



Second Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Privileges and Elections

Chairperson

Mr. Mike Radcliffe

Constituency of River Heights



MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Members, Constituencies and Political Affiliation

Name	Constituency	Party
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary	Concordia	N.D.P.
DOWNEY, James, Hon.	Arthur-Virden	P.C.
DRIEDGER, Albert, Hon.	Steinbach	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry, Hon.	Lakeside	P.C.
ERNST, Jim, Hon.	Charleswood	P.C.
EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
FINDLAY, Glen, Hon.	Springfield	P.C.
FRIESEN, Jean	Wolseley	N.D.P.
GAUDRY, Neil	St. Boniface	Lib.
GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McALPINE, Gerry	Sturgeon Creek	P.C.
McCRAE, James, Hon.	Brandon West	P.C.
McGIFFORD, Diane	Osborne	N.D.P.
McINTOSH, Linda, Hon.	Assiniboia	P.C.
MIHYCHUK, MaryAnn	St. James	N.D.P.
MITCHELSON, Bonnie, Hon.	River East	P.C.
NEWMAN, David	Riel	P.C.
PALLISTER, Brian, Hon.	Portage la Prairie	P.C.
PENNER, Jack	Emerson	P.C.
PITURA, Frank	Morris	P.C.
PRAZNIK, Darren, Hon.	Lac du Bonnet	P.C.
RADCLIFFE, Mike	River Heights	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack, Hon.	Niakwa	P.C.
RENDER, Shirley	St. Vital	P.C.
ROBINSON, Eric	Rupertsland	N.D.P.
ROCAN, Denis	Gladstone	P.C.
SALE, Tim	Crescentwood	N.D.P.
SANTOS, Conrad	Broadway	N.D.P.
STEFANSON, Eric, Hon.	Kirkfield Park	P.C.
STRUTHERS, Stan	Dauphin	N.D.P.
SVEINSON, Ben	La Verendrye	P.C.
TOEWS, Vic, Hon.	Rossmere	P.C.
TWEED, Mervin	Turtle Mountain	P.C.
VODREY, Rosemary, Hon.	Fort Garry	P.C.
WOWCHUK, Rosann	Swan River	N.D.P.

**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS**

Tuesday, November 5, 1996

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Mike Radcliffe (River Heights)

VICE-CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Messrs. Stefanson, Reimer

Messrs. Chomiak, Dyck, Helwer, Jennissen, Kowalski, Mackintosh, McAlpine, Radcliffe, Ms. Wowchuk

APPEARING:

Mr. David Newman, MLA for Riel

MATTERS UNDER DISCUSSION:

Report and Recommendations of the Judicial Compensation Committee, dated December 29, 1995.

Mr. Vice-Chairperson: Good morning. Will the Standing Committee on Privileges and Elections please come to order. Before the committee can proceed with the business before it, it must elect a new Chairperson. Are there any nominations?

Mr. Edward Helwer (Gimli): I would like to nominate Mr. Radcliffe.

Mr. Vice-Chairperson: Mr. Radcliffe has been nominated. Are there any other nominations? Seeing none, Mr. Radcliffe is elected as Chairperson. Mr. Radcliffe will take the Chair.

Mr. Chairperson: Good morning. This morning this committee will be continuing with the consideration of

the Report and Recommendations of the Judicial Compensation Committee dated December 29, 1995.

Committee members will recall that this committee sat on June 4, 1996, to first consider the issue, and at that meeting the committee agreed to defer consideration until a further meeting of the committee. The committee met again on October 24, 1996. At that meeting the committee heard from the two judges, Judge Robert Kopstein and Associate Chief Judge Murray Sinclair, who spoke on behalf of the Manitoba Provincial Judges Association. At that meeting the committee agreed to postpone consideration of the report until a subsequent meeting.

I feel that it would be appropriate at this time to ask the minister responsible followed by the opposition critic for some opening remarks at this point. Honourable Minister, do you have any opening remarks?

Hon. Jack Reimer (Minister of Urban Affairs): Maybe what I will do is I will defer my opening remarks to the critic, and at that time maybe the minister will have opening remarks.

