

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

Chairperson
Mr. Daryl Reid
Constituency of Transcona

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Tuesday, May 2, 2006

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Daryl Reid (Transcona)

VICE-CHAIRPERSON – Mr. Harry Schellenberg (Rossmere)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Doer, Lemieux, Mackintosh

Messrs. Derkach, Dewar, Hawranik, Martindale,
Mrs. Mitchelson, Messrs. Reid, Rocan,
Schellenberg

APPEARING:

Mr. Kevin Lamoureux, MLA for Inkster

Mr. Richard D. Balasko, Chief Electoral Officer,
Elections Manitoba

MATTERS UNDER CONSIDERATION:

Annual Report of Elections Manitoba for the year ending December 31, 2003, including the conduct of the 38th Provincial General Election held on June 3, 2003, and the administration of The Elections Act and The Elections Finances Act

Annual Report of Elections Manitoba for the year ending December 31, 2004, including the conduct of the Minto and Turtle Mountain by-elections dated June 22 and 29, 2004

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Mr. Chairperson: Good evening, everyone. Will the Standing Committee on Legislative Affairs please come to order.

The first order of business is the election of a Vice-Chairperson. Are there any nominations?

Mr. Gregory Dewar (Selkirk): Mr. Chair, I nominate Mr. Schellenberg.

Mr. Chairperson: Mr. Schellenberg has been nominated. Are there any further nominations?

Seeing no further nominations, Mr. Schellenberg has been elected as Vice-Chairperson.

This meeting has been called to consider the following reports: the Annual Report of Elections Manitoba for the year ending December 31, 2003, including the conduct of the 38th Provincial General Election held on June 3, 2003, and the administration of The Elections Act and The Elections Finances Act; the Annual Report of Elections Manitoba for the year ending December 31, 2004, including the conduct of the Minto and Turtle Mountain by-elections dated June 22 and 29, 2004.

Are there any suggestions for how long this committee should sit this evening?

Mr. Doug Martindale (Burrows): Mr. Chairperson, I recommend that we stay until we have dealt with both reports.

Mr. Leonard Derkach (Russell): Mr. Chair, I recommend that we revisit that issue when we get into the committee report because I do have a position I would like to put on the table.

Hon. Gary Doer (Premier): Yes, I just, by way of procedure—I know that is not a point of order—the Opposition House Leader (Mr. Derkach) just talked to me. I am meeting the requirements of the law to meet within 60 days after the tabling of the House. I also scheduled the meeting after the election of a new Leader of the Opposition. However, it has been a request of the Opposition House Leader to have a subsequent meeting at a time of mutual consent to deal with some of the matters in the report and, obviously, in the bill, and I have no difficulty doing that.

Mr. Derkach: Just to the same point of order, Mr. Chair, I appreciate the Premier's comments, and I thank him for that.

I understand the need for the meeting to be constituted in order to meet the requirements of the law, and I think that we can do tonight. But, with respect to our new leader, I have not been able to go through the report and be present to be able to ask some questions about the report, or even, for that matter, to be briefed on the bill that is before the House. That has just not been able to happen at this point in time.

I think, to allow for the openness and transparency of the procedure, I would recommend that we simply meet the requirements for the meeting tonight, and I would humbly request that we postpone the recommendation of considerations until the new Leader of the Opposition (Mr. McFadyen) has had time to consult, I think, with the Premier, and, also, to have an understanding of the recommendations and their implications.

Mr. Martindale: I wonder if we could at least have opening statements tonight, if we do not get into the reports and deal with that much.

Mr. Doer: I think the last time we had opening statements from the leaders and then a statement from the Chief Electoral Officer. I think it would help inform the follow-up. I am willing to meet. I have provided spreadsheets for the former Leader of the Opposition and the Leader of the Liberal Party (Mr. Gerrard). The former Leader of the Opposition and I did meet. I am certainly willing to go over the act and the intent of what we have tried to do. I would like to report about how many recommendations the Chief Electoral Officer has made to us. That, I think, gives us a basis for the next meeting. A lot of people worked pretty hard just to get this small piece of legislation ready, so I do not want to unduly tie them up, but I am certainly willing to meet again.

