

SIXTH REPORT
OF THE
STANDING COMMITTEE
ON
RULES, ELECTIONS AND PRIVILEGES

3rd Session of the
24th Legislature

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Introduction

On October 11, 1979, the Yukon Legislative Assembly adopted the following resolution:

THAT the Standing Committee on Rules, Elections and Privileges:

1. Review all conflict of interest provisions relating to members of the Yukon Legislative Assembly and elected members of the Executive Committee; and
2. Report to the House any recommended amendments to those provisions.

Since the date of that resolution the Executive Committee comprised of elected and appointed members has been replaced by an Executive Council made up solely of elected members. It is clear, from the debate which took place in the House, that the reference to "Executive Committee" was intended to apply, as well, to the term "Executive Council". The Committee, therefore, has felt confident in conducting its business without appealing to the House for an amendment to its terms of reference.

Public Participation in Committee Deliberations

Early in its deliberations the Committee agreed that an opportunity should be provided for the public to provide input in the development of appropriate conflict of interest provisions. On December 18, 1979, the Chairman announced, in a news release, that the Committee would be requesting written briefs from a variety of Yukon organizations. In the same release he said, "Although we will be requesting briefs from certain groups we would welcome input from anyone so interested."

Following this announcement a letter, dated December 28, 1979, was sent from the Chairman to twenty-one organizations in Yukon which had been determined by the Committee to be representative, as a whole, of the community. The introductory portion of the letter stated:

"The Standing Committee on Rules, Elections and Privileges of the Yukon Legislative Assembly is currently reviewing legislation and regulations which establish conflict of interest guidelines for Members of the Legislative Assembly and for Cabinet Ministers.

The Committee believes this subject to be of the greatest importance because it eventually determines who may seek public office and, also, who may serve in our Cabinet. It is the view of the Committee that no decisions should be made on such a vital topic without first seeking input from the various segments of our society.

Accordingly, as Chairman of the Committee, I am writing to you to request a written brief which would outline the opinions of your organization as to appropriate conflict of interest guidelines for Yukon's elected representatives."

Responses to this appeal were received from the following organizations:

1. Yukon Labour Force Development Council,
2. Whitehorse Chamber of Commerce,
3. United Brotherhood of Carpenters and Joiners,
4. Yukon Chamber of Mines, and
5. Association of Yukon Communities.

A summary of these responses is set out below.

Yukon Labour Force Development Council

The Yukon Labour Force Development Council said that, "Present legislation unduly restricts those who wish to seek and hold public office." The Council recommended adopting a system of disclosure with no requirement for divestment of assets. The Council also said that M.L.A.s should be able to submit bids on tenders for government contracts and that a "Code of Ethics" should be developed.

Whitehorse Chamber of Commerce

The Whitehorse Chamber of Commerce said, "[C]urrent legislation on conflict of interest is excessively restrictive, not only for elected representatives, but in inhibiting members of the business community from running for public office at the Territorial level." In reference to the Yukon Council Ordinance, which establishes the law respecting M.L.A.s, the Chamber had a number of suggestions for amendment. It felt that boards, commissions and agencies of the government should be deleted from the definition of "Government" in subsection

7(1) with the result being that members of those boards, commissions and agencies would then be eligible to be M.L.A.s. On the other hand, members of Municipal Councils and elected trustees of Local Improvement Districts should not be eligible.

Further, the Chamber recommended "that those people declared ineligible by Section 8 would become eligible by declaring all business and financial interests which are in conflict, or potential conflict with his or her position as a member of the Legislature." These disclosures would be open for public inspection.

If an M.L.A. felt that he had a pecuniary interest in a subject before the Assembly he should be allowed to speak to the issue if the Assembly passes a motion to that effect after hearing his description of the conflict. He could not, however, cast a vote on the matter. The Chamber said that the current legislation referring to the spouse, child, parent or dependent relative of an M.L.A. should be retained.

Regulations governing activities of Executive Council Members, in the view of the Chamber, should not be altered. The Chamber did, though, express the wish that there be an assurance that trustees of blind or frozen trusts not be people who "might be swayed by the member" and that the member not be capable of obtaining information on the management of a trust.

