

First Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mr. Tom Nevakshonoff
Constituency of Interlake

Vol. LIV No. 1 - 2 p.m., Thursday, November 13, 2003

ISSN 1708-668X

MANITOBA LEGISLATIVE ASSEMBLY
First Session—Thirty-Eighth Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ALTEMEYER, Rob	Wolseley	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
BJORNSON, Peter	Gimli	N.D.P.
BRICK, Marilyn	St. Norbert	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
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DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
EICHLER, Ralph	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin	Steinbach	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HICKES, George, Hon.	Point Douglas	N.D.P.
IRVIN-ROSS, Kerri	Fort Garry	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
JHA, Bidhu	Radisson	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MELNICK, Christine	Riel	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
OSWALD, Theresa	Seine River	N.D.P.
PENNER, Jack	Emerson	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
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ROWAT, Leanne	Minnedosa	P.C.
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SMITH, Scott, Hon.	Brandon West	N.D.P.
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STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
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TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Thursday, November 13, 2003

TIME – 2 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Tom Nevakshonoff
(Interlake)**

**VICE-CHAIRPERSON – Mr. Doug
Martindale (Burrows)**

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Mackintosh,

Messrs. Hawranik, Maloway, Martindale,
Nevakshonoff, Reimer, Rondeau

Substitutions:

Ms. Korzeniowski for Mr. Dewar
Hon. Mr. Selinger for Mr. Bjornson
Mrs. Taillieu for Mr. Tweed
Mr. Goertzen for Mrs. Mitchelson

APPEARING:

Ms. Susan Dawes, Manitoba Provincial
Judges' Association

MATTERS UNDER DISCUSSION:

The Report and Recommendations of the
Judicial Compensation Committee dated
March 12, 2003.

Clerk Assistant (Mr. Rick Yarish): Good afternoon. Will the Standing Committee on Legislative Affairs please come to order. Your first item of business is the election of a Chairperson. Are there nominations?

Mr. Jim Rondeau (Assiniboine): I nominate the Member for Interlake (Mr. Nevakshonoff).

Mr. Clerk Assistant: Mr. Nevakshonoff has been nominated. Are there further nominations? Hearing none, Mr. Nevakshonoff, would you please take the Chair.

Mr. Chairperson: Good afternoon. Our next item of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Rondeau: I nominate Mr. Martindale.

Mr. Chairperson: Mr. Martindale has been nominated. Are there any other nominations? Hearing no other nominations, Mr. Martindale is elected Vice-Chairperson.

Committee Substitutions

Mr. Chairperson: Prior to proceeding with other business we will need to deal with some committee resignations and substitutions. I have before me the resignation of the honourable Mr. Dewar, Selkirk, effective immediately. Are there any nominations to replace Mr. Dewar, Selkirk?

Mr. Rondeau: I nominate Ms. Korzeniowski of St. James.

Mr. Chairperson: Is that agreed? *[Agreed]*

I also have before me the resignation of the honourable Mr. Bjornson, effective immediately. Are there any nominations to replace Mr. Bjornson?

Mr. Rondeau: I nominate the honourable Mr. Selinger to be a member of the committee.

Mr. Chairperson: Mr. Selinger has been nominated to replace Mr. Bjornson. Is that agreed? *[Agreed]*

I also have before me the resignation of the honourable Mr. Tweed, effective immediately. Are there any nominations to replace Mr. Tweed?

Mr. Jack Reimer (Southdale): Yes, I would like to nominate Mrs. Taillieu.

Mr. Chairperson: Okay, then. Mrs. Taillieu has been nominated. Is that the correct pronunciation?

Mrs. Mavis Taillieu (Morris): Yes. Just like "tell you."

Mr. Chairperson: Mrs. Taillieu has been nominated. Is that agreed? *[Agreed]*

Finally, I have before me the resignation of the honourable Mrs. Mitchelson, effective immediately. Are there any nominations to replace Mrs. Mitchelson?

Mr. Reimer: Yes, I nominate Mr. Goertzen.

Mr. Chairperson: Mr. Goertzen has been nominated to replace Mrs. Mitchelson. Is that agreed? *[Agreed]*

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Mr. Chairperson: Are there any suggestions regarding how long the committee should sit this afternoon?