Mr. Derkach: I see no harm in doing that, except that I would like to reserve the opening statement from the opposition to when our new leader is able to be here and make those statements on his own.

Mr. Kevin Lamoureux (Inkster): Just for clarification. I had anticipated there would be some questions and answers for this evening. Is it still okay to pose some questions and answers? I am not quite sure if I follow exactly what is going to be happening.

Mr. Derkach: Well, Mr. Chair, from my vantage point, I think it would be more beneficial to have questions and answers when the new Leader of the Opposition can be here to not only listen to those questions, but to hear those answers, instead of having a repetition of a lot of those matters as well.

Mr. Chairperson: Any further comment?

It has been recommended that we have opening statements here this evening and that we reserve the questions for a later meeting date. *[interjection]* With the exception of the Leader of the Opposition (Mr. McFadyen). Is that agreed?

Mr. Lamoureux: But, when we do reconvene, we will be provided the necessary time so that all members will be afforded the opportunity to pose questions, correct?

Mr. Chairperson: Is that agreed by the committee? *[Agreed]* Okay, thank you, members of the committee.

Are there any suggestions from the committee regarding the order in which we should consider the reports? *[interjection]* So we will just deal with that at a later time?

An Honourable Member: Yes.

Mr. Chairperson: Okay. We will now proceed with the opening statements.

Did the honourable First Minister wish to make an opening statement?

Mr. Doer: Yes, and I will keep it brief because I think the more important statement is from the Chief Electoral Officer. I want to thank Mr. Balasko, whom everyone here knows; Mr. Lorne Gibson, the Deputy Chief Electoral Officer; Mr. Scott Gordon, Manager of Elections Finances; and Mary Skanderbeg, Manager of Elections Operations and Communications. So thank you very much (a) for being here tonight, (b) agreeing, I think, to be here at the next meeting. Is that what we have agreed to? *[interjection]* That is Harry Rosen, I think. I do not know him actually. I think he might work here.

Thirdly, I would like to thank the staff from Mr. Balasko's office and Mr. Balasko for all the work they put into the new Elections Act. It is a small document that I hope all of you have read at your leisure, good bedtime reading. It is a very extensive document. It is our analysis that 74 of the recommendations that have been made by the Chief Electoral Officer are contained within this act and reflect the recommendations in the last two committee reports.

I want to also state that we are very proud of the fact that the Chief Electoral Officer has recommended to this Legislature—and it is contained within the bill—the promotion of education and information to increase voting participation in Manitoba. So I wish him and his office well in that process.

There are many areas that have been raised at this committee. Items like coercion have been raised at this committee, bundling, polling stations in rural and northern Manitoba. Boundary commissions have

been raised in private members' resolutions in the past dealing with having representation outside of the city of Winnipeg, and that is proposed in this bill. Also, timing, so it is not up to the Premier as to when the bill comes into force.

The recommendations are binding on the Legislature. It cannot be changed by the Legislature on boundaries, again consistent with the principle of an independent boundary process.

We also have some work to do as members of all parties, the issue of Senate reform. This Legislature abolished the Senate a number of years ago. There are people I know in other parties that believe in an elected Senate. The decision may be made not in this Legislature, but in Parliament by the Prime Minister, and I think we should have an all-party committee to look at Senate elections. There might be concerns about regional representation, with this province being unique, having a large population based in one urban centre. I would look forward to the advice. This goes beyond partisan politics. We may be establishing an election process and objectives and looking at alternative ways of elections, like proportional representation, that may be here for the next hundred years.

So it is a real opportunity for us to work together if this bill is passed. It was not in the recommendations from the Chief Electoral Officer, although he has talked about in the past the exploration of proportional representation and other issues of electoral reform.