United Brotherhood of Carpenters and Joiners

The United Brotherhood of Carpenters and Joiners said that, "The present ordinances governing conflict of interest situations are basically well defined and quite workable within the framework of Yukon politics." The U.B.C.J. promotes full

disclosure and divestment of non-exempt holdings as the only workable method of dealing with conflicts of interest. It proposes special debates by the Legislature on cases where a member owns a business which is the only one of its kind in an area and must provide services to the government. Under this system exemptions could be granted by the Assembly on passage of a motion by three-quarters less one majority vote.

Yukon Chamber of Mines

The Yukon Chamber of Mines submitted a brief report in which it argued for full disclosure of business interests, development of a code of ethics and giving the judge of the Yukon Supreme Court the "final say" in any conflict of interest case.

Association of Yukon Communities

The Association of Yukon Communities forwarded a resolution which was passed by the Association at its 1980 General Meeting. The preamble to the resolution states that, "[C]urrent conflict of interest legislation is unusually and undesirably restrictive and serves to prevent and/or discourage potential candidates from seeking public office at the territorial level." The Association went on to argue for amendments which would provide "reasonable and realistic qualifications" and which, specifically, would "not prohibit elected members of municipal level government from seeking office or being elected to the Yukon Legislative Assembly."

The complete text of all submissions are attached to this report as Appendix I. It should be noted that the Committee did not receive any briefs from individuals.

Options

The Committee has given full study to these submissions and is in general agreement with the majority in concluding that present conflict of interest provisions discourage potential candidates from seeking public office.

In attempting to deal with that problem the Committee has given full study to the various options which exist for dealing with conflict of interest situations. The five basic options which exist are: (1) Ban on Voting, (2) Disclosure, (3) Blind Trust, (4) Frozen Trust and (5) Divestment. A description and analysis, including advantages and shortcomings, for each of these approaches is set out below.

Ban on Voting

This approach calls for no permanent limitations on conflicts for members and no restrictions on members holding conflicting offices or conflicting contracts except where a particular issue arises in the Assembly in which the member has a pecuniary interest. The member then merely refrains from voting. This can be modified by requiring that the member state the exact nature of his pecuniary interest or that he state that he has an undisclosed interest which will prevent him from voting.

The advantage of this approach is that it enables each situation to be dealt with as it arises. The disadvantage is that it is not really effective in dealing with conflict with respect to government employment or government contracts, or at least only to a minor degree, as it only avoids the member's direct and immediate control over his personal affairs when he

is acting as an M.L.A. It can however be the most effective way of dealing with the question of assets which occasionally come into conflict because of decisions arising in the Assembly which affect them.

On certain occasions difficult situations can arise when a large number of members have the same type of asset which comes in conflict. If, for example, a high proportion of members decided to acquire shares in a government controlled corporation, any vote in the Assembly which might affect the value of their shares, e.g. the granting of special rights to the company, might bring so many members into conflict that a quorum would be difficult to establish.

The other limitation on the effectiveness of this approach is that it is sometimes difficult to determine whether or not the member's personal interests are being affected in a special way or merely in common with all members of the public or members of a class of the public to which he belongs. However, this has been the traditional way of dealing with conflicts with respect to assets which only occasionally come into conflict.

Disclosure

This approach requires a member to make a disclosure of matters which would bring him into conflict with his duties as a member. The disclosure would be made to a public official such as the Clerk of the Assembly or possibly to a judge who would keep a record open for public inspection. The record would have to be kept up to date. The scope of the matters to be disclosed would normally include the real and personal property, shareholdings and directorships and contracts with Government. The member would also not vote on any matter

which affected his assets. Certain assets, essentially personal items, would be exempt from disclosure.

The advantage of disclosure is that it enables the public to keep a close check on the independence of its representatives and to ensure that a member is not voting on matters which affect his assets. It is generally desirable to provide an exemption for personal family assets. With regard to exempted assets, it is normal to provide that these need not be disclosed, but of course the member would still be bound to declare pecuniary interest and not vote if a matter came up in the Assembly which would affect his exempted assets. The disadvantage of disclosure as a sole matter of controlling conflict is that it does not in fact remove the conflict except for those occasions where a member does not vote.

Blind Trust

An alternate approach is to require a member to place his assets into a blind trust, which means a trust over which the member has no control and where the member does not receive any information on dealings with the trust assets. The assets to be placed in the trust may be all of his assets, other than personal exempt items, or assets which will obviously be in conflict, plus those which might come into conflict. Generally, placing assets into a blind trust avoids the need for disclosure.

The advantage of a blind trust is that it can normally be used to avoid a declaration of the member's assets and keep his personal business matters private. The main effect of the blind trust is to prevent a member from short-term speculation on his assets, possibly on the basis of knowledge coming to him as an M.L.A. On the other hand, it does not

prevent the trust assets growing in a general and long-term basis, possibly as a result of decisions to which a member was a party. Thus it can only be seen as a partial solution to the conflict situation. Because a member, whose assets are in a blind trust, can claim not to know what his assets are, although quite often the Trustee will not in fact sell any of the assets, it is difficult for him to know what to do when a matter arises in which he suspects he may have a pecuniary interest through his trust but can still legitimately state that he does not know what his trust assets are.

Frozen Trust

Assets may be placed into a frozen trust, which is a trust under which the assets are not changed or dealt with in any way except as required by law and to prevent their depreciation. The type of assets which are required to be placed in trust must be defined.

The advantages of a frozen trust are similar to those of a blind trust. The disadvantages are also similar, with the additional factor that a member will be fully aware of the assets which he holds in the trust. While it will prevent the member from speculating with his assets with official knowledge, it does not avoid the member knowing that certain actions he takes may benefit his asset portfolio. Generally, a frozen trust agreement will allow the Trustee to carry out certain transactions as required by law or to prevent the trust assets from wasting or depreciating. This is sometimes rather difficult to draft. The Trustee has to be given some discretion and most frozen trusts are not literally entirely frozen.

Divestment

This approach simply requires that a member may not hold any conflicting office or contract, the consequence being that a prospective member must divest himself of these conflicting matters. Non-conflicting assets are then neither disclosed nor placed in trust. The question of whether assets may still be held indirectly by shareholding in a company must be dealt with when this system is used.

The principal advantage of divestment as an approach is that a member completely frees himself of the conflict situation and does not merely reduce it by placing matters in trust or declaring them. This is the only route which gives a member complete independence. However it can be very onerous unless the exemption provisions are quite wide and unless it is made clear that only conflicting assets have to be divested. Most members would find it quite unacceptable to have a requirement that every business asset be disposed of and indeed it would be quite unnecessary to ensure members and dependents go so far. Only assets which are in a conflicting situation, e.g. in dealings with government or property which is regularly and constantly coming into conflict situations, should be divested. The disadvantage of divestment is that it can curtail a member's present activities, particularly in areas where a significant area of the business activity involves government or where a significant portion of a person's business interests will be in conflict.

Conclusions

The current conflict of interest provisions are essentially a combination of the option entitled "Ban on Voting" and "Divestment". The disadvantage to divestment mentioned above is, in the view of the Committee, too great to warrant maintenance of that system. Levels of government participation in the Yukon economy are too high to continue to adhere to the principle of divestment. Due to the pervasiveness of government in this community virtually anyone with any kind of business or in any profession will find the requirement for divestment so onerous as to negate the opportunity to seek public office. The Committee, therefore, concludes that an option must be sought to the current legislation and regulations requiring divestment.

The Committee does not, however, recommend any change in the current ban on voting provision which is found in the Standing Orders of the Assembly. There it is stated, in Standing Order 9(1), that, "No member is entitled to vote upon any question in which he has a direct pecuniary interest, and the vote of any member so interested will be disallowed."

The Committee gave consideration to both the Blind Trust and Frozen Trust options but cannot recommend their adoption in Yukon. Aside from some doubt as to whether these solutions are really effective the Committee feels that the size of the Yukon community would make it virtually impossible to find enough trustees who could be described as impartial in dealing with an M.L.A.'s assets. A majority of the M.L.A.s in the 24th Assembly have lived in Yukon for over twenty years and almost all have been here at least ten years. It would be

extremely difficult, after such a length of time in a community this size, for any present M.L.A. to find a trustee who could be described as completely arms-length in his dealings with the member.