Mr. Rondeau: Until the business of the committee is finished or conducted.

Mr. Chairperson: Mr. Rondeau suggests until the business of the committee has been completed. Is that acceptable? *[Agreed]*

I would like to take a moment now and provide the committee with some background information on the process followed in the past when dealing with Judicial Compensation Committee reports. At previous meetings, the minister responsible has made an opening statement followed by a statement from the Opposition. Also, representatives from the Judges' Association and other groups have appeared by leave before the committee dealing with the JCC report.

Additionally, a motion from a member of the committee has been required at past meetings in order to adopt or reject some or all of the recommendations in the report. We would also require a motion for that purpose at this meeting.

At this afternoon's meeting, Ms. Susan Dawes of the Provincial Judges' Association has

asked permission to speak to the committee. This will require the agreement of the committee.

Is there agreement to hear the presentation? *[Agreed]*

Did the committee wish to hear the presentation before or after opening statements from the minister and the Opposition?

An Honourable Member: Before.

Mr. Chairperson: Okay, then, without further ado, I call Ms. Susan Dawes to the microphone.

Ms. Dawes, do you have any written materials that you would like to distribute to the committee?

Ms. Susan Dawes (Manitoba Provincial Judges' Association): I do not.

Mr. Chairperson: No. Proceed when you are ready.

Ms. Dawes: Good afternoon. I will just make a few brief comments on behalf of the Manitoba Provincial Judges' Association this afternoon.

I have with me the honourable Judge Robert Kopstein. The Werier report, in our view, is modest in its recommendations. In reviewing it, you will have noticed that the association made submissions for more than was ultimately recommended. The recommendations, in our view, reflect the compromise that the tribunal felt was appropriate. The association respects the tribunal's report.

You should know that there have been certain changes in terms of salaries in other jurisdictions since the report was issued, so I would just like to draw those to your attention. In Newfoundland, there was litigation concerning the failure of the Government to implement the recommendations. The salaries have increased as a result of the association's success in Newfoundland. For 2002, their salary has gone up significantly to \$156,060. For 2003, it is up again to \$159,000. That would slightly affect the provincial average across the board and the Canadian average as well.

In Québec, there has also been litigation and that is mentioned in the report. The Judges' Association in Québec was successful at trial. The Government has appealed. The salaries there are still at the lower level, but you should know that they are subject to change.

The same issue applies in New Brunswick, which is one of the provinces in the three-province average that is mentioned in our legislation. In New Brunswick, the association is appealing to the Supreme Court of Canada and one of the key issues in that litigation concerns the implementation of the recommendations concerning salary. Therefore, those are subject to change as well.

In respect of Saskatchewan, there has been a change as well. There is a report that has come out and recommended salaries for 2003, 2004 and 2005 fiscal years. For 2003, the amount will be 158. That is a very significant jump from 143, which was the 2002 figure, which will significantly affect the three-province scenario that we have mentioned in the legislation. You will also note that the tribunal made certain comments about the salary in Saskatchewan being lower because it was set in 2000 and remained at the same level for 2000, 2001, 2002. That is one of the reasons there is such a significant jump from 143 to 158.

With respect to pensions, the recommendation is that the accrual rate be changed to 3 percent so that judges achieve a full pension in 23.5 years rather than 28, approximately 28, I think 28.1 years currently. It is important to view this recommendation in the context of judicial pension plans across the country. At least seven of the jurisdictions across Canada have this or approximately this accrual rate currently. It is in line with other jurisdictions, and, in our view, it is a very reasonable recommendation. Saskatchewan has basically the same provision, as does New Brunswick. Nova Scotia actually has a much better plan. They achieve a full pension in 10 years. So, keeping that in mind, the recommendation on pension is a reasonable one.

* (2:10)

As I said at the outset, in our view, you have before you a report which gives modest and

reasonable recommendations. The association was very encouraged the last time around when this committee recommended that the recommendations of the Freedman tribunal be implemented in full. We ask that this committee do the same this time around with respect to the Werier report.

So, subject to any questions, those are my comments this afternoon. I thank you for the opportunity to speak.