* (18:40)

The whole issue of the bill itself is before the committee, and I know there will be debate at second reading in the House. This committee is not intended to take the place of that committee, and there will be, of course, public presentations at the second public hearing process. I am hopeful that some of the items that are very, very important for the future such as Senate elections or—I believe in abolition, but if the Prime Minister does not, and so far he does not, although you would be surprised how many Conservative premiers believe the same, not to talk in partisan terms—but, if that goes ahead, I do not want Manitoba not to be thinking about it and talking about it. The next Senate vacancy is a little while away, but we should do the thinking now. I think it is six years that is the closest one, but people may know more than I do, and people may resign earlier as the last senator did in Manitoba.

Of the recommendations we have received and—first of all, this bill is written in plain language. There have been 74 recommendations, or 79 recommendations rather, made by this Chief Electoral Officer. We think in part or in full that about 74 out of the 79 have been proposed in this legislation. There may be a different way to calculate recommendations in terms of subparts, but a lot of recommendations have been incorporated in the bill. I would point out last time we went to non-partisan chief returning officers in ridings, and a lot of other things that would move Manitoba forward.

There are a couple of areas we are still working on and would propose to bring in in subsequent sessions. One is the referendum act. Two is the plain languages for The Elections Finances Act. I do not think it is fair to put that burden on the Chief Electoral Officer at this point before the next election, but I think we should start the work and bring it in after the next election.

There was a proposal on increasing the limits of \$3,000. I would note that Ottawa just introduced, after my good friend Stephen Harper opposed the banning of union and corporate donations at this committee, there is now a \$3,000 limit in Manitoba. I did not propose to change that with respect to the Chief Electoral Officer.

Nomination papers, to go lower, I did not, with all respect, change that. So the referendum act, I agree with. I think on the Boundaries Commission and the recommendations that they can make, I think in a lot of ways we may have gone further in some places or not. I will let the Chief Electoral Officer speak for himself.

So I believe that Bill 22 goes beyond some of the recommendations of the Chief Electoral Officer to deal with some of the emerging issues of elections. I think Senate is one that we should really talk about because this is very important for the future of the province, and I would propose that we have public hearings so it is not just this body determining this future.

Secondly, the lobbying issue I think we should discuss on an all-party way. Manitoba is a small province, but that is an issue that we have to deal with in the future. But I think generally this bill reflects a majority of the recommendations made by the Chief Electoral Officer, and I thank him for his advice. Anything we did not draft properly, I will look forward to his advice about how we can amend it even more precisely at committee stage.

Mr. Chairperson: We thank the honourable First Minister for the opening statement. Does the critic for the official opposition have an opening statement?

Mr. Derkach: Mr. Chair, I defer the opening statement to the leader at a later time.

Mr. Chairperson: I thank the critic for the official opposition.

Does the Chief Electoral Officer have an opening statement?

Mr. Richard D. Balasko (Chief Electoral Officer, Elections Manitoba): I will be brief. We do have an opening statement to make. Firstly, I just want to say it is a real pleasure in that it is an opportunity to come before the committee to talk about changes to election legislation, because it is really not the type of legislation that is static. Things evolve in society. Things evolve in the way political parties operate, and it is important that the legislation keep step with some of these changes.

Just very briefly, to tell you a little bit about the background and how did we arrive at the recommendations. We arrived at the recommendations through consultation with a wide range of people. We consulted with our election officials, our field officials, in fact, as well as our returning officers. We consulted with campaign officials. We consulted with auditors, official agents, chief financial officers, campaign managers across the political parties. In fact, we have a third party do that on our behalf so that they would be encouraged to be very open in their discussions.

We have conducted public opinion surveys of both voters and non-voters to try to get behind the really vexing issue today of turnout at elections as something that all around the table would like to see improve into the future.

We have considered legislation; we have done a very thorough scan across the country and some issues in the U.S. to look at the state of the art, the best practices that are available elsewhere.

As well, we met on a number of occasions, at least seven occasions, with the political party advisory committees, both on The Elections Act and The Elections Finances Act. As you know, the leaders of the registered parties appoint a representative to be at those meetings, and we discuss with them, through that process, the recommendations.

