



Fourth Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Privileges and Elections

Chairperson
Mr. Peter Dyck
Constituency of Pembina



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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Wednesday, December 16, 1998

TIME – 1 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Peter Dyck
(Pembina)**

**VICE-CHAIRPERSON – Mr. Denis Rocan
(Gladstone)**

ATTENDANCE – 11 – QUORUM – 6

Members of the Committee present:

Ms. Barrett, Mr. Dyck, Mrs. Driedger,
Messrs. Kowalski, Laurendeau, Martindale,
Rocan

Substitutions:

Hon. Mr. Gilleshammer for Mr. Helwer
Mr. Mackintosh for Ms. McGifford
Hon. Mr. McCrae for Mr. Fauschou
Ms. McGifford for Mr. Mackintosh

MATTERS UNDER DISCUSSION:

The June 1998 Report and Recommendations
of the Judicial Compensation Committee

* * *

Mr. Chairperson: Good afternoon. Will the Standing Committee on Privileges and Elections please come to order. This afternoon the committee will be resuming considering the report and recommendations of the Judicial Compensation Committee dated June 1998.

Committee Substitutions

Mr. Chairperson: Before starting the business of the committee, there are a number of committee resignations that must be dealt with.

I have before me the resignation of Mr. Ed Helwer as a member of the Standing Committee on Privileges and Elections effective December 16. Are there any nominations to replace Mr. Helwer?

Mr. Denis Rocan (Gladstone): I would like to move Mr. Gilleshammer.

Mr. Chairperson: Is it agreed that he be on the committee? [agreed]

I have before me the resignation of Ms. McGifford as a member of the Standing Committee on Privileges and Elections effective December 16. Are there any nominations to replace Ms. McGifford?

Mr. Doug Martindale (Burrows): I nominate Mr. Mackintosh.

Mr. Chairperson: Mr. Mackintosh has been nominated. [agreed]

I have before me the resignation of Mr. Fauschou as a member of the Standing Committee on Privileges and Elections effective December 16. Are there any nominations to replace Mr. Fauschou?

Mr. Marcel Laurendeau (St. Norbert): I nominate Mr. McCrae to replace Mr. Fauschou.

Mr. Chairperson: Mr. McCrae has been nominated. [agreed]

We now have a vacancy for the position of Vice-Chairperson. Are there any nominations?

Mrs. Myrna Driedger (Charleswood): I would like to nominate Mr. Rocan.

Mr. Chairperson: Mr. Rocan has been nominated. [agreed]

* * *

Mr. Chairperson: Did the committee wish to determine what time we will rise today? Is that as soon as possible or as time permits? [interjection] All right.

We will now turn to resuming consideration of the 1998 report of the Judicial Compensation Committee. Just to remind committee members, this committee met on July 16 to first consider the report, and at that time the committee heard comments from a representative of the Provincial Judges Association, Mr. Robb Tonn. Following the presentation of Mr. Tonn, the committee agreed to defer consideration of the Judicial Compensation Committee report to a further committee meeting to allow committee members the opportunity to further consider the recommendations of the Judicial Compensation Committee and also consider the comments of Mr. Tonn.

The committee then met on September 15, 1998, to discuss the June 1998 report and recommendations of the Judicial Compensation Committee. At the September 15 meeting, the committee did not complete consideration of the report. I believe it would be appropriate to have some comments from committee members if they wish to make opening statements and to also seek some consensus from the committee about how the committee should continue proceeding with the consideration of the report and recommendations of the Judicial Compensation Committee.

I will now open the floor for comments at this time.

Hon. Harold Gilleshammer (Minister of Labour): Mr. Chairman, you have ably reflected the outcome of the first meeting of July 16 and the second meeting of September 15. The purpose of the third meeting today is to table a recommended report of the standing committee and to request a vote on the recommendations. I would table that now, and I would like to propose a motion.

