



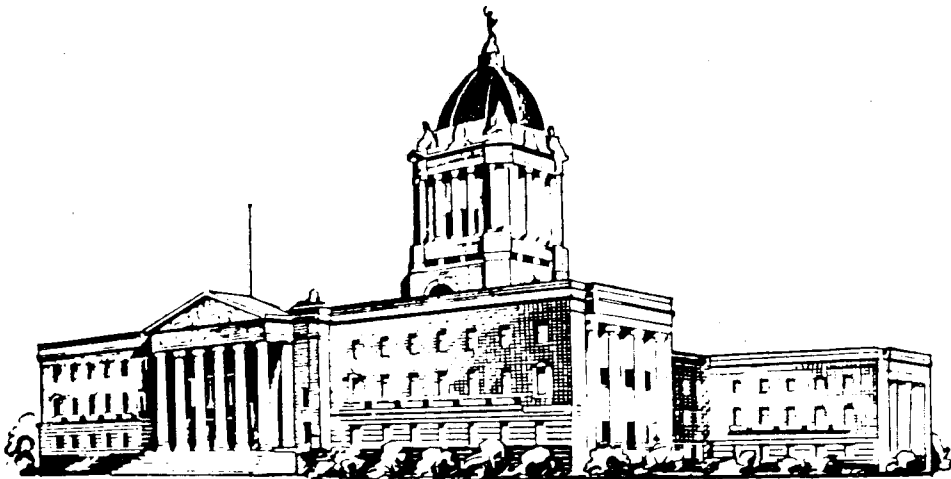
Legislative Assembly of Manitoba

HEARINGS OF THE STANDING COMMITTEE

ON

STATUTORY REGULATIONS AND ORDERS

Chairman
Mr. Philip Petursson, M.L.A.
Constituency of Wellington



Tuesday, November 5, 1974

FIRST MEETING OF THE STANDING COMMITTEE ON STATUTORY
REGULATIONS AND ORDERS

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CHAIRMAN: Mr. Philip Petursson.

MR. REEVES (Clerk of the House): Gentlemen, if I may have your attention. This is your inaugural meeting. Your first order of business will be the election of your chairman. Are there any nominations?

MR. TOUPIN: I'd like to nominate Phil Petursson.

MR. CLERK: Mr. Petursson. Are there any further nominations?

MR. BILTON: I'm not available.

MR. CLERK: Thank you, Mr. Bilton. Are there any further nominations? Hearing none, I declare nominations closed and ask Mr. Petursson to take the Chair.

MR. CHAIRMAN: Gentlemen, we call the meeting to order and the first order of business I understand is to set a quorum; there are 12 members on the committee.

MR. ENNS: Mr. Chairman, I hear the recommendation of seven coming from across the way. Would seven . . .

MR. CHAIRMAN: Seven for a quorum. Agreed? Okay. Pass.

Then the next order of business is - what? I need guidance.

MR. SCHREYER: Well, Mr. Chairman, the purpose of this initial meeting of this committee is to bring forward the subject of proposed legislation to deal with the matter of conflict of interest, to deal with proposed means of attempting to bring forward some known definite understood system of, not necessarily controls, but of disclosure. And because this is an area in which there is widespread diversity of means of dealing with it in different jurisdictions we have collated material from other jurisdictions in Canada and even the United Kingdom and the United States, and it's been compiled in a research document which I understand the Clerk is in a position to distribute at this meeting; and as I see it, this morning we could have I think some worthwhile discussion as to members' different views, if in fact there are any different views, as to where we draw the line, just what parameters we draw the line on with respect to disclosure of assets and interest by members of the Cabinet, of the Legislative Assembly and senior public servants. So that's basically the sort of order of business as I see it.

I might add that when the document is distributed members will note that there is some variation as between the different provinces; almost every province now has some method of attempting to establish disclosure of interest, that the pattern is far from a uniform one. Some provinces include municipal officials under this Statute of Disclosure of Interest, most do not; some apply it to ministers by way of policy declaration and filing of information with the Premier's office; others have it under statute; some require the filing of a statement with a special registrar, some with the Provincial Auditor, and some with the Clerk of the Assembly.

MR. JAMES BILTON: Mr. Premier is this not being done now with cabinet members, do they not make a declaration to the . . .

MR. SCHREYER: Well it's very much an informal arrangement, Mr. Bilton, in the sense that I've asked - I think it's approximately 12 to 18 months ago, for filing of a statement with my office. But it's an informal arrangement; it has not been embodied in any legislative requirement.

MR. BILTON: Thank you.

MR. ENNS: Mr. Chairman, through you to the Premier, I suppose. Would it be in order to ask whether or not the government has any firm thoughts in mind with respect to proposed legislation. It would not surprise me if they did but I think in terms of the kind of work this committee can do, and will do, and will want to do, it would be helpful at the outset to know whether or not the government has some kind of a position, or reasonably defined position with what they feel is desirable in this area; or whether or not we can approach this, as I think we would all want to approach it, on a pretty non-partisan basis, recognizing the correctness of us concerning ourselves with this matter.

We have had the experience, Mr. Premier, of sitting at committees where the Government was very, if not fixed but had very specific, you know, suggestions, perhaps not in legislative draft form but nonetheless knew where they were going. I'm asking a very open kind of question of you, Mr. Premier: Has the Government got a fixed draft proposal to present to us; and then I throw out the suggestion, if so, would it not be in the interests of the committee members, you know, to indicate that and to have that part of the discussion papers the material that we want to work with.

