



Third Session - Thirty-Sixth Legislature
of the
Legislative Assembly of Manitoba
Subcommittee of the 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 SUBCOMMITTEE OF THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Thursday, June 19, 1997

TIME – 3 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE – 4

Members of the Committee present:

Messrs. Dyck, Helwer, Kowalski, Martindale

MATTERS UNDER DISCUSSION:

To consider and approve the report of the Subcommittee of the Standing Committee on Privileges and Elections on the review of the Office of the Children's Advocate

Mr. Chairperson: Order, please. Will the Subcommittee of the Standing Committee on Privileges and Elections please come to order. This afternoon the subcommittee will once again examine the draft report on the review of the Children's Advocate provisions contained within The Child and Family Services Act.

I just wanted to advise the subcommittee that three minor changes were made to the report. The name of one presenter had been omitted, Leslie Galloway, who presented with Irma MacKay, and her name has been added to the list on page 3 of the report.

In addition, for the sake of consistency, all presenters now have the designation of either Mr. or Ms. In previous drafts, some presenters were so designated, while others were not.

Also, on page 1 of the report, the name Manitoba Telephone System has been changed to Manitoba Telecom Services, as that is the correct name for the corporation.

So those are the very minor changes. Are there any questions to that?

Mr. Doug Martindale (Burrows): I do not have anything to add about corrections, but I would like to put a few brief remarks on the record if this is an appropriate time to do so.

Mr. Chairperson: What is the wish of the committee? I believe what my intentions would be to go through the recommendations as we have them. Again, I seek guidance here, but I would wonder, as we do the recommendation, if after the recommendation you would want to put some comments, or is this on the overall report, Mr. Martindale? Just for clarification.

Mr. Martindale: First of all, I would like to start off with a compliment and say that the Chairperson has been a very easy person to work with. I have enjoyed getting to know the other committee members better because we travelled to Thompson. We had two trips to the Trizec building for teleconferencing, which was a very interesting experience.

However, I and we do have some disappointments. One of them began right at the beginning of this process when we asked the government to name some women to the committee, and they declined to change their membership. This afternoon there are three women from the NDP caucus who are here and a fourth one who would have been here, but she is speaking on Bill 48.

Since we are dealing with children, a little more, even an attempt towards gender parity on the part of the government caucus would have been appreciated. Also, I reluctantly agreed to carry on this process during the session, and it has proved quite onerous, because in opposition we have to prepare critic papers to caucus in addition to attending committees, which everybody does, and it turned out to be quite a lot of pressure since we are coming down to the wire here at the end of the session. Also, I was disappointed that we invited the minister to appear, and the government

members voted against that. I thought it was a good idea, but the government obviously did not.

Finally, as I have already said in the meetings that the committee has had, we will be issuing a minority report on a couple of items, but we are supporting the rest of the report.

Mr. Edward Helwer (Gimli): Mr. Chairman, I do not have any problem with the member for Burrows. As far as the ladies on the committee, unfortunately, at that particular time when the committee was made up, our women members of our caucus were all busy with other things. One thing I would like to correct the member on and that is that we have a woman who is the Minister of Family Services (Mrs. Mitchelson) who certainly will be receiving the report from us I guess. So I think that will balance any concerns the member may have as far as the representation on the committee.

I am really pleased that the member for Burrows agrees with the recommendations or most of the recommendations at least. I have to agree with him; it has been an excellent experience working on this committee. He is right. We did get to know the other members better, and I think that is fine. The committee did work very well. Thank you, Mr. Chairman.

Mr. Gary Kowalski (The Maples): Well, I was not planning to make an opening remark, but I might as well. Everyone else has. I also have to say that it was a pleasure to be on this subcommittee. I also echo the words of the member for Burrows (Mr. Martindale). The Chairperson did an excellent job, and I do not think we should forget the excellent help we received from the Clerk's Assistant, from the Hansard staff who accompanied us on our trip to Thompson and from the staff in Family Services, Bruce Unfried, who without their help and assistance, I do not think it would have been as pleasurable experience as it was.

I was disappointed to hear that we will not have a consensus report. That was a big disappointment because I do not think it is that often that we have all-party committees. If an all-party committee cannot develop a consensus, some people would question the value of striking all-party committees then, because you might as well just have government committees, and we

could debate it in the Legislature later. So that is a big disappointment.

I know on a number of recommendations, they are not exactly the way I wanted. I was able to get some of the aspects that I wanted in the recommendations. Some things are not in there that I would like to see and I did compromise, but I thought it was very important that we have a consensus report, and I am disappointed that we will not have one.

