



22 January 1993

The Honourable Michael Ballantyne  
Speaker  
Legislative Assembly of the  
Northwest Territories  
Yellowknife, N.W.T.  
X1A 2L9

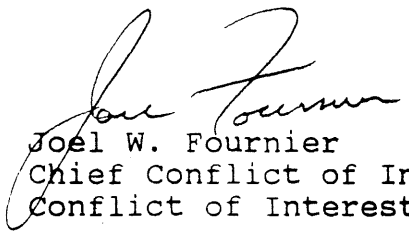
Dear Mr. Ballantyne:

Re: Complaint filed under Part III of the Legislative Assembly  
and Executive Council Act.

I have now completed the investigation required by subsection 80(1) of the above noted Act and I am pleased to enclose my decision herewith.

I would like to take this opportunity to thank all those parties I came in contact with during my investigation for their cooperation and assistance.

Yours very truly,

  
Joel W. Fournier  
Chief Conflict of Interest Commissioner  
Conflict of Interest Commission

**IN THE MATTER OF:**

The Legislative Assembly and  
Executive Council Act, Part III

-and-

**IN THE MATTER OF:**

A Complaint filed December 14,  
1992 by Mr. Sam Gargan, MLA Deh Cho

**REPORT OF CHIEF COMMISSIONER**

As required by Section 81 of the Act, I attended at Yellowknife and conducted an investigation of the complaint filed by Mr. Gargan, a copy of which is attached hereto as Appendix "A". The facts giving rise to the complaint are not in dispute and may be stated briefly.

Mr. Gargan, the MLA for Deh Cho has alleged that the Honourable Titus Allooooloo, Minister of the Departments of Renewable Resources and Municipal and Community Affairs and MLA for Amittuq, contravened subsections (a) and (b) of section 67 and subsection (2) of section 73 of the Act. The allegations arise out of a common-law relationship that Mr. Allooooloo has entered into with Ms. Betty Harnum, the Language Commissioner for the Northwest Territories. For purposes of the Act, a spouse includes a person with whom the member is living in a conjugal relationship outside marriage. Ms. Harnum reports directly to the Legislative Assembly and not a government department, a reporting relationship that may be unique in Canada and one which the House may wish to review. The Language Commissioner was named to her post by the Assembly on February 1, 1992 after she and two other candidates were interviewed by the entire caucus. Sometime after her appointment the relationship began.

I will now deal with the specific allegations.

Subsection 73(2) provides:

***The Speaker or a Minister shall ensure that his or her spouse or dependent children do not hold or enter into a contract including a contract of employment with any department of the Government of the Northwest Territories for which the Speaker or the Minister is responsible.***

In my view, this provision is clear and unambiguous. To find a contravention, the spouse or children of the Speaker or a Minister must hold a contract of employment or otherwise, with the particular department of government that the Speaker or Minister is responsible for. Clearly, that is not the case in this instance. The suggestion that because Ms. Harnum reports to the entire Assembly, of which Mr. Allooloo is a member, the relationship is somehow akin to that contemplated by the wording of this subsection, cannot be supported. If the Assembly had wished to include the spouses and dependent children of members, it was certainly open to it to do so. The fact that members were omitted simply emphasizes the overall intent of Part III of the Act, that is to place a higher standard of conduct on the Speaker and Ministers because of their relative positions of authority. Accordingly, I am unable to find any contravention of subsection 73(2).

Subsections 67(a) and (c) state:

***Each member shall***

***(a) perform his or her duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of the member;***

***(c) arrange his or her private affairs in conformity with the provisions of this part and act generally to prevent any conflict of interest from arising.***


During the course of the investigation and being mindful of the comments of the complainant as set out, I sought to determine whether Mr. Allooloo had done or omitted to do something that would undermine public confidence and trust in his integrity, objectivity and impartiality as a *member* as

contemplated by this provision. After a thorough review of the information available to me and having regard to all of the circumstances of this matter I am unable to find any merit to the argument put forth by Mr. Gargan. Similarly, I am unable to find any conduct by the member that would constitute an infringement of the statute.

As a consequence of my findings above, it follows that subsection (c) can have no real application in this instance. The member is not in conflict as defined by the Act nor have his private affairs contravened the spirit or letter of the legislation in question.

Accordingly, and pursuant to subsection 81(1), I hereby dismiss the complaint as it does not disclose a contravention of this Part.