MR. SCHREYER: Mr. Chairman, that's exactly the point, we do have some definite views as to first of all the desirability of proceeding with this kind of legislation, we feel that we should. But I hope that our views are not so firm as to, of course, preclude discussion, because you're precisely right, we feel that this is the kind of legislation that ought to be discussed in advance of the firm issuing of drafting instruction. I can outline what our views are to date with respect to the kind of bill that we should be introducing, but rightly or wrongly deliberately refrain from drafting a bill until after this meeting, because we wanted to get some indication of the attitude or views from this committee. Now I don't know if that sounds like a contradiction

MR. ENNS: Mr. Chairman, I would ask, you know, other members of the committee to express themselves but I would think it would be in the interests of all of us to allow you, Sir, Mr. Premier, to maybe expand on some of the Government thinking, in general terms in this direction, that we can, you know, keep in the back of our mind as we read through some of the material that some of us have just received for the first time, as we check it with what's happening in other jurisdictions, as we try to formulate suggestions as to what we should be doing. I would certainly find it helpful to have some indication of the Government thinking at this particular time of the kind of legislation that is being proposed, or the kind of legislation that this committee would want to propose to the Government. That's my comments.

MR. BILTON: Mr. Chairman, I go along with Harry's comments to this extent that with this material in hand it would, of course, be our purpose no doubt to discuss with our separate caucuses so that we could come back with some firm recommendations as to exactly which way the committee should go, but I'm certainly in favour of whatever material we can get be placed in our hands with a view to discussing it with our caucus colleagues so that we can come back with some idea of the general feeling.

MR. SCHREYER: Well, then Mr. Chairman, I might just point out that we thought it would be a logical procedure to convene the first meeting and to make available at the first meeting a research paper which summarizes, I think rather well, the practice as it has been developed to date, and to outline to you what our intentions are without putting before you a draft bill but which bill would be forthcoming after you've had an opportunity to peruse this information, and to hear the discussion this morning, and to take it back to your respective caucuses. So I'm prepared to outline in a summary fashion just how we intend to proceed. If I may?

If you look at the chart that's been placed before you, you will see that some provinces, those that have introduced legislation already, have established a different locus point, or different place in which these statements of assets are filed. Basically we would propose to have the statement vis-a-vis the Ministers and MLAs filed with the Clerk of the Assembly, and with respect to senior public servants with the Provincial Auditor. In any case those are the two principal - I shouldn't put it that way - those are the two places in which we feel it is logical to have act as a depository of those statements of assets. We don't feel there is any need to establish a special registrar, or any other mechanism.

We are not proposing at this time to include municipal officials under the ambit of this legislation either.

MR. GORDON JOHNSTON: Could I ask why?

MR. SCHREYER: Well, Mr. Johnston, I guess the only reason is that we feel that we should get this tidied up with respect to a more limited objective having to do with the provincial - with the Crown and the right of the Province, and municipalities, not ruling out the possibility that at a later date, in subsequent years they might be added. But we would like to encourage the Union of Manitoba Municipalities and Urban Association to take this matter under advisement themselves and see just what they would propose to do about it, or if they would recommend that the province do something. We don't feel that it's quite as critical.

MR. G. JOHNSTON: The reason I asked, I notice British Columbia has some sort of a . . .

MR. SCHREYER: Yes, and I should advise you, Mr. Johnston, that in British Columbia they have run into considerable administrative detail problems with that section of the Act.

I might add that one aspect of this that was raised by some member - unfortunately I can't remember which caucus group, but I believe he was a member of the Liberal caucus, mentioned in passing some time ago that the concept of a blind trust is an alternative to a statement - filing of a statement of assets might be an alternative that this committee might

(MR. SCHREYER cont'd) . . . want to consider. So I put that before you. We're not recommending that as an alternative but we would certainly be obviously willing to discuss that concept if anyone in this committee wants to advance it. In other words, that an elected member, or senior public servant that would come under the ambit of this Act should be allowed under the legislation the alternative of the arrangement and certification of a blind trust. This is a practice which is followed by some persons in the senior echelons of administration of the United States. I can't vouch for its effectiveness or ineffectiveness in terms of what we're trying to do.

MR. BUD SHERMAN: That would be an individual option, Mr. Chairman?

MR. SCHREYER: That's what was suggested. We're not recommending it; I felt that rather than dismiss it, it probably merits some attention on your part and possibly some comment, if not today then the next time that we deal with this matter.

MR. CHAIRMAN: Any further questions for discussion?

MR. SCHREYER: From a legal point of view perhaps we could call in Mr. Tallin to advise whether he is aware of any legal complications in what we're attempting here.

MR. R. TALLIN: Not that I can see. It's the difficulty in the amount of detail that the Committee might want to go into, it could end up with a requirement which is almost impossible to comply with because of the amount of detail in the changing of people's assets would make it almost impossible to comply with; or you could approach it on a basis of general disclosure and make sure of general types of holdings and assets without being too specific about them. For instance, you could exclude the requirement to disclose the nature of any government bonds as long as it was disclosure of their Canadian bonds, whether they were 1974 bonds or 1984 bonds, in this case, and 1998 bonds, and that sort of thing.

A MEMBER: Bank deposits.

MR. TALLIN: No, that's of course another matter, whether you wish to require cash disclosure and that sort of thing.