Mr. Chairperson: Thank you for that, Ms. Dawes. Are there any questions from the committee? Seeing none, I thank you for your presentation.

Does the minister have an opening statement?

Hon. Greg Selinger (Minister of Finance): Well, I think the person who just presented summarized some of the key features. For the benefit of the committee, the chair was Michael Werier; the government appointee was Vic Schroeder; and the appointee of the Provincial Judges' Association was Barry Gorlick. They followed the procedures that have been set up since the early nineties and awarded a 5.5% increase April 1, 2002, \$252,000; and two subsequent increases of 3 percent each in April 1, 2003, and April 1, 2004, taking it to about \$161,000.

That is, as I understand it, at the time of this recommendation, about \$3,000 above the three-province average. So, if it was at the average or lower, we have to accept it without debate; we cannot change it. If it is slightly above, as it is here, \$3,000, we could choose to override it. The judgment we have to make is whether we wish to override it. On the associate and chief justice, both recommendations are actually slightly lower than the average in the three provinces, the comparative three provinces. So we accept them.

The pension rate, as mentioned, is going to 3 percent, full pension after 23.5 years. Coverage reductions for judges under the life insurance plan will commence at age 66 rather than the age 56. So there is an additional 10 years' coverage at the full amount; establishment of a vision care plan providing coverage up to a maximum of

\$200 each for 24 months; an elimination of the current \$200 maximum for prescription drug coverage under the extended health benefits plan; and the addition of hearing aid coverage to a maximum of \$1,000 every five years.

Premiums for both of these benefit enhancements are to be paid totally by the judges. All judges are to be entitled to six weeks of annual vacation or 30 days; and newly appointed judges are to receive an advance of 85 days of sick leave on appointment, and, as well, they will be eligible for a \$1,500 per year professional allowance. Finally, with respect to legal fees and costs incurred by the judges, the Province is being recommended to pay 75 percent of those costs up to \$30,000.

So that is a quick summary of the recommendations. I do not think there is anything in here that is unreasonable. All I can say is that one other province challenged the recommendations of their judicial committee in Ontario, but those recommendations were quite extreme relative to the comparator provinces and relative to the base situation. These recommendations are really quite consistent, with very small variation over the three-province average that we have decided to use as our benchmark. With that in mind, I leave it open for any further questions.

Mr. Chairperson: Thank you, Mr. Selinger. Does the critic for the Opposition have an opening statement?

Mr. Gerald Hawranik (Lac du Bonnet): Yes, I do. On behalf of our caucus, I would like to thank all of those who participated in the process, those who compiled the information, searched out that information, and analyzed the data. I thank them for their very extensive and complete report.

Sometimes the basis of the recommendations of any report are more important than the recommendation itself. I think this is reflected in this report. I was quite pleased to see that the three-province comparison did not use Ontario, Alberta and British Columbia, but in fact they

used, I felt, provinces which were very similar in population and similar in economic conditions, that being Saskatchewan, Nova Scotia and New Brunswick. Having said that, of course, and having seen what the judicial compensation packages are in those provinces, I feel that the report is quite fair and reasonable.

As mentioned, the salary levels and benefits that were recommended were within range of the average, and, if not the average, they were in the midrange area among those three provinces. As said earlier, I believe that the changes were reasonable and they were quite modest.

I think it is important that we compensate our judges adequately. We need to compensate them properly in order to ensure that we attract quality candidates and also that we retain the judges that we have. I think the overlying principle with any compensation package is that any package has to be fair and reasonable in light of the circumstances, in light of comparisons among comparable jurisdictions, and in fact in light of economic conditions. I believe that the report and the reasoning behind those recommendations meets the test of what I believe to be fair and reasonable. Accordingly, I think we can support those recommendations.

Mr. Chairperson: Thank you, Mr. Hawranik. Any further comments or questions? Okay, well, if there are no further comments, what is the will of the committee at this point in time? Committee rise?

Okay, before we leave, in the interest of reducing waste, if members are agreeable, I would like to ask you all to leave behind your copy of the JCC report. This will reduce the number of copies required for the next meeting considering this matter. Thank you very much. That said, committee rise.

COMMITTEE ROSE AT: 2:17 p.m.