The Committee has, therefore, had to give serious thought to the disclosure approach. Although, in principle, it, too, has disadvantages the Committee feels that it can be effective in Yukon and, in its recommendations, will be setting out details of a proposed system of disclosure. Again, the relative smallness of the Yukon community led to the decision of the Committee. It was agreed that business dealings in Yukon are more apparent and the public more aware of such dealings than might be the case in other jurisdictions. This being so, Yukon politicians, subject to full public disclosure requirements, are not likely to abuse the trust invested in them. On this basis the Committee makes the recommendations found later in this report.

Code of Ethics

In their submissions both the Yukon Labour Force Development Council and the Yukon Chamber of Mines recommend that a code of ethics be developed for Members of the Yukon Legislative Assembly. The Committee has studied this concept and, although it feels essential aspects of conflict of interest guidelines should be found in legislation, it considers the idea to be of some value, if only to make a clear statement of the principles by which elected officials govern their actions.

A good statement of such a code was made by an Australian Committee of Inquiry, popularly called the "Bowen Committee", in 1977. The following proposed Code of Conduct for Members of the Yukon Legislative Assembly finds its roots in a similar Code of Conduct espoused by that committee:

1. A Member should perform the duties of his office impartially, uninfluenced by fear or favour.
2. A Member should be frank and honest in official dealings with colleagues.
3. A Member should make every effort to avoid situations in which his private interest, whether pecuniary or otherwise, conflicts or might reasonably be thought to conflict with his public duty.
4. When a Member possesses, directly or indirectly, an interest which conflicts or might reasonably be thought to conflict with his public duty, or improperly to influence his conduct in the discharge

of his responsibilities in respect of some matter with which he is concerned, he should disclose that interest. Should circumstances change after an initial disclosure has been made, so that new or additional facts become material, the Member should disclose the further information.

5. When the interests of members of his immediate family are involved, the officeholder should disclose those interests.
6. A Member should not use information obtained in the course of official duty to gain directly or indirectly a pecuniary advantage for himself or for any other person.
7. A Member should not:
 - (a) solicit or accept from any person any remuneration or benefit for the discharge of the duties of his office over and above the official remuneration, or
 - (b) solicit or accept any benefit, advantage or promise of future advantage whether for himself, his immediate family or any business concern or trust with which he is associated from persons who are in, or seek to be in, any contractual or special relationship with government.
8. A Member should be scrupulous in his use of public property and services, and should not permit their misuse by other persons.

9. A Member should not allow the pursuit of his private interest to interfere with the proper discharge of his public duties.

Since the matter of a Code of Conduct is peripherally associated with its terms of reference, the Committee can only offer the foregoing as information. If the Assembly should wish to adopt such a Code it is suggested that this be done by resolution of the House.

Recommendations

1. THAT the Government introduce legislation which would amend the Yukon Council Ordinance.
2. That such legislation embody the following principles:
 - (a) A member of the Assembly should ensure that all his affairs are conducted so that, subject to the provisions of the Yukon Council Ordinance, no conflict arises and no conflict appears to arise between his private interests and his public duties.
 - (b) There should be full public disclosure by members of their private interests, which may be, or may appear to be, in conflict with their duties as members. In particular, there should be disclosure of:
 - (i) any interest of a member or his family, including his spouse and all dependent relatives living in the same household, in any contract with the Government of Yukon,
 - (ii) any benefits received by the member or his family in respect of any contract with the Government of Yukon,
 - (iii) any benefit or gift received by the member or his family that may have been, or may appear to have been, received in respect of the actual or anticipated discharge by the member of his public duties,