MR. SCHREYER: To be a little more specific in terms of the problem areas with this legislation, I don't know if I was assuming too much but I was assuming that in terms of the general principle of whether or not to have legislation of this kind that there was, if not unanimity, certainly a broad consensus in the Assembly on both sides. So that's of course the major point, you know, the very principle of this kind of legislation; taking that as given that there is that consensus, then proceeding to draft the legislation we run into considerations not only as to where the statement should be filed. I've indicated what our thinking is on that: two places, the Clerk and the Provincial Auditor. Frankly I say I don't particularly welcome having statements of assets filed with the Premier because then the onus of responsibility is on him to analyze and decide whether or not there is a conflict of interest. I think it would probably go better with all concerned so far as the legislators are concerned if it's the Provincial Auditor and the Clerk, both of whom are officers in a sense of the Assembly as a whole.

The other problem area is on the matter of where do you draw the line in terms of the onus of filing the statement. Does the individual law maker and senior servant have to disclose the assets, holdings, of next of kin. Well, what next of kin? Wife, direct dependants? But surely stopping there not so as to include cousins, etc. There is argument even whether it should include the wife or sons and daughters.

The other area, of course, I think that can generate considerable discussion is that while this is desirable it ought to be done in a way that prevents gossip-type snooping, which avoids, or minimizes at least, if not avoids entirely, needless intrusion of privacy - let me put it that way; and there we are proposing, depending on discussion here this morning, we would propose to incorporate into the draft bill the stipulation that assets which could not possibly cause conflict of interest need not be included.

What do I mean? Well, I'm referring to Government of Canada bonds, bonds of any governmental jurisdiction in Canada. Surely that can't be a cause of any possible conflict of interest. And bank accounts, holding an account in a chartered bank; how could that possibly be future cause, or future possible cause of conflict of interest? By the exclusion of the obvious items of that kind clearly stipulated in the bill, we feel it is possible to have disclosure while making it impossible for anyone to have needless access to intrude on privacy, because no one will ever be able to say that Mr. Jones is worth so and so much, because his bond holdings need not be revealed.

Now maybe this is too clever by half, but we feel it's one way of requiring the filing of statement of assets that are important to be filed while excluding those that need not be filed

(MR. SCHREYER cont'd) because they couldn't possibly be a source of conflict.

MR. BILTON: You're suggesting, Mr. Premier, that a wife's estate, that her interests should be declared as well as her husband's?

MR. SCHREYER: Now with misgivings about it, yes. I think the answer is yes.

MR. SHERMAN: Do I understand, Mr. Chairman, and I may have missed the outset, and I haven't had a chance to read the white paper -- the newspaper reports, but are we starting from the parameters here of financial and pecuniary interests only, or when we talk of conflict of interest are we including the whole possible spectrum like directorships of companies? Are we just talking here of financial disclosure, or are we just thinking . . .

MR. SCHREYER: Well, it certainly started out with the principal preoccupation having to do with assets, you know, that have a tangible economic or financial value, but directorships certainly are something which ought to be included as well in the legislation, because the legislation has to do with conflict of interest and a directorship is certainly an interest. It may not be highly pecuniary.

MR. SHERMAN: No, I agree, I think it's a conflict of interest.

MR. ENNS: Mr. Chairman, I'm not quite clear. Have you looked at some of the existing legislation that is in the, I guess the Legislative Assembly Act, with respect to certain restrictions that are already in existence as to possible areas of conflict of interest with legislators? I recognize that what we're talking about now is essentially, you know, a filing - and a disclosure of one's assets on, I suppose, the basis that an ounce of prevention is worth a pound of cure . . .

MR. SCHREYER: Well, as you can see, Mr. Enns, the pattern is well under way in a number of provinces, and all this has happened in the past 18 months, I think.

MR. ENNS: In a sense, that this is a kind of, you know, in anticipating and prevention of conflicts of interest arising. However, there are, and I would have to say this, Mr. Premier, particularly with the advent of your government, an addition of conflicts of a very direct nature with members of the Legislature.

For instance I, as a cattle producer, find myself with a conflict in the current cattle price increase. Should I be applying for the \$5,000 interest-free loan? I assume on my own recognizance that I cannot, and have not. I know that I cannot, for instance, avail myself under existing legislation to a loan of the Manitoba Agricultural Credit Corporation for a normal farm operation, which all other qualified farmers can, but as a legislator I can't. You know, this is an area I think - I'm not speaking facetiously; this comes up more often now. I think we had, and we all recall that one of our colleagues, a sitting member, was out, you know, a considerable number of dollars because of a situation which arose where inadvertently he cashed I believe some Social Assistance or Welfare cheques in his store, and the computers here caught it. As is often the case the store in a rural setting is under his personal name, and the computer caught the fact that X number of provincial dollars were being paid out to a member of the Legislature, and it was stopped, and the man to this day, as far as I know, is still out some five or six hundred dollars as a result of that. Now, those are the kind of, you know, built-in protection against conflict of interest that has existed for some time in the Legislative Assembly Act. Has there - and I'm looking at Mr. Tallin and yourself - has there been a cross reference to this?

MR. SCHREYER: Well, Mr. Chairman, the point that Mr. Enns raises now is in a sense a digression, but it's only a slight digression and I welcome it being raised now because while it may not relate directly to the proposed legislation that's before us, it is nevertheless related and may give us some basis for looking at the Legislative Assembly Act once again to see if we can't clarify that section or those sections of the Legislative Assembly Act bearing on the problem you're referring to. I mean, I quite agree that it is a problem which is increasing with time and not diminishing.