At the end of the day, they are the recommendations of the CEO, but they are well informed by the discussions at the advisory committee, and, on most issues, I think it is fair to say there is a consensus. Mr. Lamoureux has attended a number of those meetings, and he may wish to comment on that at some point.

In 2003, we recommended consolidation of 20 recommendations to amend The Elections Act and an equal number to amend The Finances Act. You have that report before you. In 2004, there were a number of other items, a much smaller list, eight to amend The Elections Act and three to amend The Finances Act. As well, in the 2004 report, we gave an update on a number of matters, some outside The Elections Act itself, such things as proportional representation, fixed election dates, but matters on which we often field questions. We just feel it is a good opportunity to inform the members of the Legislative Assembly as to the status of what is happening elsewhere. We have not made recommendations on those items. They are beyond our mandate, but it is an informational role which we hope is helpful and taken that way.

I am very encouraged that virtually all the recommendations that we made in 2003 and 2004 with the benefit of these consultations have been included in Bill 22. There are far too many to group in just four or five categories, but among the more important categories, I think, are the recommendations that further enfranchise voters, the recommendations that increase access and opportunity for voting in the province. Just the effort itself to reorganize and rewrite The Elections Act in plain language, I hope, will be very beneficial to campaigns and others. There is a logical sequence now when you follow the bill through, and the language is much more direct. The terms, I think, will be much better understood by volunteers and the public.

There are provisions based on our recommendations providing greater assistance to the political parties—and that continues to be a priority for us—to provide and to guarantee greater access to candidates and, as well, to resolve a number of issues that have been discussed at committee before and bring greater clarity to those issues, and, particularly those, I think, that were found in The Finances Act.

As well, finally, virtually all the recommendations, I should say, I guess, suggestions of the boundaries commissions in the past are reflected in

Bill 22 to reinforce the commission as a representative body, now in the bill with both northern and rural representation, as well as the independence of the deliberations of that commission. Manitoba has long been a leader in the independence of the Boundaries Commission.

I certainly appreciate the comments about looking into the future and dealing with the matter of referendum legislation. I think it is very necessary. There are several statutes which might require my office to conduct a referendum, and, by and large, there are not statutory provisions to conduct a referendum. Other decisions are left for Order-in-Council, and, I think, generally speaking of course, decisions on elections ought to be independently administered, set out in statute and not matters of Order-in-Council.

I think the plain language rewrite of The Elections Finances Act, which would be a huge undertaking, would pay such dividends to the volunteers who have to deal with this legislation from day-to-day. So I am very encouraged to hear that these will be addressed, but I can certainly understand with the breadth of this legislation and those other two projects being equally or also quite large, that the time is perhaps not appropriate.

So I was going to welcome your comments and questions, but I understand that that will be deferred to a later date. I look forward to speaking with you about our recommendations.

Mr. Chairperson: Thank you, Mr. Balasko.

Mr. Lamoureux, did you have an opening statement?

Mr. Lamoureux: It is very difficult for me to say this, Mr. Chairperson, but I will defer out of respect for the new leader. So I will do that.

Mr. Chairperson: Thank you, Mr. Lamoureux. I believe it has been agreed by the committee then to defer discussions to a later meeting to be called by the Government House Leader (Mr. Mackintosh). Of course, if the members are agreeable, in the interests of reducing waste, if you could leave your reports available for the next meeting, leave them on the table and we will collect them. We would appreciate that.

The hour being 6—yes, Mr. Derkach.

Mr. Derkach: I know that the meeting will be scheduled at a later time, but could I ask that there be some consultation between House leaders as to when this meeting is scheduled?

Mr. Doer: And we would also want you to consult with us.

Mr. Chairperson: It has been agreed, then, that there will be some consultation with respect to the setting of the next meeting, date and time. What is the will of the committee?

An Honourable Member: Committee rise.

Mr. Chairperson: Committee rise, the hour being 6:50 p.m. Thank you to committee members.

COMMITTEE ROSE AT: 6:50 p.m.