



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 2

FIFTH SESSION, THIRTY-SIXTH LEGISLATURE

PRAYERS

1:30 O'CLOCK P.M.

Immediately following Prayers, Mr. KOWALSKI rose on a matter of privilege and moved:

THAT this House put aside its normal business and consider The Electoral Divisions Act and conduct no other business until The Electoral Divisions Act has been passed or defeated.

And Hon. Mr. PRAZNIK, Messrs. ASHTON and LAMOUREUX having spoken,

WHEREUPON Madam Speaker informed the House she would take the matter under advisement.

Madam Speaker laid upon the Table of the House:

To His Honour the Lieutenant Governor in Council:

We, Kevin Lamoureux and Gary Kowalski, Members of the Legislative Assembly of Manitoba, hereby give notice that a vacancy exists in the representation in the Legislative Assembly, of the Electoral Division of St. Boniface due to the death of Neil Gaudry, the Member elected in this Electoral Division.

Pursuant to Section 25 of "The Legislative Assembly Act" we request Your Honour in Council to pass an order-in-council for the filling of the vacancy in the representation of this Electoral Division in the Legislative Assembly under the provisions of "The Elections Act".

Dated at Winnipeg this 29th day of March, A.D. 1999.

(Signed) Kevin Lamoureux,
Member of the Legislative Assembly

Gary Kowalski,
Member of the Legislative Assembly

(Sessional Paper No. 1)

Mr. DYCK, Chairperson of the Standing Committee on Privileges and Elections presented its First Report, which was read as follows:

Your Committee met on Thursday, July 16, 1998 at 10:00 a.m., on Tuesday, September 15, 1998 at 1:00 p.m. and Wednesday, December 16, 1998 at 1:00 p.m. in Room 255 of the Legislative Building to consider the Report and Recommendations of the Judicial Compensation Committee.

At the July 16 meeting, your Committee accepted the resignations of Hon. Mr. RADCLIFFE, Hon. Mrs. MITCHELSON, Mr. TWEED, Ms. McGIFFORD, Ms. CERILLI and Mr. HELWER, and elected Mr. SVEINSON, Hon. Mr. McCRAE, Mr. LAURENDEAU, Mr. MACKINTOSH, Mr. GAUDRY and Hon. Mr. STEFANSON to replace them. Your Committee also elected Mr. SVEINSON as its Vice-Chairperson.

At the September 15 meeting, your Committee accepted the resignations of Hon. Mr. REIMER, Mr. MARTINDALE, and Mr. SALE and elected Mr. FAURSCHOU, Mr. SALE and Mr. ASHTON to replace them.

At the December 16 meeting, your Committee accepted the resignations of Mr. HELWER, Ms. MCGIFFORD, and Mr. FAURSCHOU, and elected Hon. Mr. GILLESHAMMER, Mr. MACKINTOSH and Hon. Mr. MCCRAE to replace them. Later in the meeting, your Committee accepted the resignation of Mr. MACKINTOSH and elected Ms. McGIFFORD to replace him. Your Committee also elected Mr. ROCAN as its Vice-Chairperson.

At the July 16 meeting, your Committee heard representation from Mr. Rob Tonn, representing the Provincial Judges Association.

Your Committee agreed, at the July 16 meeting, to defer consideration of the Report and Recommendations of the Judicial Compensation Committee until a future meeting of the Committee.

At the December 16 meeting, your Committee adopted the following motion:

MOTION:

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.

SCHEDULE A

1. That effective April 1, 1997, salaries for Provincial Court Judges be increased to \$105,000 per annum (\$4,025.20 bi-weekly), and that effective April 1, 1998, salaries be further increased to \$112,000 per annum (\$4,293.45 bi-weekly).
2. That effective April 1, 1997, salaries for Associate Chief Judges be increased to \$107,000 per annum (\$4,101.33 bi-weekly) and that effective April 1, 1998 salaries be further increased to \$115,000 per annum (\$4,408.00 bi-weekly).
3. That effective April 1, 1997, the salary for the Chief Judge be increased to \$112,000 per annum (\$4,293.45 bi-weekly) and that effective April 1, 1998 that salary be further increased to \$122,000 per annum (\$4,676.98 bi-weekly).
4. That the non-contributory supplementary pension benefit awarded to Judges as a result of the first Judicial Compensation Committee be paid only upon their retirement.
5. That the benefits to which Judges are entitled be separately documented.
6. That sick leave for Judges be limited to a maximum of 208 days.
7. That any additional discretionary sick leave be eliminated.
8. That the long term disability plan be changed such that the maximum benefit period allowable for Judges would provide continuation of benefits until attainment of age 65.
9. That the definition of total disability in the long term disability plan be changed to the complete inability, as a result of accidental bodily injury or illness, to perform the regular duties of a Judge throughout the entire period of the disability.
10. That the life insurance plan be changed by eliminating the maximum of \$70,000 per multiple of coverage for Judges.
11. That the dental care service plan for Judges be amended such that the basis for payment for covered services shall be changed to reflect the Manitoba Dental Association Fee Guide in effect at the time of treatment.
12. That the basic portion of the dental care service plan be changed to include two oral examinations per year per eligible member and per eligible dependant.
13. That Judges be reimbursed for reasonable expenses incurred in performing their duties and provided with the necessary tools to perform their duties in accordance with current policy.
14. That unless otherwise stated, all changes shall be effective on the date of approval by the Legislative Assembly of Manitoba.

SCHEDULE B

In reviewing the report of the Judicial Compensation Committee the Standing Committee has examined each of the recommendations individually and collectively. The Standing Committee has recommended approval of most of the recommendations of the Judicial Compensation Committee respecting compensation including salary increases and benefit improvements to the Long Term Disability Plan, the Group Life Insurance Plan and the Dental Plan. These improvements involve a significant increase in cost to Manitobans and a significant improvement in the total compensation of Judges relative to compensation improvements of other Manitobans. The following recommendations of the Judicial Compensation Committee are not accepted.

1. The recommendation of the Judicial Compensation Committee that the supplementary pension benefit for Provincial Court Judges be extended to cover service prior to July 1, 1992 is not accepted for the following reasons:

- (a) The current judicial pension plan consists of two parts. The first part is the same as the pension plan provided to government employees. It is equally funded by the Civil Service Superannuation Fund (CSSF) from employee contributions and the Government of Manitoba. Contributions occur at the rate of 5.1% up to the yearly maximum pensionable earnings (YMPE) and then at a rate of 7.0% on the balance. The accrual rate is 2.0% per year.

The second part is a supplemental plan which provides for an accrual rate, in combination with the CSSF, of 2.61% for all service as a Judge after July 1, 1992 for a maximum of 23.5 years. This enhanced pension benefit which was provided as a result of the first Judicial Compensation Committee was valued at an additional cost of 7.0% of payroll. The supplemental portion is paid entirely by government.

The Judges pension arrangements are significantly better than those of provincial employees and are currently among the most generous in Manitoba.

- (b) The present value of the recommendation is estimated at \$2.0 million. The cost to implement such a recommendation given the other significant improvements in Judges compensation is unacceptably high.
- (c) The second Judicial Compensation Committee recommended extension of the supplementary pension for service prior to July 1, 1992. That recommendation was rejected by the Standing Committee in November 1996.

The recommendation of the Judicial Compensation Committee to provide Judges with improved pension credits for service prior to July 1, 1992 would effectively increase Judges' compensation for their services at that time.

This is not a period during which Judges' compensation was under review by this Committee.

- (d) The Provincial Judges Association has indicated that because the average age of appointment is 43, Judges have insufficient time to accumulate a pension prior to retirement. The Judicial Compensation Committee stated that there may be Judges who are continuing to work solely because they cannot afford to retire.

These comments assume Judges have made inadequate personal pension arrangements prior to their appointment to the judiciary which is not a reasonable assumption. They also assume that Manitobans should be required to make up for the Judges' failure to make appropriate pension arrangements prior to their appointment to the judiciary by financing a retroactive improvement in Judges pensions.

- (e) In extending the supplemental portion to Judges pensions for service prior to July 1, 1992, a specific group of Judges would be singled out for provision of a larger compensation increase by way of enhanced benefits compared to other Judges.
- (f) Judges who accepted appointments to the bench prior to July 1, 1992 were aware of the pension arrangements when they were appointed. There have been no changes to the pension plan which would have negatively impacted Judges' pensions subsequent to their appointment. The only changes which have been made to the pension plan have improved pensions.
- (g) The recommendations of the Standing Committee on Privileges and Elections provide for significant increases in salary which will contribute to improved pensions in a prospective manner.

- 2. The recommendation of the Judicial Compensation Committee that government paid parking be restored to the Judges as of July 1998 is not accepted for the following reasons:

- (a) Judges have indicated that secure parking is essential due to the nature of their work. Secure parking has been provided. The issues of secure parking and free parking for Judges are not linked.
- (b) All provincial employees, including Deputy Ministers, pay for their parking.
- (c) All elected members of the Manitoba Legislative Assembly, including Ministers, pay for their parking.
- (d) Judges have paid \$50 per month for parking since 1991. This is the same amount as that paid by provincial employees and elected members. For the downtown Winnipeg area, this is a very reasonable, if not low, monthly rate.

3. The recommendation of the Judicial Compensation Committee that the Provincial Judges Association be reimbursed by the government for the Association's costs of having submissions prepared and submitted to the Judicial Compensation Committee, by way of an allowance up to a maximum of \$15,000 is not accepted for the following reasons:
- (a) The government interacts with a wide variety of other groups in a similar manner and does not pay the legal representation costs of these groups.
 - (b) The Government of Manitoba pays the costs of the Judicial Compensation Committee, including the costs of the Chairperson and the Manitoba Provincial Judges' Association appointee.
 - (c) The Judicial Compensation Committee is a fact-finding and recommending body. Legal representation and extensive briefs are not required. If the Association chooses to retain legal representation in this matter, it should be required to pay for that representation.

Your Committee reports that it has considered the Report and Recommendations of the Judicial Compensation Committee.

On motion of Mr. DYCK, the Report of the Committee was received.

Mr. DYCK, Chairperson of the Standing Committee on Privileges and Elections presented its Second Report, which was read as follows:

Your Committee met on Monday, October 5, 1998 at 1:00 p.m. in Room 255 of the Legislative Building, and on Thursday, November 26, 1998 at 1:00 p.m. and Monday, February 15, 1999 at 10:00 a.m. in Room 1023-405 Broadway to consider the selection and recruitment of the Children's Advocate. The Thursday, November 26, 1998 and Monday, February 15, 1999 meetings were held in camera.

At the October 5, 1998 meeting, your Committee accepted the resignations of Hon. Mr. McCRAE, Hon. Mr. STEFANSON, Mr. SVEINSON, Ms. WOWCHUK and Mr. ASHTON, and elected Mr. HELWER, Hon. Mrs. MITCHELSON, Mrs. DRIEDGER, Ms. McGIFFORD and Mr. MARTINDALE to replace them. Subsequently in the meeting, Mr. MACKINTOSH and Hon. Mrs. MITCHELSON submitted their resignations, and Ms. BARRETT and Mr. ROCAN were elected to replace them.

Also at the October 5, 1998 meeting, your Committee elected Mr. HELWER as its Vice-Chairperson.

At the February 15, 1999 meeting, your Committee accepted the resignations of Hon. Mr. McCRAE, Mr. ROCAN and Hon. Mr. GILLESHAMMER, and elected Hon. Mr. PRAZNIK, Mr. FAURSCHOU and Mr. SVEINSON to replace them.

Also at the February 15, 1999 meeting, your Committee elected Mr. FAURSCHOU as its Vice-Chairperson.

At the October 5, 1998 meeting, your Committee adopted the following motion:

THAT a Sub-Committee of the Privileges and Elections Committee consisting of Mr. MARTINDALE, Mr. LAURENDEAU and Mr. KOWALSKI be struck to set the criteria and draft an advertisement for approval of this Committee.

At the November 26, 1998 meeting, the Sub-Committee reported its findings to the Privileges and Elections Committee regarding criteria and advertising. The report of the Sub-Committee was adopted. A second Sub-Committee, consisting of Mr. LAURENDEAU, Mr. KOWALSKI and Mr. MARTINDALE was struck to conduct the screening and interview process, and to report back to the Privileges and Elections Committee with a recommendation for the position of Children's Advocate.

At the February 15, 1999 meeting, the Sub-Committee reported that that it met in camera on Thursday, November 26, 1998, Thursday, January 21, 1999, Thursday, January 28, 1999 and Thursday, February 4, 1999 to discuss the timing of advertisements, and to conduct the screening and interview process. The Sub-Committee reported that one hundred and twenty five (125) applications were received for the position of Children's Advocate, and from these applications, interviews were held with five (5) candidates. Interviews were held on January 28, 1999. Following from the interviews, the Sub-Committee recommended the name of one candidate as the Children's Advocate.

Your Committee has agreed to make its report to the Lieutenant Governor in Council with the recommendation that Janet Mirwaldt be appointed as the Children's Advocate for the Province of Manitoba.

On motion of Mr. DYCK, the Report of the Committee was received.

Mr. DYCK, Chairperson of the Standing Committee on Public Utilities and Natural Resources, presented its Third Report, which was read as follows:

Your Committee met on Tuesday, December 15, 1998 at 11:00 a.m. in Room 255 of the Legislative Building to consider the Annual Report of the Manitoba Public Insurance Corporation for the fiscal year ended February 28, 1998.

Your Committee accepted the resignations of Mr. TWEED and Mrs. DRIEDGER as members of the Committee, and elected Mr. PENNER and Mr. FAUSCHOU to replace them.

Mr. Jack Zacharias, President and Chief Executive Officer, provided such information as was requested with respect to the Annual Report and business of the Manitoba Public Insurance Corporation.

Your Committee has considered the Annual Report of the Manitoba Public Insurance Corporation for the year ended February 28, 1998 and has adopted the same as presented.

On motion of Mr. DYCK, the Report of the Committee was received.

Hon. Mr. FILMON presented:

Report of the 1998 Electoral Divisions Boundaries Commission.

(Sessional Paper No. 2)

Pursuant to Rule 20(1), Mr. DYCK, Ms. BARRETT, Mr. HELWER and Ms. McGIFFORD made Members' Statements.

Mr. LAURENDEAU moved, seconded by Mrs. DRIEDGER (Charleswood):

THAT an Humble Address be presented to His Honour the Lieutenant Governor as follows:

We, Her Majesty's dutiful and loyal subjects, the Legislative Assembly of Manitoba in session assembled, humbly thank Your Honour for the gracious speech which Your Honour has been pleased to address us at the opening of the present session.

And a debate arising,

And Mr. LAURENDEAU and Mrs. DRIEDGER (Charleswood) having spoken,

And Mr. ASHTON speaking,

Mr. SALE rose on a point of order regarding the word "liar" allegedly spoken by Hon. Mr. REIMER,

WHEREUPON Mr. Deputy Speaker informed the House he would take the matter under advisement to review Hansard.

Wednesday, April 7, 1999

And the debate continuing,

And Mr. ASHTON concluding his remarks,

And Messrs. DYCK and SALE having spoken,

The debate was, on motion of Mr. DOER, adjourned.

The House then adjourned at 5:55 p.m. until 1:30 p.m. tomorrow.

Hon. Louise Dacquay,
Speaker.