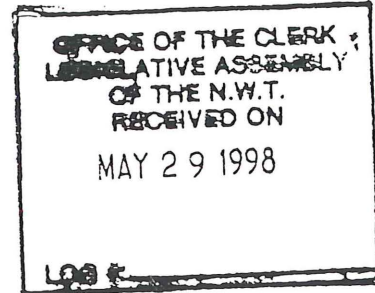




Northwest Territories Legislative Assembly  
Conflict of Interest Commission



May 29, 1998

Mr. Sam Gargan  
Speaker of the Legislative Assembly of the Northwest Territories  
Legislative Assembly of the Northwest Territories  
Yellowknife, NT

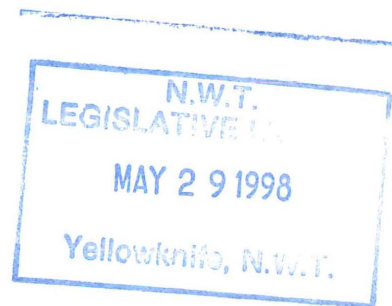
Dear Mr. Speaker,;

I enclose, as required by Section 81(3) my decision with regard to s.81(2) of the *Legislative Assembly and Executive Council Act*, for tabling in the Assembly.

I thank you and your staff for your assistance in this matter to date.

Yours very truly,

Anne Crawford  
Commissioner



IN THE MATTER OF A COMPLAINT UNDER PART III OF THE *LEGISLATIVE ASSEMBLY  
AND EXECUTIVE COUNCIL ACT* BY THE MEMBER FOR HAY RIVER IN RELATION TO  
THE MEMBER FOR TU NEDHE

Decision of the Conflict of Interest Commissioner

Given orally at Yellowknife

May 28, 1998

In this matter the complainant, Mrs. Groenewegen filed a conflict of interest complaint with the Clerk of the Assembly on February 16, 1998, stating that the activities of Mr. Donald Morin, the Member for Tu Nedhe had violated Part III, being the Conflict of Interest provisions, of the *Legislative Association and Executive Council Act*.

The complaint as filed, was broadly worded and widely cast, and required substantial definition to be capable of inquiry by the Commissioner. There were a number of preliminary applications made and dealt with.

At a meeting held March 24, 1998 to address the procedures required to go forward with this matter, Mrs. Groenewegen was given until April 29, 1998, through her counsel Mr. Chivers, to provide the required definition.

Mr. Morin was given until May 25, 1998 to respond through his counsel, Mr. Hustwick. Each has responded with a set of useful and instructive materials and I thank both.



Today both counsel have been given the opportunity to respond to those materials and make final submissions on the issue of s.81(2) of the act. Which provides that, “ the Commissioner may decline to conduct an inquiry into a complaint” if either of the following are present:

- 1) the complaint is frivolous or vexations are not made in good faith;
- 2) there are insufficient grounds to warrant an inquiry.

Mr. Hustwick argues on behalf of his client that the complaint is all of the above and essentially an ill-motivated recital of coffee shop gossip, unresearched and recast as political innuendo.

Mr. Chivers, on behalf of his client, suggests that the complaint is substantive, founded in many months of efforts at research and many solicitations for information, and is more than adequate to the test of s. 81(2).

The materials submitted by Mrs. Groenewegen make extensive legal argument, provide a number of reference materials from public registries and a statement in four parts of the alleged factual basis for the complaint. I have broken the statement into portions which can be dealt with and disposed of individually.

Firstly, to deal with the complaint regarding the direct appointment of Tom Beaulieu, the common-law companion of Mr. Morin’s sister to the vice presidency of the Northwest Territories Housing Corporation in 1995.

Mrs. Groenewegen agreed that Mr. Beaulieu was competent to the position and had been effective in his previous position as South Slave District Manager.

This complaint would be completely groundless but for the fact that Mr. Morin acknowledged that he remained in the Executive Council Meeting where this appointment was approved, raising the issue of s.69(1).



The allegation is very bare. There is no allegation that Mr. Morin influenced this appointment or received any financial or political benefit from this appointment .

The Act describes in s. 66 the specific family relationship which give rise to a conflict and this is not among them. Failing any other allegation, Mr. Morin's failure to leave the meeting may demonstrate a lack of good grace in performing his duties and it would be preferable if a more rigorous approach had been taken. But it is inadequate to compel further inquiry and does not pass the test set by 81(2)b.

It is further complained that Mr. Morin appointed to his personal staff an individual who is his own first cousin. Again, there is no allegation that this individual lacks qualifications for the position. The staffing of personal support positions at this level is generally regarded as political and a matter of personal choice. Mr. Morin's effectiveness depends on effective staffing of his office. He has a compelling interest in competence in his office. If he chooses to disregard his own interests in this matter, he will eventually pay the price. The bare allegation of relationship without any further allegation of benefit, indulgence, incompetence or return does not pass the test set by 81(2)b.