- (iv) any debt or obligation of a member that may influence or appear to influence him,
 - (v) all of the business interests of a member and his family including directorships, and
 - (vi) the arrangements made by the member and his family to ensure that no real, apparent or potential conflict of interest exists or will arise between personal affairs and public duties.
- (c) To fulfill these disclosure requirements each member must file, by March 31 of each year, a disclosure statement with the Clerk of the Assembly. This statement must show the following:
- (i) a full description of the sources of income of the member and his family for the preceding year,
 - (ii) a description of real property in which the member or his family have or have had an interest in the preceding year,
 - (iii) a description of the corporations, associations, partnerships and societies in which the member or his family have or have had an interest in the preceding year,
 - (iv) a description of the assets of the member and his family except for family assets as defined in the Matrimonial Property Ordinance,
 - (v) a description of any benefit a member or his family have received under any contract with

the Government of Yukon, and

- (vi) any other information the member may include to show what he has done to avoid conflicts between his personal affairs and his public duties.
 - (d) Any member can file amendments to his disclosure statement at any time.
 - (e) All of these statements shall be available for public inspection in the office of the Clerk of the Assembly.
 - (f) A member does not have to include in his disclosure statement, any benefits he receives from the Government of Yukon which are enjoyed by all members of the public or all members of a class of the public to which he belongs.
 - (g) A member does not have to include in his disclosure statement an interest in which he has no beneficial interest and which is held by him as an executor, administrator or trustee.
3. That such legislation place all qualifications for Members of the Assembly within the Yukon Council Ordinance and that, following an election, there be no association between the qualifications required of an elector found in the Elections Ordinance, 1977 and the qualifications required of a Member.
4. That such legislation allow the Assembly, by special resolution, to authorize a Member to hold an office,

commission or employment, in the service of, or at the nomination of the Government of Canada or the Government of Yukon.

5. That such legislation allow a casual employee of the Government of Yukon to be a Member of the Assembly.
6. That such legislation remove the right from the courts to declare a member ineligible, except in cases heard under the Controverted Elections Ordinance, and that the privilege of the Assembly to govern its own affairs be recognized.

Doug Graham, M.L.A.
Chairman

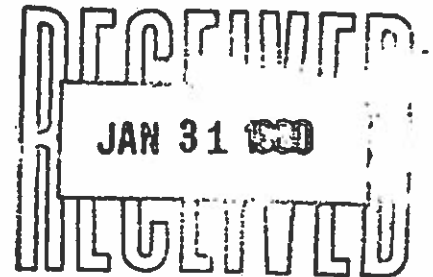
Appendix I

YUKON LABOUR FORCE DEVELOPMENT COUNCIL

Box 2703, Whitehorse, Yukon Y1A 2C6 Phone (403) 667-5183 Telex O36-8-26C

BY HAND

OUR FILE 1486-5
YOUR FILE



1980 01 31

Mr. Patrick L. Michael
Clerk of the Legislative Assembly
Yukon Legislative Assembly
P.O. Box 2703
Whitehorse, Yukon

Dear Mr. Michael:

Re: Conflict of Interest Guidelines

Pursuant to Mr. Graham's request of December 28, 1979, attached is an outline representing the Yukon Labour Force Development Council's views as to appropriate conflict of interest guidelines for Yukon's elected representatives.

We hope that this outline will assist the Committee on Rules, Elections and Privileges for the Yukon Legislative Assembly in its endeavors.

Yours truly,

James Smith
Chairman
Executive Committee

JS:mlc

Enclosure

YUKON LABOUR FORCE DEVELOPMENT COUNCIL

Recommendations to the Standing Committee on Rules, Elections and Privileges of the Yukon Legislative Assembly concerning Conflict of Interest Guidelines.

GENERAL CONSENSUS

The electoral process is accepted, per se, as being an honest system, but we are using legislation to unduly restrict the process.

OBSERVATIONS ON PRESENT CONFLICT OF INTEREST GUIDELINES

1. Present legislation unduly restricts those who wish to seek and hold public office.
2. The Regulations in effect tend to block the honest and the dishonest.
3. An elected group should be able to direct the management of its members' affairs so they will stand the light of public scrutiny.
4. The Regulations or Guidelines must ensure protection of the public interest and the public purse.
5. Yukon should not necessarily adopt criteria established in other areas.
6. Yukon should minimize impediments to holding office in the Legislature and the Executive Council.

RECOMMENDATIONS

A. Disclosure

There should be no requirement to sacrifice a lifetime of labour to fulfill a public duty.

1. Disclosure as presently prescribed by regulation, before or after election is recommended.
2. No divestment be required.
3. Participation within the bid depository system in regards to government contracts be permitted.
4. Final decision as to who will and will not serve on Executive Council to be made by the Government Leader.