Mr. Gord Mackintosh (St. Johns): The government called this committee. What is the position of the government on the report from the Judicial Compensation Committee? I mean we wasted enough bloody time already. Let us have a position.

Mr. Reimer: I am not the minister; Eric is.

Mr. Mackintosh: Well, get your act together, you guys.

Mr. Reimer: We waited for you guys.

Mr. Gary Kowalski (The Maples): It appears that to the government and the opposition party there is a reluctance to give judges a raise, because it is not politically advantageous to give raises to people making \$90,000, and so there seems a reluctance of either of the other two parties to take a position. In the mean time, we have a report here that makes a recommendation either yea or nay. I have to agree with the opposition critic that it is time to—how can I put this?—fish or cut bait. Yes, I

was going to use another vernacular, but I do not think it would have been appropriate here, that here we have the report so you are going to accept this report or you are not and take a position. You know, let us do the right thing and let us not look at where is the greatest political advantage. We heard Judge Sinclair says, yes, it is politically difficult to give raises to people making \$90,000 a year, but we have a report. Let us act on it.

Mr. Mackintosh: Well, I guess the remarks from the member for The Maples (Kowalski) just shows how ridiculous this process is becoming without some government initiative here, but the member for The Maples should darn well withdraw any remarks that he impugns to this side. This side has not put its position on the record yet and for him to suppose that we have made a position on this is entirely inappropriate and wrong.

Mr. Chairperson: Good morning, Mr. Minister. We have opened the committee. At this time, I am canvassing the principal players to see if it would be appropriate for the minister or the critic to have any opening remarks. I would inquire, Mr. Minister, whether you have any opening remarks at this time.

Hon. Eric Stefanson (Minister of Finance): Yes, I do, Mr. Chairman.

Mr. Chairperson: Please proceed.

Mr. Stefanson: As we all know, we adjourned roughly a week or two ago after hearing representation from the judges, from Mr. Kopstein and Mr. Sinclair. Since that time, the government has again reviewed the green majority and the minority reports and the presentation of the Provincial Court judges to the Committee on Privileges and Elections. While the government appreciates the judges' comments concerning their desire to see the green majority report implemented in its entirety, the Law Reform Commission report, on which the process is based, was clear that it is appropriate that the Legislature be able to vary the recommendations. Dissenting reports were filed by both committee members.

On the issue of pensions, consistent with the Benson minority report, the government cannot support retroactive application of the supplementary judicial pension plan. As noted in that minority report, judges

were aware of their pension provisions when they accepted judicial appointments, therefore, an approximately \$1.5-million increase in costs to taxpayers to retroactively enhance pensions by applying a plan that the green report noted exceeds the pension benefits enjoyed by almost all other Manitobans is unreasonable. It would effectively be providing the 25 or so judges who would benefit with a \$60,000 bonus on average.

On the issue of salary, several factors need to be considered before an appropriate increase can be determined. As was noted in the minority report, the increases to salary and pension approved by the Legislature in 1992 resulted in judges receiving an increase in compensation that was well in excess of that received by public servants generally. With the expiry of Bill 22, judges are no longer subject to the reduced workweek, while civil servants, including senior executives, continue to be subject to the salary reductions. However, as the majority report noted, judges did not receive the 2.3 percent salary increase received by civil servants in September of 1993.

In consideration of the factors that I have just outlined, the government supports a 2.3 percent increase to judges' salaries effective April 1, 1995. The effective date is approximately half way between the majority report recommendation of September 1993 and the minority recommendation of the date approved by the Legislature. A 2.3 percent increase will move judges' salaries to a level equivalent to the first step of the salary range for the most senior deputy ministers, the Deputy Minister 3 level.

As Mr. Piercy noted in his minority report in reference to mileage and meal allowances, those things that are influenced by Manitoba circumstances and apply to others in public service cannot be said to be patently unfair to judges. It is the government's position that the same is true with respect to salaries. While we would like concurrence from all parties on these recommendations, we are prepared to move a motion on that basis, on the basis that I have outlined, but prior to doing so, I would certainly appreciate hearing the comments of committee members before moving any motion. Thank you, Mr. Chairman.