I think that what all this hinges on is the definition as to what constitutes a general interest and a particular interest. I mean, an individual MLA, if he were to enter into a contractual arrangement with the Crown for gain, that would be a particular interest and is excluded under the terms of the Act, and I think we all would agree that it has to stay that way. On the other hand, for an MLA to take advantage of a program that exists for a whole group of persons in society is not a particular interest, and I would like to think there would be consensus among MLAs that this ought to be so amended so as to enable an MLA to enter into any program that is available to all persons in his same category of occupation or livelihood. And

(MR. SCHREYER cont'd) we've done that slightly in the sense that any MLA who has a contractual arrangement with the Crown under MACC or whatever, I believe the way it reads now, if he had entered into that arrangement or contract with the Crown before becoming an MLA he may continue it . . .

MR. ENNS: Correct.

MR. SCHREYER: . . . which is certainly splitting hairs. I mean, if one can accept that, it seems to me, it should be possible to agree on a further amendment so that he could enter into such an arrangement under a program that is available to a whole category or group of persons of the same occupation or livelihood. If it's available to them it should be available to him.

I would like to think we can propose that and that it would gain acceptance. Now, I'll have to get advice from the Legislative Counsel as to whether this opens up ramifications that we wouldn't want, but . . .

MR. BILTON: I have a case in mind. I wished to buy some Manitoba bonds for my grandchildren, and my grandchildren happened to be in Newfoundland, I couldn't buy them for them direct. They're being bought in my name and the youngsters will cash in on them some day. Now, in this setup I would have to declare the fact that that money is still part of my estate, under declaring . . .

MR. SCHREYER: Oh, you're back to this now.

MR. BILTON: Yes.

MR. SCHREYER: You know, I was hoping to get some views from this committee on that point. Why should - why should government bonds be required to be filed in a statement? I can't conceive of any way in which the holding of government bonds, whether it be Canada, Manitoba, Ontario, it doesn't matter, I don't see how this can in any way be deemed to be a possible future conflict of interest. Therefore, I'd like to think we could exclude the whole category of bonds.

MR. BILTON: As it stands right now, with regard to those bonds, any correspondence that develops will come to me, and they're in Newfoundland - probably will be there for many years to come.

MR. SCHREYER: Well, I don't know if I'm generating skepticism, but I really am wanting to argue the point that there are at least two reasons for excluding government bonds and chartered bank accounts - certainly bonds - from any statement of assets.

MR. BILTON: Yes.

MR. SCHREYER: The two reasons being, that it can't possibly be a source of conflict of interest; and secondly, by excluding something like that it makes it impossible for anyone to ascertain a person's net worth, which I don't believe is anyone's business.

MR. BILTON: He still retains some privacy, that is his right?

MR. SCHREYER: Right.

MR. ENNS: Mr. Premier, through Mr. Chairman to Mr. Premier, let me pick you up on a statement that you made indicating that your personal opinion was that you did not particularly, you know, and it's one that I can understand, particularly choose to go with the course I see of, for instance, Ontario, where some of this material is being filed with the Premier. Your suggestion has been with the Clerk of the House or the Provincial Auditor in the case of senior civil servants, and you also, you know, just very quickly indicated part of the reasons of your thinking, you know, what is the . . .

MR. SCHREYER: Maybe it is a selfish reason . . .

MR. ENNS: Yeah, it's understandable. What onus do we place on the Clerk or the Provincial Auditor in this event - and we're just talking - how does he raise the flag of a possible conflict of interest arising as a result of, you know, of actions being taken by the individual legislator or cabinet minister with the knowledge that he has filed with him or with the Provincial Auditor of his assets, you know, which could accrue? In other words, is the proposed legislation, are we talking about the Clerk and the Provincial Auditor--putting that responsibility on them to raise the issue of conflict of interest, when they interpret it, or when they arbitrary . . . or, you know, it comes down to a pretty individual decision, eh?

MR. TALLIN: There are perhaps two levels of concern: one is a prohibited area, that is things which you as a member cannot do with the government. Legislation insofar as that is concerned, the Clerk and the Speaker of the House may have concern, because if it was disclosed that a member of the House had an interest in an agreement, a direct agreement with

(MR. TALLIN cont'd) the government, the Speaker may say, "You are now no longer eligible to sit and vote in this House, would you kindly leave your place?" That's one area.

The other area is a conflict of interest which may occur in a particular debate in which the Speaker might have an interest in saying, "You are specifically interested in this bill because of a financial connection." An Act to vary the terms of a trust company, perhaps, the charter of a trust company, and you are a shareholder or a director in that trust company. He might exclude you from debating that. In that area the Speaker has a particular interest in knowing what connection a member has with a particular bill.

Insofar as any other conflict of interest is concerned, I think it's only a question of whether the public wants to know what its officials are doing, and therefore it's a question of whether or not what is disclosed is available to the public. But as far as the rules of the House and the Legislative Assembly Act, there's only those two areas which concern the internal operations of the House. Apart from that, it appears to me from the approach of all this is that people want to know where - the electors want to know where their members have interests.

MR. BILTON: You're suggesting that the Speaker would be responsible for the enactment of this bill?

MR. TALLIN: No, no, no. The Speaker might want to know these particular things for the purpose of excluding people from the House or excluding them from debate.

MR. BILTON: And he would be advised by the Clerk of the House or the Auditor?

MR. TALLIN: He might be. But, apart from that, the fact is that the main thrust of this is not for internal control of the House; it's for publication, I would think, making the people of the Province aware that Member A has wide holdings in a number of corporations, and Member B has holdings in different types of corporations, and Member C has no holdings at all that give him any interest in certain types of businesses.