After hearings in 1997 and 1998, the third Judicial Compensation Committee submitted its report to the Minister of Justice (Mr. Toews) on June 23, 1998. On June 29, 1998, the report was tabled in the Legislature. The Legislature referred the report to the Standing Committee on Privileges and Elections. The first meeting was held on July 16 and the second on September 15, 1998.

Following a review and discussion of the recommendations of the Judicial Compensation Committee, the Standing Committee on Privileges and Elections recommends the following, and I would move, seconded by the member for Brandon West (Mr. McCrae), that the Standing Committee on Privileges and Elections accept the recommendations in Schedule A and recommend the same to the Legislative Assembly of Manitoba; that the Standing Committee on Privileges and Elections not accept the recommendations in Schedule B, for the reasons individually and collectively set out in Schedule B, and recommend the same to the Legislative Assembly of Manitoba.

Mr. Chairperson: Thank you. It has been moved and it has been seconded. Are there any further comments or questions to the recommendation?

Mr. Laurendeau: Mr. Chairman, I think we are going to need just five or so minutes, maybe 10 minutes to go over this, if you do not mind.

Mr. Chairperson: If that is agreeable, we will do that. We will then return at 1:25 p.m.. Is that fine? Agreed? [agreed]

*(1310)

The committee recessed at 1:10 p.m.

After Recess

The committee resumed at 1:22 p.m.

Mr. Chairperson: Before we get into discussing the motion that we have on hand, I would just like to introduce a new page, Renee

Smith, and she is from Dakota Collegiate. Would you please welcome her. Welcome here.

I am going to ask the honourable minister to introduce his staff.

Mr. Gilleshammer: We have Gerry Irving, the ADM for Labour Relations with the Civil Service Commission—I think he is known here—and Bob Pruden, Director of Negotiations with the Civil Service Commission.

Mr. Chairperson: Okay, thank you. I will read the motion and then I will open it for discussion: That the Standing Committee on Privileges and Elections accept the recommendations in Schedule A and recommend the same to the Legislative Assembly of Manitoba; that the Standing Committee on Privileges and Elections not accept the recommendations in Schedule B, for the reasons individually and collectively set out in Schedule B, and recommend the same to the Legislative Assembly of Manitoba.

This motion is in order and I open it up for questions or comments.

Mr. Gord Mackintosh (St. Johns): I just have a few remarks in particular with regard to Schedule B. Under point 1, we are prepared to let that go to the Legislature. When looking at Argument D, for example, we think that some importance should be attached to that approach. With regard to point 2, we certainly have strongly held that judges not be entitled to free parking, so we certainly support that. With regard to point 3, we have had concerns about the government's position on that. However, I think that argument set out in paragraph sub (c) is a strong one, although it may be worthwhile to consider at least some nominal amount for assistance in the future.

The main point we have, though, and this is carried over from the last meeting, was with regard to the professional allowance that has been requested and which the government appears to be intent on providing. On September 15 in this committee we raised the concern that the current recommendation does not allow for any cap or criteria as to what would constitute a professional allowance for judges.

Now, we as MLAs are very well aware of the strict guidelines or constraints on what is an allowance for MLAs. I note, for example, in the report of the compensation committee, these words, and I will just quote: the government ought to reimburse judges for all reasonable expenditures incurred in the conduct of their work, including the cost of clothing and the dry cleaning of clothing unique to judges.

It then goes on to say: government should also pay for the cost of any continuing education for judges, including the cost of attending periodic professional development courses and conferences.

The example I used last time was what if there was a jurist conference in Tokyo and all the judges decided that they were going to go, I think not only would that be not in the interests nor in the interests of the reputation of the administration of justice and judges, but there is nothing currently to prohibit that. I mean, who is going to say no if that kind of a request was made? As well, what is the cost of clothing unique to judges? Is it only the gowns that they must wear? That would be a reasonable employment expense, and I would support reimbursement for that, but that is not what is set out in the recommendation. So I think we have an obligation to ensure that there is no misuse of any professional allowance that is provided to judges. I know I asked Minister Stefanson last committee to carefully consider our concerns in that regard.