B. Code of Ethics

A Code of Ethics should be developed by the Speaker of the House in conjunction with the Assembly.

C. Recall System

Investigate the "Recall System" - a process designed to allow the electorate to speak between elections.

Basics of the Recall System are as follows:

At any time during term of office the conduct of a member may be reviewed on petition by a certain percentage of voters within the electoral district. If found wanting, the office would be declared vacant and a by-election called.

Whitehorse Chamber of Commerce

302 Steele St.,
Whitehorse
Yukon Territory
Y1A 2C5
Telephone 667-7545

January 31st, 1980

Standing Committee on Rules, Selections
& Privileges
Yukon Legislative Assembly
Government Buildings
Whitehorse, Yukon Territory

ATTENTION: Doug Graham - Chairman

Dea- Sirs;

Re: Conflict of Interest Legislation

Pursuant to your recent request we enclose herewith the Chamber's brief with respect to Conflict of Interest Legislation for members of the Legislative Assembly.

Yours very truly,


BRIAN L. MORRIS
1st Vice President

BRIEF

TO: Standing Committee on Rules, Selections & Privileges
RE: Conflict of Interest Legislation
FROM: Whitehorse Chamber of Commerce

At the time that the current legislation related to conflict of interest of members of the Yukon Legislative Assembly and the Executive Committee was under consideration by the Yukon Territorial Government, the Whitehorse Chamber of Commerce voiced its concern as to the restrictive nature of such legislation. The Whitehorse Chamber whole-heartedly supports and accepts the principle of conflict of interest guidelines for people holding public office. However, in light of the special nature of Yukon Communities and spatial, societal, and demographic make-up, the Chamber wishes once again to express its concern that the current legislation on conflict of interest is excessively restrictive, not only for elected representatives, but in inhibiting members of the business community from running for public office at the Territorial level.

It is our concern that the Yukon, in order to meet current and future demands in dealing with such issues as economic development, land claims settlement and resource management, requires the best individuals interested and qualified for holding public office to be in a position to participate as candidates in the electoral process.

It is our understanding that the question of conflict of interest is now under review by the Yukon Legislative Assembly. The Chamber feels that such a review under current circumstances in the Yukon Territory, and given a variety of legislation related to conflict of interest in other jurisdictions in Canada, is definitely required. In making this review the Chamber is hopeful that the Yukon Territorial Government will consider amendments to the current legislation which would make it less restrictive for members of the business communities to take part in the governmental process in the Yukon. At the same time the prime objective of conflict of interest legislation should be kept in mind. Such legislation is not in existence to prohibit a certain group of people from becoming members of the Legislature but rather is aimed at preventing members from obtaining benefits or mis-using information

arrived from the very fact of membership.

The Chamber believes that the disqualifications and exemptions as expressed in Sections 7&8 of the Ordinance should be amended in order that a broader segment of the population be eligible to sit as a member of the Legislature.

The definition of Government in Section 7 should be more narrowly defined. While it is clear that persons in the service of government should be ineligible to sit as members some consideration should be given to excluding from the definition of government, members of boards, commissions or agencies of the government, particularly those who have no control over governmental decisions or policy.

As previously indicated Section 8 is far too restrictive and prevents many people who might otherwise be interested in being a member of the Legislature from running as a candidate for election.

The Chamber proposes that those people declared ineligible by Section 8 would become eligible by declaring all business and financial interests which are in conflict, or potential conflict with his or her position as a member of the Legislature.

Such disclosures should include interests in corporations, businesses and lands, although a member should not be under an obligation to disclose land holdings such as his or her principal residence, principal recreational property, automobiles, cash, bonds, trust and bank certificates, retirement savings plans, and other property in a blind trust.

Disclosures should be made by a member before a member assumes his or her seat, after the acquisition of any new interest, and once a year on a fixed date.

Since politicians are ultimately accountable to the general public, the disclosures should be readily available for inspections by the general public.

