

**YUKON TERRITORY
CONFLICT OF INTEREST COMMISSION**

**ANNUAL REPORT
July 1997 - June 1998**

**The Hon. E.N. (Ted) Hughes, Q.C.
Commissioner
June 29, 1998**

CONFLICT OF INTEREST COMMISSION

ANNUAL REPORT

July 1997 - June 1998

The last twelve months have been relatively quiet insofar as matters pertaining to the administration of and compliance with the *Conflict of Interest (Members and Ministers) Act* of Yukon are concerned.

In my last annual report I outlined the circumstances that will place a Member and a Minister in a conflict of interest situation. Generally speaking those circumstances are found in section 2 of the Act. Also in my annual report of last year I detailed other situations that would constitute violations of the Act. I then said:

To assist members in avoiding the situations described above, the Commissioner is required to advise Ministers and Members, who request advice, on factual situations that they bring to him. With reference to that provision, I wrote to all Members of the House on December 6, 1996, advising that:

“If you have any concerns ... you can certainly telephone me at any time for the purpose of discussing the matter If you require a formal opinion on which you can rely for all future purposes, it will be necessary for you to write to me, setting out the facts and circumstances of the situation that causes you concern, and it will then be my responsibility to write an opinion on the matter and to forward it to you.”

I cannot over emphasize that advice. I am available for telephone conversations with Members and Ministers at any time in order to assist them. but if an opinion is required on which the Minister or Member can rely for all purposes. including quoting in the House and elsewhere, it is necessary that the request for the Commissioner's advice be made in writing and that the request outline the circumstances of the situation that gives rise to the request for the Commissioner's advice. The Commissioner is bound to respond in written form.

During the last 12 months I have given written opinions on six occasions. I have two other requests with respect to which I am now in the course of preparing responses.

Once again I am able to report that I have not received any complaints of violation of the Act, with the result that no investigations under the Act have been carried out by me during this reporting period. I attribute that very satisfactory state of affairs to the appreciation, regard and respect that Honourable Members have for the *Conflict of Interest (Members and Ministers) Act*. Every possible endeavour is made by Members to avoid violations and I am grateful that the elected legislators of Yukon make contact with me when they sense an area that requires discussion with and consideration by the Commissioner. Hopefully that trend will continue. Such an approach obviously pays dividends for members and allows them to devote their time in a productive way to meet their responsibilities of office.

During the year a lead editorial in a newspaper published in Whitehorse asked the question why the Conflicts Commissioner had not "been asked to look into the allegations swirling around some former and current bureaucrats...?" The services of the Commissioner are required, the editorial continued, and then stated that the public needs answers to questions raised by the newspaper and apparently by others. I was quick to advise the editorial writer that the Act under which I meet my responsibilities has application only to the activities of the elected members of the Legislative Assembly and that is likely why I had not been asked to look at the matters raised by the editorial, in that I could not respond in a positive way to requests that I do so.

The foregoing took me back to my days as Conflict of Interest Commissioner in British Columbia and the third of seven recommendations made in my last annual report (1995-96) to the Legislature of that province wherein I recommended that Senior Officials in the employ of government be brought under the provisions of the *Members' Conflict of Interest Act*. By way of explanation I said on that occasion:


I raise the matter of Senior Officials because it is my experience that there are those in government who, because of the responsible and sensitive position they hold are more often confronted with ethical dilemmas and potential conflict of interest situations than are backbenchers in the Legislature, whether they be on the government or opposition side. Existing conflict of interest legislation is applicable to the latter and not to the

former. I refer particularly to political exempt staff of the Premier and his Ministers and also to Deputy Ministers and those who rank at that level usually by virtue of order in council appointment. The holders of these positions often have access to extremely confidential information and some of them are in a position to exert considerable influence through input into policy decisions and legislative initiatives.

Consideration of whether those in these positions ought to meet the standards imposed on members of the Legislature by virtue of the requirements of the *Members' Conflict of Interest Act* is, I believe, worthy of consideration of the decision makers in government.

Notwithstanding that no change has been made to the British Columbia statute since my recommendation of 30 months ago, I nevertheless suggest the same consideration, for the same reasons, is warranted by the Legislative Assembly of Yukon and I so recommend.

Respectfully submitted this
29th day of June, 1998.



The Hon. E.N. (Ted) Hughes, Q.C.
Commissioner of Conflict of Interest