

**NOTES FOR A SPEECH
BY THE HONOURABLE MADAM JUSTICE DENISE BELLAMY
COMMISSIONER**

**ON THE RELEASE OF THE REPORT OF
THE TORONTO COMPUTER LEASING INQUIRY
AND
THE TORONTO EXTERNAL CONTRACTS INQUIRY
On Monday, September 12, 2005**

Good afternoon. It has been three and a half years since I was appointed to conduct the first of these two inquiries. I have finished the work that Toronto City Council asked me to do. My job is now done.

With this report, I pass the torch to the Mayor and Toronto City Council. To them I leave the task of studying the report and implementing the recommendations, of which there are 244. Two hundred and forty-one of them apply to the City; three are aimed only at the Province.

Some of the recommendations will save money; some of them will cost money. Most of the recommendations can be implemented directly by the City; some will require support from the Province. I hope the recommendations will stimulate vigorous discussion about how to continue to improve a level of government that matters to us all.

This four-volume report covers two public inquiries: the Toronto Computer Leasing Inquiry and the Toronto External Contracts Inquiry. As far as I know, this is the only time a judge in Canada has conducted two separate inquiries at exactly the same time.

Part of the purpose of a public inquiry is to inform people about what happened. One of the benefits is that, since the hearings are public, secrecy is removed. As a result, simply through the conduct of the inquiry, people following the hearings can form their own opinions as the evidence unfolds; the government can implement changes to address the issues as they arise during the hearings; and, if there's an election during the time of the inquiry, the electorate can respond as it sees fit.

Throughout these inquiries, I have taken care to explain that commissioners of public inquiries have no power to put people in jail. They have no power to find people guilty of a crime, or to find them liable to pay damages. An inquiry is an investigation, and the commissioner's report consists of findings of fact and statements of opinion. These are not findings of criminal or civil liability.

The events I examined in these inquiries unfolded against the backdrop of the approaching millennium and the amalgamation of the City of Toronto. Amalgamation was the most ambitious municipal transformation since Confederation. The scale was unprecedented in Canadian history and the City found itself in uncharted territory, facing massive change.

During that time, several of the City's major computer acquisitions and contractual transactions went askew. It was my job to unravel what happened, to find out what went wrong, and most

importantly, I think, to make recommendations that might prevent the same or similar mistakes in the future. In so doing, I guided myself by five basic principles: fairness, thoroughness, efficiency, accessibility, and cost-effectiveness.

In 214 days of hearings, I heard from 156 witnesses. And I saw just about every kind of witness. Some were insightful. Some guessed. Some exaggerated. Some lied outright and some merely skated around the truth. A small number of witnesses engaged in a bold pattern of strategic lying. Some of the liars forced the inquiry to spend hundreds of hours and countless taxpayers' dollars to expose the lies.

I saw witnesses who had disgraced themselves, who had failed in their duty to the City, who had put self-interest first, or who simply had not done their jobs. Some had not displayed the leadership that one would have expected of them. There had been poor communication between some people who should have been talking to one another and excessive communication between others who should have stayed at arm's length.

But I saw other witnesses too – truthful witnesses, committed to their jobs and to the principles of public service. I was deeply impressed by their dedication.

This is a report to City Council, and through them, to the public. The story is an important one. It is really about democracy, and it should be of interest to every single member of the Toronto community because it is also about how the City spends the public's money.

After I finish speaking, all four volumes of the report will be available, free, on the inquiries' website, www.torontoinquiry.ca, and will be there for the next year. They will also be available on the City's website, www.toronto.ca/inquiry. Both the report and a CD-ROM version will be available for purchase tomorrow from Access Toronto. I would be grateful if the media could inform the public how to obtain the report – either through the websites I've just cited, or from Access Toronto at 416-392-7410, or www.toronto.ca/publications.

An essential part of my terms of reference was to make recommendations for the good governance of the City. For the last three years, I have had a unique and unprecedented opportunity to examine some of the inner workings of the City's government. My recommendations flow from all of that experience.

I consider the recommendations to be the heart of my report. They are what will ultimately affect the residents of the City the most. My recommendations are aimed at improving practices in governance, ethics, lobbying, and procurement. What this means is that they relate fundamentally to the integrity of municipal government and to the people who run it. The recommendations are the most hopeful part of this report. They are forward-looking, and are offered with well-founded optimism that things are getting better and can continue to improve. They are directed to the City of Toronto, of course, but there are general principles that can apply to every other municipality in Canada and to other levels of government.

I have heard some people say that these inquiries have cost too much money. There is no doubt that inquiries cost a lot of money. They all do. These were no exception. When the City decided to call an inquiry, the Chief Justice of the Superior Court of Justice told them that it would be very, very expensive and would likely cost millions of dollars. At one point, I gave Council the

opportunity to reduce the cost. Before beginning the second inquiry, I asked City Council to consider whether they still wished me to proceed with it. There had been many changes since the previous Council had first voted for that inquiry, and I wanted to be sure that they thought it was still worth the time and extra expenditure of taxpayers' money. Council considered my request. As elected representatives, they reflected the sentiments of their concerned constituents and they voted overwhelmingly to reaffirm their commitment to the second Inquiry. They saw a value to continuing to shed light on what had happened—to supplying the powerful disinfectant of sunlight, as it were. City Council gave us a budget of \$11,392,000 for both inquiries and we came within that budget.

The City has worked hard to accelerate the healing process for its staff and to demonstrate to the people of Toronto that their money is being spent wisely. The City can, in fact, be justifiably proud of the vast majority of its staff. Much has improved since the beginning of these inquiries. As the commissioner who listened intently for years to the problems the City was facing, I was heartened to learn that so many enhancements were being made during the life of the inquiries. I have listed some of these improvements in the last chapter of volume one of the report.

Sadly, though, some conditions have not improved. There are those who have yet to learn the lessons of the events of these inquiries.

Let me give a few illustrations. On the first day of the first inquiry, then-Mayor Mel Lastman said that right after amalgamation in 1998, members of the new City Council were out to kill each other, and out to embarrass one another. Nearly eight years after amalgamation, things seem not to have changed substantially. There are reports of some councillors hurling vulgar insults at one another inside and outside the Council Chamber. Only months ago, Toronto's new Integrity Commissioner wrote that a few councillors identified the behaviour of their peers "as the most obvious integrity issue facing the City at the moment." One councillor didn't even know that a code of conduct for members of Council existed. Others had only a minimal understanding of their own code of conduct. After all we heard in these inquiries, I find this very disheartening.

This is not to say that all Councillors fail to appreciate their responsibilities or their leadership roles. Some do. But that is not good enough. All Councillors should be aware that, through their behaviour, they are giving staff tacit guidelines for what is tolerable.

By their actions, people in leadership positions—whether they be councillors or senior staff—send a powerful signal to all staff and to the public. They need to be careful that the signal they are sending does not end up corroding public trust. They need to create a positive culture for the City and to reinforce the messages implicit in these inquiries.

In conclusion, I want to observe that a judicial inquiry can be a painful experience for those involved. Lives and decisions are put under a public microscope in the search for the truth. Now that these inquiries are over, and my recommendations are in the public domain, I call on the City's leaders to be courageous in implementing them. The residents of Toronto deserve no less.

Within one year, the Mayor should report to the public, through Council, on the progress made in implementing the report's recommendations.

Ultimately, it will be for the residents of Toronto to assess the value of my report and recommendations, but I would like to take this opportunity to state publicly how honoured I have been to be able to play a part in the history of the development of this great City. Thank you very much.