MR. SCHREYER: As I see it, Mr. Chairman, what we would be prepared to recommend at least, and beyond that it's of course subject to discussion, but it seems to me that any disclosure mechanism must be such as to make it possible for members of the Assembly to have access to it.

And insofar as the public is concerned, as well, that by a procedure somewhat similar to searching of a lands title, in other words, a fee of, I don't know, a dollar or something, whatever land titles search fees are, so that there is no frivolous use made of that causing it inconvenience and administrative costs, etc., and a person surely must be willing to take the time and to pay a fee in order to have access to documents of this kind.

MR. CHAIRMAN: Mr. Sherman, did you have a question?

MR. SHERMAN: Well, I don't know that I have a question, Mr. Chairman, it's just sort of an observation. I agree with the Premier that government bonds, it seems to me, recommend themselves for obvious reasons, as being items that would not be covered in any disclosure legislation.

It's easier to think of the things, the specifics that, in my view, should be disclosed than perhaps to cover the whole field. I think the difficulty we might fall into - I'm fully in agreement with the concept of the legislation, the difficulty is going to be, it seems to me, to draw the line through the gray areas. For example, there are certain obvious things that should be disclosed under any conflict of interest legislation: property holdings, obviously; common and preferred shares in public companies, obviously; directorships, in my view, obviously; management positions in companies - private management positions, obviously. But then beyond that you get into the areas that, I mean is life insurance . . . ? I wouldn't think that would be the kind of thing, although it could be argued from one point of view that since life insurance portfolios contain registered retirement savings plans and things like that, and certain life companies are seeking expansions or improvements of their rights under their charters, and so . . . I don't have a question. I'm just really muddying the waters, I guess, Mr. Chairman. It seems to me this is going to be the tough thing, to find how to draw those lines through the gray areas. But I can think of certain obvious areas that would recommend themselves to me and certainly I would think to most members of the committee.

MR. SCHREYER: Well, Mr. Chairman, I think the whole purpose of the exercise is not to fall into line with something because it happens to become a pattern or a sort of a fad, you know, because it's being done elsewhere. I think there is a good tangible reason, or concrete reason here, and that is that if it's at all possible to reduce suspicions, needless suspicions, then why not do that?

(MR. SCHREYER cont'd)

In a case in point, I'm not saying anything new here, the City of Winnipeg, there have been, you know, allegations of conflict of interest, etc., which really could be avoided by a mechanism that provides for a disclosure of all those things that could possibly be construed as possible conflicts of interest now or at any future date, and I think you are attempting to try and enumerate things that should go into the legislation. I think it's probably more manageable to do it just in the reverse: to exclude those kinds of assets that just can't possibly, by no one, possibly be construed as a source of conflict of interest. I mention only two examples because they're the only two that have been made obvious to us to date; but that's an important exclusion, for reasons of maintenance of privacy.

MR. ENNS: Mr. Premier, you, in response to Mr. Johnston indicated that at the moment there was no desire to expand this to the municipal level. You indicated also that you had some information that while in British Columbia the Act provides for that they're having a great deal of difficulty. There would seem to me to be some reason to have the committee, you know, consider that aspect of it perhaps maybe a little bit more seriously, particularly - you know, and again you start defining boundaries, but I'm thinking of our major municipalities, major urban centres, where unfortunately as you have just said, there is a certain amount of concern expressed by the public in this area. Would you care to indicate to the committee, or inform us of some of the difficulties that you're aware of that British Columbia has had in terms of expanding this to the municipal level, or one of the reasons why they're backing away, or . . .

MR. SCHREYER: Yes, Mr. Enns. The main difficulty is approximately 700 municipal officials that are screaming murder.

MR. BILTON: As we are kicking the ball around, I have . . .

MR. ENNS: We're not kicking the ball around, we're still trying to find the puck.

MR. BILTON: Yeah. I'm thinking of small partnerships of which I was part of, and the only little print shop in the town, and we were confronted when election time came with - just for the information of the committee - and I was quite concerned as to whether or not we were in the position to accept any of that printing. And, of course, I checked it out and by the fact that we were a limited company we were able to do this, although I insisted that as far as I was concerned there was not a penny would come my way; but at the same time there is a problem that we're going to be confronted with, a small partnership, a small firm, a man on the one hand declares his interest in it, and the man that's outside of the House, that is his partner, of course may not look too kindly upon it.

But we did have that problem and, for what it's worth, I merely outline that to the House. I checked this out and, due to the fact that we were a limited company, we were at liberty to accept public printing on that particular occasion. In the federal House, of course, it was entirely different. It was above and beyond that. But insofar as the province was concerned it was a horse of another colour.

MR. SCHREYER: Well now, Mr. Chairman, Mr. Bilton's referring back to the Legislative Assembly Act, as to what is and isn't permissible under that Act, and maybe that's a worthwhile option to this meeting, that it will give us cause to consider possibly some amendment to that Act. That would be an exercise separate and apart from this.

MR. ENNS: I recognize it is, Mr. Premier, but I wonder if the committee wouldn't, as a specific, you know, consideration, consider - wouldn't take direction to have the Legislative Assembly Act looked at in conjunction with what we're doing here. It would seem to be an appropriate time to consider it for a simple reason of clarification and ease of conscience on the part of certain members who find themselves, you know, from time to time indirectly involved as the years go on, as you yourself indicated.