Mr. Chairperson: Thank you, Mr. Minister. Mr. Mackintosh, do you have any response?

Mr. Mackintosh: Mr. Chair, the government is now doing what the judges warned the public of Manitoba and this government about. The judges have said that the compensation committee process set out in the legislation, legislation by the way that was brought in by the Filmon government in 1990, would clearly be reduced to a sham and nothing more than a time consuming and expensive but pointless exercise. The judges also said, we share concerns that the procedure carefully prescribed by legislation involving public hearings could easily be seen as a cynical orchestration of an objective process to determine judicial salaries which the judges said, in fact, is nothing more than an illusion based on a deception.

What the government has done is by and large accepted merely the minority report, in other words, the government's representative Mr. Benson, of all people, who certainly is an expert on pensions when he can look at his own pension scheme. What it has done is it has supplanted the independent process, the third-party process, with the government's own view entirely. It indeed has reduced the judicial compensation process to a sham. This speaks highly of the government's inability and unwillingness to accept judicial independence as an underpinning of our democracy.

The salaries that were recommended by the third party, by the independent commission, work out to less than 1 percent per year over three years, and the independent commission did consider all of the relevant factors to our view. There is nothing untoward, there is nothing inherently unreasonable in the recommendations of the report of the independent review. Absent, some clear absence of logic in the lack of reviewing the circumstances and the different arguments, the report should be given deference out of respect for the process and for the overriding principle of independence of the judiciary.

* (1010)

So the government is ignoring all but their appointee's recommendations. I suppose we should not be surprised. I recall back in the spring of 1994 when the government went ahead with very generous, I would suggest, early retirement packages for up to one-quarter of the members of the Provincial Court without going through this Compensation Committee process, and we slammed the government at that time for its failure to understand the

importance of the independence of the judiciary. So on April 26 it was Filmon, the Premier, that said matters of employment between employees of the government of Manitoba and the government of Manitoba are matters that can be dealt with by any administration in power. That is the First Minister of Manitoba characterizing judges as employees of the government. This is not just incompetence, this is arrogance and a threat to the underpinning judicial independence that is so important to our society, because when government starts treating judges as employees of the government, they fail to understand that they are in fact partners in our democracy.

It was written by the Honourable Kathleen McGowan, the chair of the Judicial Independence Committee in Canada. She says, the fact is that judges are not employees. A judiciary which must approach the political branches of government, cap in hand, to beg for changes in working conditions or remuneration will not be perceived as independent; in fact, characterizes the disputes going on in Canada following impositions of salaries on judges as a conflict that has the potential to escalate into a constitutional crisis.

The government forgets, I think, that it is the most common litigant, often the most vigorous litigant, in cases before the Provincial Court, a court that hears about 90 percent of the cases in this province. It was Doug Schmeiser, a constitutional expert in Canada, who said, when powerful politicians make statements essentially treating judges as civil servants, they betray a lamentable ignorance of the constitutional doctrine of the separation of powers. The statement is made that if the salaries of the judges can be reduced almost sub silentio by the methods recently employed, the independence of the judicator is seriously impaired. It cannot be wise to expose judges of the high court to the suggestion, however malevolent and ill founded, that if their decisions are favourable to the Crown in revenue and other cases, their salaries may be raised and, if unfavourable, may be diminished.

We are aware of an instance of improper external influence when a former president of the Saskatchewan Provincial Court Judges association was told by a cabinet minister, and this was during a meeting discussing judges' remuneration, that if the judges levied higher fines for impaired drivers, the government would be able to pay the judges more. So we asked, what message is the

government giving to the judiciary? Are they upset with some decisions, one particular decision, or are they just giving them notice that in the future they had better pay better attention to the position of the government when appearing before the court?

It is this provincial government that is a litigant in constitutional cases. It is a prosecutor in criminal cases, and it is important that everything be done by the government to reinforce the important principle that the government of the day is not entangled with the provincial courts.

