coat of arms under specified conditions for business purposes. I understand that conditions for the use of the coat of arms has gone before the Assembly's Board of Internal Economy, but so far the members on that board have declined to set any conditions on members' use of the coat of arms so I cannot divine a parliamentary convention concerning the use of either coat of arms.

[22] I do note that the banner on Ms. Vaugeois' correspondence also features the coat of arms of the Province of Ontario which does not align with her position as a member of the Official Opposition to the government. Use of the Assembly's coat of arms is recommended. I do not wish to single out Ms. Vaugeois on this matter since I have seen many members using the Ontario coat of arms inappropriately. Given the 1991 effort to advance the Assembly's independence from the government of the day, this trend of members using the Province of Ontario coat of arms is regrettable.

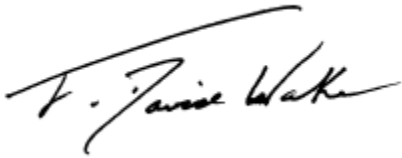
[23] Ms. Vaugeois responded to me that if the use of the Legislative Assembly's coat of arms gave the appearance of the Assembly supporting partisan activities, her office is committed "to being more mindful of any such appearances in our communications going forward." As noted above it was actually the Province of Ontario's coat of arms, but the underlying principle is the same. The coat of arms gave the impression that the partisan document was produced or paid for with legislative resources. It may have been inadvertent but the appearance was there.

⁶ See Governor General website: <https://www.gg.ca/en/heraldry/public-register/project/1607>.

VI. CONCLUSION

[24] I find on all the evidence before me that Ms. Vaugeois did not breach parliamentary convention.

Dated at Toronto this 27th day of April, 2023.

A handwritten signature in black ink, appearing to read "J. David Wake". The signature is written in a cursive style with a prominent horizontal stroke at the top.

J. David Wake, K.C.
Integrity Commissioner