

Adjournment Debate

the Harbour Commission was interested in purchasing. However, the appointment was made anyway, despite the conflict of interest that would have been glaringly apparent to all in 1986 when the present Deputy Prime Minister, in his capacity then as Minister of Transport, made the appointment. Mr. Lush had to swear an oath in relation to the Hamilton Harbour Commission's policy guidelines. The objective of the guidelines are clear:

The object of this policy is to conserve and enhance public confidence in the integrity of the Hamilton Harbour Commissioners by establishing clear rules of conduct respecting conflict of interest and to minimize the possibility of conflicts arising between private interests and the public duties conferred upon commissioners."

• (1730)

Not only were sections of the policy breached by Mr. Lush, but the objectives stated above were not even considered by Mr. Lush until three years after his appointment, and only then because the matter was raised in this House. However, his business associations in connection with the harbour commission should have been dropped at the outset of his appointment, as is prescribed in the conflict guidelines. Guideline (d) provides that: "On appointment to office, Commissioners shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising." In short, Mr. Lush should have either given up those listings that the harbour commission was interested in and for which he was the broker, or Mr. Lush should not have accepted the appointment in the first place.

The law firm engaged to report on the conduct of Mr. Lush, commissioned by this government, reported to the minister in connection to this very point:

In order to comply with guideline (d), Mr. Lush had an obligation to arrange to have Lush Realty Corp. cease acting as the vendor's agent for J.I. Case, in its dealings with the Hamilton Harbour Commissioners as soon as he took office as a commissioner in January, 1987, and not over three years later on March 13, 1990. Mr. Lush did not, by simply declaring his interest and abstaining from decisions, avoid or withdraw from the situation that was giving rise to the conflict. By continuing to have his company act as agent for J.I. Case, he was in a position of constant and continuing conflict.

Mr. Lush advised the Minister of Transport on March 13, 1990 of his decision to dissociate his group of companies with J.I. Case lands in Hamilton, which he

should have done much sooner. However, evidence has shown that Mr. Lush did not sever those ties. Notwithstanding, it was convenient for him to declare a dissociation because the final deal on the \$10 million property in question was made on March 9, 1990, just four days earlier.

During those crucial days, I drew to the attention of the Minister of Transport that Mr. Lush was in a continuing conflict of interest in his capacity as Chairman of the Hamilton Harbour Commission. The minister merely challenged me to make my allegations outside of this House, which I eventually did, but he did not address the substance of my concerns. The minister said that there was an allegation made at an earlier time, which was vetted by the counsel for the Hamilton Harbour Commission.

I would like to know how two so diametrically opposed and dissimilar reports could have been issued with regard to the affairs of Peter Lush. The first report into the affairs of Mr. Lush came as a result of one of the commissioners requesting the commission's lawyers to give an opinion as to Mr. Lush's position.

The law firm noted that Mr. Lush was in a conflict of interest, but that he had declared so and refrained from decisions with respect to the properties as a commissioner. The firm also noted that with respect to section (j) of the policy guidelines, that "a commissioner should not—enter directly or indirectly into a transaction of a pecuniary nature either with himself or any other member of the commission", and that, "purchase of land by the commission was not a transaction of a pecuniary nature with Mr. Lush, either directly, or indirectly. The transaction is with J.I. Case, and while Mr. Lush will clearly benefit from the purchase, he is not a party either directly or indirectly to the purchase of the land."

Subsequently, after I asked numerous questions in the House last March, the harbour commission again consulted its lawyers in regards to those accusations and was given the same opinion.

The most recent legal opinion of November 5, 1990, goes completely contrary to the advice given to the harbour commission in 1989. The law firm which the Minister of Transport commissioned set out the conflict in precise terms: