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Native truth forum mired in conflict

Former chair opposed government structure; meeting today will try to save commission

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Three months before he resigned as chair, Justice Harry LaForme cited serious problems over a lack of independence of the aboriginal residential schools commission from the federal government.

"Unfortunately, it is money and other issues that are putting the crucial independence of the commission at risk," LaForme, then chair of the Indian Residential Schools Truth and Reconciliation Commission, said last July.

In a speech to the Assembly of First Nations, LaForme outlined how the government created problems by setting up the commission's secretariat – its operating arm – as a federal department with its director reporting to the minister of Indian affairs, and not to LaForme and the other commissioners, as appears to have been mandated.

The problem of two lines of authority, as well as Ottawa holding the purse strings, has not been solved, a source close to the commission said yesterday, on the eve of today's meeting in Toronto to try and save the troubled commission, now operating without a chair.

Yesterday, justice department lawyer Paul Vickery said the secretariat had to be set up as it was for "financial accountability."

He stressed there was "no intention in any way to interfere with the independence of the commission."

The erosion of independence feared by LaForme was not the only source of conflict affecting the commission's work.

People close to the commission are loath to speak on the record. Emotions are high and many aboriginal survivors of abuse in residential schools await hearings to put their stories of abuse on the public record.

LaForme has not commented beyond a letter of resignation that cited a completely different reason – lack of respect for his authority by the other two commissioners.

However, sources close to the commission say tensions between LaForme and the other commissioners arose from an underlying conflict over the role of the Assembly of First Nations in the commission's affairs, as well as the scope of the work itself.

Phil Fontaine, the national chief of the AFN, declined to be interviewed for this article, but told a press conference last month that it was never envisaged LaForme would rule the commission with complete authority.

"We never contemplated that one commissioner would be more important than the other two commissioners," he said.

Setting up the secretariat by order-in-council with a line of authority directly to Ottawa appears to contradict the instructions for its operation in the court agreement that settled a massive class-action lawsuit launched by survivors and their families.

LaForme's speech emphasized the federal government should not control the money. The government's commitment to "provide funding for the (commission) is a legal obligation" under the terms of a court judgment to settle years of fighting for compensation for the survivors of church-run residential schools, he said.

The agreement says the secretariat and its executive director "shall be subject to the direction and control of the commissioners."

Participants in today's meeting hope to rescue a commission whose mandate derives from the agreement in 2006 that ended the lawsuit and awarded close to \$2 billion to aboriginal survivors of mental and physical abuse at residential schools run by Canadian churches for more than a century. The success of the commission in hearing testimony from some of the 80,000 survivors is considered

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critical to a process of healing and changes in Canadian society that included last June's apology in Parliament by Prime Minister Stephen Harper.

Former Supreme Court judge Frank Iacobucci has stepped in as facilitator among parties at today's meeting of lawyers representing the federal government, churches, the Assembly of First Nations and the national Inuit Kanatami Tapiriit. Iacobucci, chair of Torstar Corp., which owns the *Toronto Star*, was federal negotiator for the residential schools settlement.

In his resignation letter in October, LaForme did not cite problems with the federal government as a reason the commissioners were stalemated. Instead, he said the other two commissioners – health expert Claudette Dumont-Smith and lawyer Jane Brewin Morley – did not accept his authority as chair.

In his letter to Indian Affairs Minister Chuck Strahl, LaForme, a Mississauga Indian and Ontario Appeals Court judge, accused the other commissioners of "betraying (his) trust." He also referred to their "supporters."

Sources say this reference points to the other big stumbling block to the commission's work – disagreement over how much influence the AFN should have in the commission's process. These sources say the other two commissioners believed the AFN should have a considerable role and met with AFN officials over LaForme's head.

LaForme also told the minister that Dumont-Smith and Brewin Morley have a "restricted view" of the commission's work that sets "truth" – the painful telling of personal stories by survivors at hearings – as the main mandate of the commission.

"Unlike mine, theirs is a view that leaves much of the work of reconciliation," wrote LaForme. Instead, he wanted to place more emphasis on reconciliation, through recommendations to avoid future problems.

The commissioners released a joint letter disputing his claim that they disrespected him and expressing sadness at events.

Neither the settlement agreement nor the orders-in-council setting up the commission say who is doing what. The chair is given a five-year full-time mandate, while the commissioners work part-time for half of that process.

It's expected determining the terms for how commissioners will work together, as well as the process for replacing LaForme, will be on today's meeting agenda.

It isn't clear whether the parties will replace the other commissioners. However, Brewin Morley said in an interview she and her colleague are continuing to work, even without LaForme. She refused to comment further. Dumont-Smith could not be reached for comment.

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