MR. SCHREYER: Mr. Chairman, what I would propose to do, then, is to take under advisement the suggestions that have been made, not only with respect to this Act, proposed bill rather, but with respect to the Legislative Assembly Act as well, to attempt to bring forward a draft bill, an actual draft bill on this matter, and to have them for the next meeting of this committee. I'll have to check to see whether under the rules there's anything that precludes us from bringing matters pertaining to Legislative Assembly Act to this particular committee, but in the event that there is no preclusion of that, that's exactly what we'll do then, bring it to this committee at its next meeting.

What you're suggesting there, Mr. Enns and Mr. Bilton, seems to make eminent good sense. I stop short of giving any commitment now because have to discuss it with

(MR. SCHREYER cont'd) colleagues and also explore ramifications with legal counsel - Legislative Counsel that is. We'll do that.

MR. ENNS: Well, let me just close on this one point on this subject. When I read "a conflict of interest may arise whenever a legislator or government official has to make a choice between the interests of the general public and his own private advantage," I would have to tell you, Sir, that a \$5,000 interest-free loan is to my private advantage, particularly in this day and age of ten and twelve and fourteen percent interest, and I have a genuine, you know, conscience problem there with respect to my position as a legislator, as to whether or not I can take advantage of the program that you are freely advertising that I as a cattleman should take advantage of.

MR. SCHREYER: Of course. And this, I suppose, is a decades old, if not centuries old, point of contention, and I suppose never-ending discussion: what is a general interest and what is a particular interest? It may be that I have an even greater sympathy for the point you're making than you do yourself, because it has always bothered me that because a person was a law-maker he was precluded from the same treatment under a given body of general law as was available to every one of his contemporaries in the same occupational field, whether it be farmer or merchant, storekeeper, or printer, or whatever. I feel that it is possible to change it.

Well then, with respect to the basic concept here, are there any further indications of attitude or advice with respect to the problem of the gray zone, as you put it, Mr. Sherman, the dependents, for example, immediate family, that what the proposal, what the current thinking is, that it be limited to immediate family, obviously, and that it exclude bonds. Bank accounts I'm not sure; but it would seem banks, chartered banks and credit union accounts. --(Interjection)--Right. But that all real estate, commercial holdings, real property holdings, shares, directorships, these are the very gist of what has to be disclosed if there's any point at all to proceeding with legislation of this kind.

MR. G. JOHNSTON: Well, Mr. Chairman, apparently if you're going to disclose certain aspects and not others, it's not going to be worth drawing up a law on, because anybody who has the bent, inclination to do something they can easily do it on a cash basis. For example, the CFI transactions where huge amounts of moneys were floated around from bank account to bank account, and disappeared or was fraudulently taken. You're now considering setting up a law that a senior government official's bank account is sacred, or a cabinet minister's bank account is sacred, or an MLA's bank account is sacred and you're dealing with people who are dealing in money; what's the difference between money and land, or the difference between stock auctions and directorships and cash? It's an accrued benefit that comes in the end how the individual wants it to come.

MR. BILTON: Yes, but surely a man is entitled to some privacy.

MR. G. JOHNSTON: Well certainly, but I don't see the point in setting up a disclosure of interest law that will exclude certain areas, because the very people that the law is aimed at, those people will notice the loopholes and take advantage of them.

MR. SCHREYER: Well, Mr. Chairman, that matter having been probed at by Mr. Johnston, does I think give cause for some concentrated attention and thinking on our part. The reason for disclosure of interest legislation is to provide for a systematic means and a known means of ascertaining whether someone owns assets, the nature of which is such that could be enhanced or diminished in value by virtue of his access as a lawmaker or as a senior public servant. That, you know, is the classic definition of a conflict of interest.

I say to you, very bluntly, that there isn't a single thing that any lawmaker or public servant can do that will enhance or diminish the value of his holding of Government of Canada bonds or Province of Ontario and Manitoba bonds, there's nothing that we can do that will increase or decrease the value of those assets. That being so, what is the point in disclosing them? But . . . the analysis probably flows from the assumption, and I think it's an important assumption, that this disclosure of interest legislation is supposed to be such as to enable all and sundry to ascertain the net worth of an individual, and that is not the classic definition of disclosure of interest law. If someone is enhancing his net worth by virtue of acts which are illegal, then we have laws to deal with that. I mean, if one increases a bank account by reason of acting, you know, in a criminal way, or by felony, or whatever, there are laws to deal with that. All that's attempted here is to deal with such assets as lend themselves to change in value by virtue of change in laws and programs. And bank accounts, I repeat, certainly bonds,

(MR. SCHREYER cont'd) government bonds, there's no way that any laws we pass could affect the value of Government of Canada bonds. Our own bonds, well, yes, but then we will be dealing with it in a way that is of general application to all bond holders.

MR. CHAIRMAN: No special advantage.

MR. SCHREYER: No special advantage.

MR. MCGILL: Mr. Chairman, then I take it from the Premier's remarks that what we're trying to do with this legislation is to provide some general restraint on conflict of interest situations that are quite direct in nature, and that we're not attempting to in any way expose people who are influenced in their decisions in the Legislature in the way they vote, in the way they support or do not support legislation; we're not attempting to in any way expose what benefits they may have achieved from taking those positions. And I'm thinking along the lines of what Mr. Johnston is saying, that there are cash gifts and benefits, his total holdings of bonds could greatly increase as a result of his having, shall we say, supported a zoning plan, or some type of development plan, that might be of great value to the developers and his support and his promoting this idea in a Legislative Assembly might result in great profit. So we're not attempting . . .

MR. SCHREYER: That is a criminal act.