So, both in the interests of the reputation of the bench and in the interests of public finances, I would strongly urge that the issue of professional allowance be sent back to the compensation committee for negotiations to take place on a cap, first of all, and, second of all, guidelines as to what would constitute reasonable expenses incurred by judges.

Mr. Chairperson: Any further questions?

Mr. Gilleshammer: Yes, just to clarify that expenses are currently being paid in accordance with government policy.

Mr. Mackintosh: Well, I wonder then if the minister could provide an example. If, say, 10

judges requested that they go to a jurist convention in, say, Tokyo, for example, would that be approved as a reasonable expense incurred in the performance of their duties? What would the government guidelines have to say about that particular example?

Mr. Gilleshammer: I am informed that they would make their request to the Chief and that the request would have to fall within the existing budget.

Mr. Mackintosh: What would be the existing budget for professional allowances then?

Mr. Gilleshammer: That is contained in the annual Estimates of the Department of Justice. We do not have that with us today.

Mr. Mackintosh: I wonder if the minister could provide a copy of the guidelines that are currently in place then and that would apply to judges when they request that expenses be reimbursed.

Mr. Gilleshammer: We would provide that information for you.

Mr. Chairperson: Okay, further questions? Then I will call for the question. Those in favour of adopting this motion, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: Those opposed, say nay. The Yeas have it. It is carried.

Mr. Mackintosh: Yes, I want to resign. If the committee is finished this area of work, I want to resign from the committee.

Hon. James McCrae (Government House Leader): Mr. Chairman, we need to address another item, and I understand there may be committee changes that need to happen. Would it be the will of the committee to recess for five minutes before proceeding to that other matter?

Mr. Chairperson: Is it the will of the committee? [agreed]

*(1330)

The committee recessed at 1:30 p.m.

After Recess

The committee resumed at 1:32 p.m.

Committee Substitutions.

Mr. Chairperson: Before we get into anything further, I have before me the resignation of Mr. Mackintosh as a member of the Standing Committee on Privileges and Elections effective December 16. Are there any further nominations?

Mr. Martindale: I nominate Ms. McGifford.

Mr. Chairperson: Ms. McGifford has been nominated. All agreed? [agreed] Shall we now proceed?

* * *

Mr. McCrae: I think any requests that need to be made should be made by the honourable member for The Maples (Mr. Kowalski). I would like to ask you to recognize the honourable member.

Mr. Gary Kowalski (The Maples): I would ask the indulgence of the committee if by leave we could deal with another matter that this committee has not been called for today, and it is in regard to the hiring of the new Child Advocate. It is an emerging issue that requires some expediency in dealing with it, and I am wondering if we could deal with that matter right now seeing as the committee is present today.

Mr. Chairperson: There has been a request made, and is there leave in order to proceed with that? [agreed] Leave has been granted; we shall proceed.

Mr. Kowalski: I would make a motion that—

Mr. Chairperson: We are in camera, therefore—

Mr. Kowalski: I was going to make a motion that we go in camera.

Mr. Chairperson: Please proceed, Mr. Kowalski.

Mr. Kowalski: I would like to make a motion that, as we have done everything else in regard to this hiring process, this committee go in camera from this point.

Point of Order

Mr. McCrae: On a point of order, Mr. Chairman, I believe for that motion to be moved, leave would be required. That is my understanding.

* * *

Mr. Chairperson: Is there leave granted for that motion? [agreed]

I move, seconded by Mr. Laurendeau, that the committee go into camera. Agreed? [agreed]

We will ask all others then to leave the room so that we can proceed with the in camera. Shut off all the microphones, please.

The committee went in camera at 1:34 p.m.

The committee resumed at 1:50 p.m.

Mr. Chairperson: The hour being 1:50 p.m., what is the wish of the committee?

An Honourable Member: Committee rise.

Mr. Chairperson: Agreed? [agreed]

COMMITTEE ROSE AT: 1:50 p.m.