In the event that a matter being considered before the Legislature affected the private business, or pecuniary interest of the member, he or she should, as under the existing legislation, be prohibited from voting on the matter, and the member should not be permitted to discuss the matter until such time as he has disclosed to his fellow members his interest, and they have voted to allow him to participate in discussion.

All members of the Legislature should be prohibited from using or passing on to someone else confidential information that could be used to their advantage, or for financial gain.

A member should, as under the existing legislation, and with respect to conflict of interest, be deemed to include his or her spouse, dependant child, and dependant relative, particularly where it relates to a contract with the government.

No person should be allowed to sit as a member of the Legislature who is a member of a Municipal Council or Local Improvement District.

With respect to policies applying to members of the Executive Committee, the Chamber believes that the existing legislation should not be relaxed to any great extent.

Executive Committee members decide and direct governmental policy. In this manner Executive Committee members wield a great deal of real or potential power and leave themselves open to many conflicts of interest. It is imperative that such members do not obtain, or seem to obtain, a benefit, direct or indirect, from governmental contracts over which they have the ability to influence decisions.

For this reason the Chamber believes that Executive Committee members must disclose their interest, in the same manner as members, and in addition should be compelled by law to either sell all of their interests, or place them in a blind or frozen trust arrangement as contemplated by the current legislation. However, some arrangement must be made so that there are no trustees that are friends of the member, or persons who might be swayed by the member. Above all, a mechanism must be used to insure that the member does not obtain any information as to how the trust is being managed.

As indicated earlier the Chamber fully supports the Legislature's position that there should be conflict of interest legislation. We sincerely hope that the Legislature will consider amendments to the existing legislation that reflect the above suggestions. In the event that members wish clarification of any of the suggestions herein we would be pleased to discuss the matter further with you.



INSTITUTED
AUGUST 12TH, 1881



UNITED BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA

LOCAL UNION No. 2499

Phone 667-2708

106 STRICKLAND STREET
WHITEHORSE, Y.T.
Y1A 2J5

January 31st, 1980.

Mr. Pat Michael,
Clerk of the Legislative Assembly,
Yukon Legislative Assembly,
P.O. Box 2703,
Whitehorse, Yukon.
Y1A 2C6

Dear Sir,

Thank you for your letter of December 28th, 1979 requesting an outline of our opinion as to appropriate conflict of interest guidelines for Yukon's elected representatives. We are pleased to submit the following brief.

Any legislation dealing with conflict of interest must take into account the nature of Yukon's social, economic and political situation. It is difficult to reconcile conflicts of interest in an area as huge geographically and yet as sparsely populated as Yukon. The level of service must be considered in both political and commercial senses. When a man decides he can best serve his fellow man in a public rather than a commercial nature, he should be willing to divest himself of all business dealings that are in conflict and should concentrate on the duties of public office.

The present ordinances governing conflict of interest situations are basically well defined and quite workable within the framework of Yukon politics. It is our opinion that government, in order to maintain credibility, must not only be honest but must also appear to be honest and that divestment is the only method of maintaining that integrity.

The other methods listed for dealing with conflict have too many flaws to be considered workable. The ban on voting on pecuniary or undisclosed interest is unacceptable because it does not limit the member's influence in caucus or debate, leads one to wonder how effective a member is who doesn't vote, would waste time debating whether a member is in conflict rather than the issue, and is open to interpretation as to indirect interest or relationship between non-conflicting and conflicting interests.

Disclosure, although allowing public scrutiny of private holdings, does not remove a member from a conflict. Public knowledge of impropriety is not sufficient

justification for maintaining a position of conflict.

The blind and frozen trust alternatives are equally unacceptable. It is unduly harsh to expect a man to put his non-exempt holdings wholly in the realm of another human's judgment for an extended period of time. This system would tempt even the most righteous of public servants into acts of indiscretion in regard to his pecuniary matters and would undoubtedly cause severe anxiety.

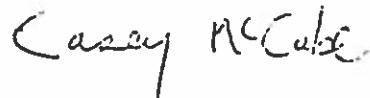
Full disclosure and divestment of non-exempt holdings seems to be the only workable method of eliminating conflicts of interest. The existing legislation adequately protects the general public from selfish legislators or legislation. However, this does not preclude amendment in certain areas.