MR. MCGILL: Can it be--(Interjection)-- well, you know, it may be difficult to decide whether the man's judgment was influenced by some benefit which he achieved ultimately, and that may be difficult to determine in a court of law. But really, I'm asking a question here; we're not interested in that area, we're more interested in the direct situation in the House where a person is supporting legislation where obviously there is a direct benefit to him, or as a result of his directorship he has an interest in the ultimate result? Now, I'd like to have that explanation . . .

MR. SCHREYER: Well I'll try, Mr. McGill. Just offhand I can't put my finger on it but it seems to me that one of the jurisdictions, it may well have been the federal or Ontario, they do exclude government bonds, pretty well for the reasons, as I understand it, that I've outlined. That is not the same as saying that we have no interest, as lawmakers, in heading off the possibility of anyone taking gifts or bond purchases on his behalf and credited to his account by someone else, but I feel that that is something that can be dealt with by substantive law on its own, and is dealt with now. Maybe it can be refined, changed, tightened up. But that is something that is separate and apart from conflict of interest legislation. That is a whole important area that stands on its own, and the law should be adequate in that respect alone.

Have you got anything on that draft of that, Rae?

MR. TALLIN: Well, one of the problems is, if you're attempting to get at the activities of people accepting gifts and that sort of thing, which I agree with the Premier we should be getting at through another source of law, but if you . . . All you do is you change the form of the gift if you say you must register or you must disclose the bonds. If you get a gift of bonds, the company that's giving you the bonds, that is the company that's donating the bond to the cause, then doesn't want to disclose, so instead of giving a bond they buy a Picasso, and give you a Picasso, and say at some later date turn the Picasso into cash.

MR. MCGILL: So the only way ultimately is a net worth comparison, eh, at the beginning of his tenure and at the end of that tenure.

MR. TALLIN: That's right.

MR. MCGILL: Which is a kind of disclosure which most people in this room would object to strongly.

MR. TALLIN: Yes. Although the net worth of some holdings are going to be pretty obvious anyway. If you happen to disclose that you're a holder of some shares in a company and the company is a listed company on the stock exchange, you can pretty well keep track of that area of the person's net worth. It may go up or down. Just to talk about things which are easily convertible into cash, it's going to be a difficult situation to keep it up-to-date because the net worth of a person may not change but his holdings may vary. For instance bank accounts, I agree, have been used for fraudulent purposes, but to try and keep a person up-to-date as to that, it's meaningless to say once a year you will disclose what's in your bank account, because on the disclosure date everything will be taken out and he'd be wandering around with bulks of cash in his pocket.

MR. MCGILL: So really, you know, if he is going to use it for fraudulent purposes, obviously he will defraud on this too.

MR. SCHREYER: Yes, that's the point, Mr. Chairman. This proposed legislation lends itself, as I guess all legislation could, to *reductio ad absurdum*, and I don't know if this is helpful or if it's silly, in fact, the idea that an increase in bank account or bond holdings is something that could have been arrived at through undesirable legal acts. Well, you know, we could include in the legislation reference to bonds and bank accounts as well, such as have resulted from donations, gifts, etc., but, you know, that's ridiculous because that is unlawful activity.

MR. SHERMAN: Well you can't defense against attempts to future corruption. I think yonder sits the Fourth Estate, Mr. Chairman, and hopefully they maintain, fulfil something of a watchdog role in that respect, and ultimately people who seek public office usually have to answer to public disclosure through the Fourth Estate, so I would think that in an imperfect system, that may be the only defense we have against that kind of thing.

MR. SCHREYER: Well, certainly we'd keep an open mind on the latter suggestion about bonds and bank accounts, but I would at least maintain that, for now, analyze it further, that really there is no good purpose in having reference in this legislation to bonds and bank and credit union accounts for the simple reason that they are not something that lend themselves to manipulation by any action of anyone. Unless they own shares in a bank, it's a different matter.

MR. G. JOHNSTON: I suppose all jurisdictions, they first of all think about and then draft these particular laws because they've noticed a situation arise somewhere else and they're afraid that it will happen in their backyard. So I'd like to pose a question to the Premier: What would he think the end result of this legislation would be in the circumstance that happened in Ontario in the last year or two, where a senior government person in Ontario acquired land in the Pickering Airport site? I don't know exactly myself what did happen there, but I would ask how this legislation would apply in two cases: first, if a person had sold the land at a profit through his prior knowledge and put the money in the bank, or he still had the land at the time it was discovered that he was profiting from inside knowledge, how would this legislation that you are proposing here apply? For example, who would be the one to say, "I would like to see that Minister's assets to see if he has profited through the knowledge that he acquired within government?" And also, what would the follow-through be with the legislation you have in mind in that case?

MR. SCHREYER: Well, I believe that the legislation that we are proposing in a general way here would effectively deal with a matter such as you've raised, for the reason that clearly the real estate is an asset which would come under the privy of this bill to be filed.

If a person engages in a transaction on that real estate, that can always be traced through the Land Titles Office, so one doesn't have to have access to bond or bank account in order to ascertain the facts of a trading in real assets here. In a way, that is in contravention of the legislation. You can ascertain the date of the transaction, you can ascertain the amount of the transaction, unless it was a transaction that was carried out unlawfully.

MR. G. JOHNSTON: Well, what would happen in the legislation that we are thinking about here? Would there be penalties or having to return moneys?

MR. SCHREYER: Well, naturally there has to be penalty otherwise there is no point to law. The nature of the penalty is something I have not--frankly, I haven't just compared all the various Acts in that respect, but penalties would be somewhat similar as they are under the Legislative Assembly Act.