It is interesting that this government will certainly go along with a third party independent review of MLAs' salaries, but when it affects their own salaries, they say, oh, yes, we will go along with that because we respect the process and they enjoyed the benefit of an increase, but when it is someone else's salaries that are being reviewed by an independent body, in this case the Judicial Compensation Committee, the government comes by and says, no, no, we are going to go with our main man on the panel, Mr. Benson. We do not care about the process. We are saying that was just a sham, that was just set up to make people think that we understand the independence of the judiciary.

Well, we are looking at salaries of less than 1 percent a year. We are looking at a pension scheme that certainly was recommended following a consideration of all the factors, and the government has not said that any factors were excluded from consideration from the Judicial Compensation Committee. We are aware of double-digit increases to senior Department of Justice officials, perhaps they should consider that. They are looking at fairness and comparing to salaries within Manitoba. Why are they refusing to consider all those senior political appointments and all the other senior staff in the Department of Justice, for example, just for one department? But this is a conclusion by cabinet edict and it thwarts the process that this very same government put into place to protect the independence of the judiciary.

There is more at stake here than political points. There is a system that is at stake and it is under threat as never before in this province. Judges are going to the Supreme Court of Canada on Filmon Fridays. This government imposed or gave a very generous early retirement package without going to the process. The Minister of Justice

(Mrs. Vodrey) has refused to tell judges that their intermittent sentences were not being executed. I mean, what a heinous display of interference with the independence of the judiciary.

This is a government with a Premier (Mr. Filmon) who says that judges are employees of the government. They have it wrong. They do not see the principle. They are looking for some cheap political points perhaps, and it may be that the minister has been delegated to make a decision on this without the—I do not know if this has been vetted through cabinet. I would certainly think that all Manitobans would be disgraced if the Justice minister, for one, and others who do understand the importance of the judiciary in this province, did not stand up to this minister and to what the government is now proposing, because the principle is far more important than the nominal figures that have been recommended and then rejected by this government.

Mr. Chairperson: Thank you, Mr. Mackintosh. I now open the floor up for comments and questions. Are there any? Yes.

Mr. Kowalski: I will be succinct. Most of what the official opposition party critic has said I agree with, and I am willing to say at the outset I did not have to react to the government position. The last time we met there was no doubt in my mind that what we should be doing is following the process and accepting the recommendation of this committee. To do anything other than that puts the process in disrepute.

I think the official opposition critic has found some record that indicates the mind-set of the government seeing judges as employees and even in the government viewing the judges and the courts as part of government. They are not part of government, they are part of the democratic process. They should be equal to the government as a check and balance in this country—not a part of government, not an employee of government. One of the arguments that the minister used in speaking to the pension that the judges, when they took on the job, they knew the pension. Well, whether you are a police officer or as MLAs, the position you took when you originally started, they have changed. The pension for the police has changed. In the short time that I have been an MLA, the pension for MLAs is to change. So to use that argument to argue against why the judges should expect

any improvement in their pension is because they signed on under a different pension plan and should not expect any improvement, I do not think is a very strong argument.

I cannot help to put the position of the government on this together with the government's position on many professionals whether it is doctors or teachers or any other professional group. It is almost Machiavellian how the government has chosen to single out those professionals who make a wage or an income higher than the average and to divide and conquer because they are easy targets. As we said before for someone making \$5 a hour, someone making \$90,000 as a judge or making \$60,000 as a teacher, they are easy targets, easy political points to be made to attack them, to disclose their salaries. It is part of a greater Machiavellian principle here being used by the government to divide and conquer Manitobans, to divide them up into the haves and have-nots.

So the position very succinctly is we should be following the process. The Judicial Compensation Committee was appointed by the government. It gave us a report. Reading the report, they have looked at other provinces, they have looked at the economy of Manitoba. They have been judicious in their deliberations. And you know, government can do what they want after years of having a minority government, a laser-thin majority government. Now they have the majority, they can do whatever they want, and they sure are.

* (1020)

Mr. Stefanson: I thank members from both opposition parties for their comments. I think it is appropriate to maybe respond and put some additional information on the record. First of all, it appears that both opposition parties are supporting the majority report, and I really split it into the two sections. There is the issues of the pension and there is the issues of salaries.