In view of Yukon's large area and sparse population, it is realized that in certain areas only one proprietor provides specific services. We feel that in special cases in regard to the provision of services to government or its employees the Legislature should have the mandate to debate a specific conflict issue on its merit. The Legislature, with limited debate, should render a decision in regard to the conflict and be empowered to grant an exemption or place a monetary limit on the service. These exemptions must be clearly defined and passed by a (three-quarters less one) majority vote, with the member in question not voting.

It should not be the intent of any 'conflict of interest' legislation to limit any elector from seeking public office, but to present a guideline for successful candidates after the election but before the assumption of public duties. A written guideline detailing 'conflict of interest' legislation should be read and understood by each candidate so as to minimize any impediment to the performance of duties after the election. The 'conflict of interest' legislation need not impose any restrictions on due electoral process.

In summary, our feeling is that divestment is the only acceptable method of preserving the honesty and integrity of elected government.

Yours respectfully,



Casey McCabe,
Business Representative.

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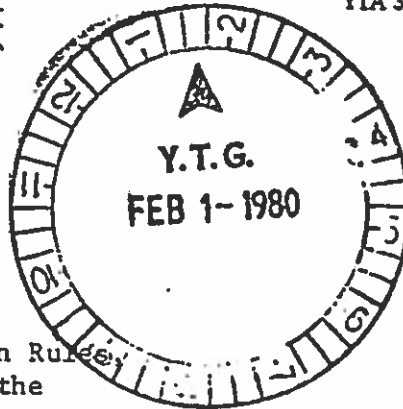
YUKON

CHAMBER OF MINES

Office: 412 Main St.
Whitehorse, Y.T.
Telephone: 403-667-2090



P.O. BOX 1427
WHITEHORSE, Yukon Territory
CANADA
Y1A 3T5



January 25, 1980

Hon. Mr. *DG* Graham
Chairman, Standing Committee on Rules,
Elections and Privileges of the
Yukon Legislative Assembly
P.O. Box 2703
Whitehorse, Y.T.

Dear Mr. Graham:

Your request for a brief to be presented by the Yukon Chamber of Mines has been considered.

It was felt that a detailed brief outlining specific points would take an excessive amount of time and would not be in anybody's best interest. However, the following points should give you some insight as to our feelings.

1. Competent and qualified individuals should be encouraged to seek election to office in Yukon.
2. Full disclosure of business interests is a must.
3. Yukon politicians should be governed by a code of ethics as is the case in several provinces.
4. In any event, the judge of the Supreme Court should have final say in any conflict of interest case.

I hope this will help your committee in its deliberations.

Yours sincerely,

YUKON CHAMBER OF MINES

R.J. Joy

R.J. Joy,
President.

Association of Yukon Communities

February 21, 1980

The Honourable Doug Graham
Chairman,
Standing Committee on Rules,
Elections, and Privileges,
Yukon Legislative Assembly,
Box 2703,
Whitehorse, Yukon.

Dear Mr. Graham,

In response to your letter of December 28, 1979, concerning conflict of interest guidelines for members of the Legislative Assembly and for Cabinet Ministers, the following resolution was passed at the annual general meeting of the Association of Yukon Communities held in Whitehorse on January 26th and 27th, 1980, and it represents the position of our Association on the subject:

Whereas a government can not effectively legislate morality or interests;

And whereas current conflict of interest legislation is unusually and undesirably restrictive and serves to prevent and/or discourage potential candidates from seeking public office at the territorial level;

And whereas it is the view of the Association of Yukon Communities that it is not a conflict of interest for elected members of municipal level government to seek office or to be elected to the Yukon Legislative Assembly;

Therefore be it resolved that the current conflict of interest legislation be amended to establish reasonable and realistic qualifications for residents seeking territorial office;

And be it further resolved that the new legislation not prohibit elected members of municipal level government from seeking office or from being elected to the Yukon Legislative Assembly.

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The Honourable Doug Graham

- 2 -

February 21, 1980

If you or the Clerk of the Legislative Assembly would like any clarification of the Association's position, please feel free to get in touch with me at your convenience.

Yours sincerely,

Alderman Jon Pierce,
President

→ c.c. - Clerk,
Legislative Assembly