Mr. Chairperson: I, too, would like to then put a few comments on the record as Chairperson of the committee. It was a privilege to be able to Chair this committee. I think again, as has been stated several times, the working relationship was a good one.

I will just make a comment specific to what Mr. Kowalski just said now about a consensus report. I think, too, it is important when we go—and we certainly listen and hear representatives come up with their opinions and their concerns and so on—that at the end of the day, if at all possible, that we come up with the report which identifies the concerns that we have heard and possibly some of the things also that are going well, and we heard that as well. It has not only been negativism out there.

I believe on all sides there has been a give and a take. Certainly, I think that we tried to massage this the best we could to make it fit, and, so, again, I want to thank you for the work that you have done, for the work that the Clerk Assistant, Patricia, did, did a lot of work in arranging and certainly assisting us and, of course, Mr. Bruce Unfried.

With that, I suggest we go and start on page 7 of our report, and, again, I would just like for you to indicate—but I believe the information until page 7 is something that we can enter into the record is what we heard and can be identified that way. Is that the wish of the committee? [agreed]

Then we will move on to page 7, and we will deal with the first recommendation, 1.1: The Office of the Children's Advocate report directly to a committee of the Legislature. [agreed]

1.2: The Children's Advocate be appointed for a specific term of office. The term of office will consist

of two three-year terms with a review of the position being completed after the initial three-year period. [agreed]

1.3: The Office of the Children's Advocate maintain its present responsibility for all children with the Child and Family Services System. There is a related need to ensure that the Children's Advocate continues to have the authority to receive complaints from across all government departments and forward these referrals to the appropriate agency/person for resolution. Then the example given: A referral may be made to the Office of the Ombudsman and screened by the Investigator, Child and Adolescent Services.

* (1510)

Mr. Martindale: Our caucus would like to expand on this, so I will be submitting a minority report.

Mr. Chairperson: On the 1.3, there will be a submission by Mr. Martindale reflecting the wishes of his caucus. Do the others agree with the recommendation?

Mr. Kowalski: Just a question about process. Does that mean any member of the committee could add anything they want as an addendum to this report?

Mr. Chairperson: Well, I guess, No. 1, it would have to be within a very specific time. It needs to be done by, I guess, tomorrow, but then, of course, we are straying away from a consensus report.

Mr. Kowalski: Well, on the question of process, do we have to have agreement from the committee to allow myself or anyone else to add something to this report?

Mr. Chairperson: Okay, that is a good question. I guess the way the House of Commons—and those are the rules that we were trying to reflect here, that if it was going to be a minority report or rather there was not going to be a consensus, that at the end of each recommendation that comments could be made.

I guess in a sense you have caught me a little off guard on this, Mr. Kowalski, in that I thought we had agreement previous to this, that Mr. Martindale was not

going to be agreeing to two of the recommendations, but the rest were all by consensus, that we would agree. So if we need to change the process, we need to talk about that.

Mr. Kowalski: No, my question was just does there have to be a vote to have a minority report included?

Mr. Chairperson: I guess I have been advised the answer is no.

Mr. Kowalski: Okay, thank you.

Mr. Chairperson: So then on this one, as I indicated before, there is going to be an addendum added to that, outlining the details there.

Then we will move on to 1.4: In cases where the Children's Advocate and an agency continue to disagree, a referral of the case be made to the director of Child and Family Services for resolution under The Child and Family Services Act. The outcome of such referrals should be directed to the Office of the Children's Advocate for inclusion in the yearly report.

Mr. Martindale: My caucus will not be supporting this recommendation. However, in my minority report, we will be recommending the original wording which said, the Children's Advocate resolve any matter regarding compliance to recommendations through the use of mediation, conciliation or other dispute resolution services. Failure to resolve the issue at this level will necessitate a referral to a third party arbitrator for a binding resolution.

Mr. Chairperson: Okay. Other than that, Mr. Kowalski.

Mr. Kowalski: When Mr. Martindale refers to original wording, I think there should be some clarification as to the source. In our informal committee meetings, there were a number of discussions. I put forward a number of different wordings on each recommendation. I thought those were left back there; that to bring them forward now and confer, I thought those were informal meetings that we held that we could be open and put different possibilities. Now to bring them forward as an earlier version I do not think is appropriate. If Mr. Martindale wants to bring some wording forward as his

recommendations minority report he may, but to refer to any draft during that process I do not think is fair.