Thirdly, the allegation is made that Morin intervened, on behalf of a cousin, to obtain a benefit for that cousin in relation to public housing in September 1997. The allegation is again very bare and does not identify the breach or benefit alleged on the part of Mr. Morin.

I am aware that in a jurisdiction as small as the Northwest Territories, it is accepted that Ministers do occasionally make inquiries directly of public servants in areas not inside the Minister's own portfolios. In larger jurisdictions, this is not an accepted practice. Any inquiry would be made to the Cabinet colleague responsible.

Even given this exception, a Minister should be very careful in making such direct contact, and particularly careful to avoid the suggestion that his is in any way giving direction in the conduct of public duties or the application of policy. To cross the lines of authority and allow one



Minister to direct, on a personal basis, the affairs or servants of another Minister's portfolio, is to substantially erode the structure of government and to create an undesirable element of personal fiefdom. Ministers should be vigilant, both in their own activities and in challenging these activities of colleagues should that be required, to maintain the roles appropriate to their respective offices.

But again, the manner of any intervention is not Mrs. Groenewegen's complaint. She instead suggests that there were undue benefits received by the cousin. Her allegation stands completely undetailed and unsupported. In each of these instances, Mrs. Groenewegen's counsel was given an extended period of time to describe the nature or detail of the complaint.

In this instance, I am again obliged to state that the test in 81(3)b has not been met and I am not prepared to continue with an inquiry into this issue.

We now turn to the elements of Mrs. Groenewegen's complaint set out in the remainder of her materials. In these matters, Mrs. Groenewegen has provided substantially more detail and has described both the activities at issue and the nature of the benefits she alleges have flowed to Mr. Morin.

I do not accept Mr. Hustwick's argument that the entire complaint can be dismissed as being in bad faith. As a member of the Assembly, Mrs. Groenewegen puts herself at significant political risk in making these allegations. The repercussions of their not being substantiated are considerable in the context of political and personal credibility. They cannot be dismissed as merely vexatious. The subject matter alleged takes them beyond the threshold set as frivolous. There is adequate supporting material to warrant further inquiry.

Mr. Hustwick is correct in identifying, as he did in argument, that there is a shortage of individual statements, sworn or otherwise, in support of Mrs. Groenewegen's intentions. It is clear that an adequate inquiry capable of resolving the issues at hand will require personal information from those directly involved. Both submissions rely far too heavily on the

statements of third parties to be reconcilable without hearing from those persons directly.

The Act instructs in 82(1), any hearing shall be conducted in public in order to adequately conclude this matter. The following items:

1. The circumstances under which the Member came to reside in the house located on property presently owned by Nova Construction (1987) Ltd. and legally described as:

Lot Twenty-eight (28)  
Block One Hundred Fifty One (151)  
Plan 2403  
Yellowknife

and whether the Member received a benefit as a result of the said residence being made available to him which contravened a provision of the Act.

2. The role of the Member, if any, in the 1997 decision of the Government of the Northwest Territories to extend the lease of office space in the Lahm Ridge Tower building located in Yellowknife, and whether any conduct of the Member in respect to that decision contravened a provision of the Act.
3. The role of the Member, if any, in the awarding of contracts involving the Government of the Northwest Territories and Nova Construction (1987) Ltd. or any other company in which Milan Mrdjenovich has an interest, and whether the Member's conduct in that regard contravened a provision of the Act.

4. The circumstances surrounding the sale by the Member of certain property located in Fort Resolution legally described as:

Lot Twenty-three (23)  
Plan 58  
Fort Resolution

and whether the Member received a benefit as a result of the said sale which contravened a provision of the Act, or whether the Member's conduct in respect to the said sale and the lease of office space by the Government of the Northwest Territories in the complex developed on the said land by Deninu K'ue Development Corporation contravened a provision of the Act.

5. The role of the member, if any, in the transfer of the bison herd formerly located at Hanging Ice Ranch to the Deninu K'ue Ranch located near Fort Resolution, and whether his conduct in respect to the said transfer contravenes a provision of the Act.
6. The role of the Member, if any, in the decision of the Government of the Northwest Territories to award a contract to Roland Bailey, or a company in which Mr. Bailey has an interest, for preparation of a report on privatization of the Petroleum Products Division, and whether the Member's conduct in respect to such award contravened a provision of the Act.
7. The conduct of the Member in respect to the Canada's Northwest Territories Government Aurora Fund (1996) and the Canada's Northwest Territories Government Aurora Fund II, and whether any such conduct contravened a provision of the Act.
8. Such further and other matters as may be relevant and arise from the investigation of the foregoing

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will be put to public inquiry.


A report will be made to the Speaker under 81(3) accordingly.

Terms of Reference for a public hearings will be drawn accordingly.

Counsel will be called upon shortly to identify appropriate dates for the hearings. The Premier and government cannot be held to this process for any extended period, as this would create disfunction in government and undue burden on all involved.

CERTIFIED AT YELLOWKNIFE

May 29, 1998



Anne Crawford  
Commissioner