MR. G. JOHNSTON: You see, there was no law broken but there was a breach of trust. Perhaps Mr. Tallin could . . .

MR. TALLIN: Well, there would be a law broken if it was done fraudulently. There is a difficulty. A person may honestly disclose that he purchased land in a particular place; subsequently there may be a decision to use that land for government purposes at a time when the price of that land is higher and is taken over by the government at the higher price, so he benefits. The question is whether the inside knowledge that he had because he was a member of the Legislature or employee of the government or something, led him to buy that land and he thereby gained, and that's a different problem from disclosure. He may say, "I'm willing to disclose that I bought the land at such and such a price and I sold at such and such a price." But the question then is whether there is any--and he wouldn't be in breach of this legislation. The legislation only requires disclosure.

MR. ENNS: But surely that's where we come to the whole point of a disclosure act. It's at that point, where Mr. Sherman has indicated earlier, that the public takes a long, hard look

(MR. ENNS cont'd) at this particular individual in terms of what he is doing. That's really the purpose of the disclosure act, is to bring about just that, and it may come down to a question of credibility as to his story.

MR. SCHREYER: That's right, Mr. Chairman. There is remedial value in itself, or therapeutic value in itself, in merely having the disclosure. It is not intended to prohibit transactions of the kind we're talking about, but the very fact that it is under the light of awareness and scrutiny is all that's required.

MR. BILTON: The restraint is there.

MR. SCHREYER: Yes. Well, gentlemen, I think that on the basis of the discussion this morning we can proceed with the draft, which can be ready for the next convening of this committee, along with the draft on the Legislative Assembly Act and the specific aspects referred to.

MR. BOYCE: Mr. Chairman, I was just wondering if the Committee could have these proceedings transcribed. It's being recorded, but just so we can consider I would move that they be transcribed. (Agreed)

MR. TALLIN: There is one question which is in order if I'm to clear some legislation, there is one question you might like to have some suggestions from the Committee on, and that is the frequency of the reports. Should they be annual, semi-annual, should they be required for an up-date when there is any major change, and that sort of thing? This is really essential to the type of disclosure you're asking for, or do you want it just at the time a person first takes office?

MR. ENNS: I think we're all having some difficulty, Mr. Chairman, to deal with the issue, you know, in specific terms. We look forward to being able to do that perhaps at the next Committee meeting. . . .

MR. SCHREYER: With the draft bill.

MR. ENNS: . . . when we're looking at draft legislation which would begin to fill in some of the details and then we could answer that kind of a question. If what we are asking for is, it may make some sense to do it annually. On the other hand, if certain deletions are there, then less frequently may be the case. These are the kind of considerations I think that will come forward when we deal with it.

Mr. Chairman, I would like to indicate to the Premier that I think he is correct in the assumption he made earlier on in his comments, that in this particular matter there will be, I think, a great deal of consensus on the part of all members of the House, certainly from our group, to arrive at workable legislation. I say that without having had the opportunity of caucusing with our group, but I think it's a matter, that you sensed correctly, that that is the feeling of the House. I think that we'll find ourselves, in attempting to make the bill a workable bill and proper bill, in no doubt many areas of discussion, but I wanted to say that at the outset that it, I think, will be approached on a fairly non-partisan basis.

MR. BOYCE: Mr. Chairman, now that we've had at least a peek at the puck, I would move that we adjourn and leave the next meeting for the discretion of the Chair.

MR. SCHREYER: Well before you make that motion, I say with respect to the last point that's been raised, unless there is some, you know, persuasive argument with respect to the frequency of filing, unless there is some persuasive argument to the contrary, I think we would propose to put in the draft that it be treated in the same way as our annual reports; that is to say, within 15 days of the commencement of the session, I believe, is the standard provision. In a subsequent year we may wish to change that but for the matter of inception period of the bill I think that can suffice.

MR. ENNS: Just a small matter of mechanics. Would there be any possibility of having some of that material available in advance of the next committee meeting to the committee members, a day or two, or . . .

MR. SCHREYER: Well, the only new material in addition to what you have now would be the draft bill.

MR. BILTON: That's right.

MR. ENNS: Depends how long . . . how much time you want to give us. Two weeks it would be difficult . . .

MR. SCHREYER: Assuming that it is--no, no. If it is some time, let us say, approximately - 25, 30 days from now, then I think we could have that ready. Agreed? (Agreed)

MR. CHAIRMAN: Any further I suggest we dispose of this for the time being.

MR. REEVES: If I may, Mr. Chairman, there was just the other aspect of this committee's hearings dealing with pension plans. There is some material which Mr. Paulley asked me if I could have distributed at this meeting and the committee would eventually decide as to the date on which to deal with it. So if I have your permission I would like to distribute it.

MR. SCHREYER: This is on the Civil Service Superannuation?

MR. REEVES: Yes. There is a resolution dealing with pensions and superannuation.

A MEMBER: Oh, yes, yes. Pardon me.

MR. BOYCE: Mr. Chairman, please, if someone insists we do things neat and tidy, I suggest you vote my motion to adjourn down.

A MEMBER: It wasn't entertained. I think you withdrew it a little while ago. I think at least you coughed anyway.

MR. BOYCE: I moved to adjourn, but I misinterpreted . . .

MR. SCHREYER: Yes, well it is more appropriate to distribute it now.

MR. CHAIRMAN: The proposal is that this material now be distributed - the figures on the resolution of each department. And other than that then we can entertain a motion to adjourn. (Agreed)

The meeting stands adjourned until the next call of the Chair.