Mr. Helwer: Mr. Chairman, I also cannot agree with Mr. Martindale's recommendations there. I think we had a kind of consensus as to what the committee recommends. There really is the direction of what the Children's Advocate should do. I believe 1.4 does outline what we had agreed with and that the outcome of such referrals should be directed to the Office of the Children's Advocate then in the inclusion of the yearly report. I had some impression that is what we had agreed on as a committee, and I am sorry I cannot accept Mr. Martindale's recommendations.

Mr. Chairperson: Okay, in trying to decipher this, it would be my suggestion that we strike from the records that is something that was previously agreed upon. If Mr. Martindale wants to come up with a resolution, as we indicated before, obviously that is his prerogative to do that, but it would be my suggestion that we do not in any way reflect and use the words that this was something that was agreed previously within the subcommittee, because certainly we were in informal sessions where we were discussing it. So that would be my determination of that.

Mr. Martindale: Well, I will not agree to strike something from the record. It is already on the record. I do not think there is any process for getting it off the record unless the majority inflicts its will on a minority. I just put on the record the source of my recommendation.

Mr. Chairperson: I understand what you are saying, but I would not want this to be reflected in a report which is going to be going out which is going to be, later on, addressing your response underneath the recommendations that we have. The way I would determine it is that you have the prerogative to put down your comments, but not, in that, deem that these are the ones that we talked about previously in a committee. That would be something that would be in the official report. Okay. Is that agreed upon?

An Honourable Member: Carry on.

Mr. Chairperson: Okay, thank you. Then we will move on to 1.5: "The Children's Advocate must delegate his authority to ensure greater access to

services of the office to children and families in rural/northern Manitoba. Section 8.4 of the present legislation reads that '... the children's advocate may in writing authorize any person to perform any of the duties or exercise any of the powers of the children's advocate.'" Agreed?

Mr. Martindale: No.

Mr. Chairperson: We are in agreement other than for Mr. Martindale who will be indicating his preference later on.

Mr. Martindale: Our views on this recommendation will be in our minority report.

Mr. Chairperson: 1.6 That the Office of the Children's Advocate, the Department of Family Services and other key stakeholders commence a process of developing measures which would evaluate the goals, objectives and outcomes of the Child and Family Services system. The status of this process will be included in the next Annual Report of the Children's Advocate. [agreed]

Is there any other business that this committee needs to look at?

Mr. Kowalski: I just want clarification on the report, the way it will be structured. I have seen minority reports where they were added as an addendum at the end of the report. Some of your earlier comments indicated that after each one of the recommendations in the subcommittee's report, that the minority opinion would be included afterwards. My own personal feelings are that the minority report should be viewed as an addendum at the end of the subcommittee's report and not be included in the body of the subcommittee's report.

Mr. Chairperson: Okay. A very good point. Thank you, Mr. Kowalski. Again, I have just been advised that in the House of Commons, if you object to the total report, that is where you would have an addendum at the conclusion of the report which would reflect that. When it is on specific ones, the option is there, that you could put them underneath a recommendation. However, if the committee so wishes that we add this as an addendum at the end of the report, I am certainly open to advice on that.

Mr. Kowalski: I would make a motion that any minority report be included in this addendum at the end of the report.

* (1520)

Mr. Chairperson: It has been moved—is that agreed upon?

An Honourable Member: No.

Mr. Chairperson: Those in favour, please indicate. Order, pardon me. Okay, I need to call for a voice vote first.

Voice Vote

Mr. Chairperson: Those in favour, please say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Chairperson: In my opinion the Yeas have it. So then we will include that as an addendum at the end of our subcommittee report.

Mr. Martindale: Just a question on the rules we are operating under. You wanted to strike something out and I objected, and you said “agreed.” Did you decide,

as Chair, that it was going to be struck out or what happened there?

Mr. Chairperson: No, I think my—okay, and I stand to be corrected here. My sense of it was that we cannot strike that from the record. It has been said, but that will not be reflected in the report. Okay. It will not be reflected in the report itself, the preamble that you had to your comments.

Mr. Martindale: I object. I guess this is a point of order. I object to the Chair saying that something that is being recorded by Hansard be struck out.

Mr. Chairperson: No, I did not say that. I said that when we do our report, that I did not want those comments reflected in the report that we had talked about previously. We are not striking this from Hansard.

Mr. Kowalski: Just clarification. So this subcommittee is now recommending approval of this report along with any addendum from any minority as presented here today?

Mr. Chairperson: That is correct. Is that agreed upon? [agreed]

Committee rise. Bells are ringing.

COMMITTEE ROSE AT: 3:23 p.m.