Respectfully submitted,



Joel W. Fournier  
Chief Conflict of Interest Commissioner  
Conflict of Interest Commission

MR. DAVID M. HAMILTON,  
CLERK OF THE LEGISLATIVE ASSEMBLY.

**Re: Complaint under  
Legislative Assembly & Executive Council Act, Part III**

As a Member of the Legislative Assembly and a representative of the constituency of Deh Cho, I would like to formally file a complaint pursuant to s. 80(1) of the Legislative Assembly and Executive Council Act alleging a contravention of Part III of that Act, being the conflict of interest provisions.

The basis of my complaint is as follows. In December, 1991, the Legislative Assembly approved the appointment of Ms. Betty Harnum as the Languages Commissioner. As Languages Commissioner, Ms. Harnum holds office during good behaviour, but may be removed by the Commissioner at any time on address of the Legislative Assembly. Pursuant to s. 23 of the Official Languages Act, Ms. Harnum is directed to report to the Legislative Assembly annually in the form of a report relating to the conduct of the office of the Languages Commissioner and the discharge of the duties under the Act". Accordingly, Ms. Harnum is directly accountable to the Legislative Assembly, both in terms of reporting to the Assembly on an annual basis and in light of the fact that she may only be removed from office by the Legislative Assembly.

The role of the Languages Commissioner is an important one for all aboriginal people in the Northwest Territories. She is responsible for investigating complaints which allege that any government institution is not recognizing the status of an official language, is not complying with the Official Languages Act or regulations or that the spirit and intent of this Act is not being complied with. It is, I respectfully submit, for these reasons that the Languages Commissioner reports directly to the Assembly and not to an particular Minister.

It has come to my attention, and to the attention of other Members, that the Member for Amittuq, Titus Allooloo, is currently cohabiting with the Languages Commissioner. Mr. Allooloo is the current Minister of the Departments of Renewable Resources and Municipal and Community Affairs and is, of course, a Member of our House.

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I feel quite strongly that Mr. Allooloo, by virtue of his association with Ms. Harnum, has compromised his objectivity and impartiality as it pertains to the Languages Commissioner. Specifically, I am concerned that Mr. Allooloo has contravened s. 67(a) and (c) of the Legislative Assembly and Executive Council Act by allowing himself to be in a position where the public could question his objectivity and impartiality and suggest that he has failed to act generally to prevent any conflict of interest from arising.

I am not suggesting that Mr. Allooloo has participated in any discussions on the floor of the House which involve the Languages Commissioner. I am, however, concerned that any actions that I might take as an ordinary Member of this House to criticize the Languages Commissioner or her office may well result in my falling into disfavour with Mr. Allooloo and could possibly have a consequential impact upon Mr. Allooloo's ability to objectively decide on issues affecting my constituency.

Secondly, I believe Mr. Allooloo has contravened s. 73(2) which places a mandatory duty of a Minister to ensure that his spouse (which includes a common-law spouse) does not hold a contract with any department of the Government for which the Minister is responsible. Mr. Allooloo is responsible for the Languages Commissioner as are all Members of this House. The fact that she does not report directly to Mr. Allooloo is irrelevant. She reports to all the Members and Mr. Allooloo is as responsible for her conduct in the performance of her duties as I am.

I recognize that Mr. Allooloo is not responsible for Ms. Harnum as a Minister but is responsible for her as are other, including ordinary, Members of this House. Accordingly, it may be argued that he is not acting in his capacity as a Minister in terms of his responsibility for the overall conduct of the Languages Commissioner. I do, however, believe that the purpose and rationale of s. 73(2) is to recognize that a Minister has more power and decision making authority than does the average Member of the House. It is for this reason that there is mandatory duty placed on a Minister to ensure that he or she does have any ability to influence decisions that may be made about his or her spouse employed in the Public Service in the Northwest Territories. I believe that Mr. Allooloo's relationship with Ms. Harnum currently contravenes the spirit and intention of this section.

I would ask that you refer this complaint to the Chief Commissioner of the Conflict of Interest Commission for an investigation pursuant to the provisions of s. 80(1) of the Legislative Assembly and Executive Council Act.



Sam Gargan, M.L.A.,  
Deh Cho.

ኦገስት 22, 1993

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በሰነድ,

Joel W. Fournier

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