I want to focus first of all on the issue of pension. What the two opposition parties are supporting are adjustments to pensions that are going to cost the taxpayers of Manitoba today \$1.5 million, and I want to give them a sense, if they do not have it already, of the kind of pension plan that judges currently have in Manitoba. I will not read all of the aspects of the plan but I will read just two aspects.

The first is that the supplementary plan provides benefits and entitlements that, in combination with those provided under The Civil Service Superannuation Act, will equal those that would be provided under that act if the calculation of the allowance was based on an accrual rate of 2.61 percent per year of service. That compares to an accrual rate of 2 percent per year for years of service for most people who work for the public service.

The other part of the plan is that the maximum number of years of benefit accrual equal 23.5 years. So in effect judges can reach the maximum pension after 23.5 years of service, compared to civil servants, teachers, health care workers, everybody else who reaches a maximum pension after 38 years of service. So that gives you a sense of the difference in the pension plans that we are talking about, and the two opposition parties are suggesting we should make that plan even more generous at a cost today of \$1.5 million. That is why I split the two issues very clearly and concisely on the issue of pension and the issue on what is a fair and reasonable adjustment to the salaries.

On the issue of process, I want to remind the member for St. Johns (Mr. Mackintosh) of what the legislation does in fact say, and I will just read one section of the legislation into the record. The compensation committee established: What the legislation says is, the minister shall, once every two years, commencing in 1990, cause a compensation committee, to be known as the Judicial Compensation Committee, to be established to review, determine and report to the minister on the salaries and benefits payable to judges, including pensions, vacations, sick leave, travel, expenses and allowances.

As I pointed out in my introductory comments, the Law Reform Commission report on which the process is based was very clear that it is appropriate that the Legislature be able to vary the recommendations and make the final decisions. I want to read into the record for the members of the opposition the information that was provided to the Judicial Compensation Committee. I will not read all of it, but this information was provided to the members of the Judicial Compensation Committee.

With respect to its employees, the Province of Manitoba takes the position that the salaries should be affordable in the context of taxpayers' ability to pay—I would hope we can all agree on that principle—be within

a reasonable range of pay levels for comparable positions in Manitoba, compensate individuals in relation to their responsibilities at a level that attracts and retains competent employees—we have had no difficulty in getting people wanting to be provincial judges; I think members are aware of the numbers of individuals that are interested in being provincial judges—reflect economic realities in Manitoba.

It goes on to suggest that while the province acknowledges that judges are clearly not employees and that other factors such as judicial independence need to be considered in assessing judicial compensation—so that point was made perfectly clear to all members of the Judicial Compensation Committee. The member for St. Johns (Mr. Mackintosh) refers to the adjustments to MLAs, and I think he knows, if he does not, I will remind him, that there was all-party agreement of the Liberals, the NDP and the Conservatives on a process, agreement that they would be adopted by the Legislature subsequent to the election, and that is exactly what happened, based on an all-party agreement of all parties.

* (1030)

So a different process from what we are talking about here in terms of judicial compensation, I have just outlined for you what the legislation says. I have outlined for you what direction was given to the Judicial Compensation Committee. I have outlined for you what the Law Reform Commission report says in Manitoba, of where the final decision-making authority rests, and when we look at the issues of pension and pay, we separate them. I think the issue of a retroactive adjustment on pension costing taxpayers \$1.5 million dollars is unreasonable, particularly in light of the fact that these pension plans are already amongst the most generous in all of Manitoba, and to treat the compensation adjustment at the same level as was provided to other people that derive their compensation from the taxpayers of Manitoba, which is an adjustment of 2.3 percent, which is what we provided other people receiving compensation back in September 1993, when judges did not receive an adjustment, is a reasonable and fair thing to do.

That is the true test at the end of the day. Are we being fair and reasonable in terms of the adjustments that we are making to the compensation for the judges in Manitoba? I would say the position that we put forward

today represents just that, fairness and being very reasonable.

Mr. Mackintosh: I remind the minister that the third-party committee considered all of the arguments that the minister is advancing, and I conclude that, is it not fair that long-service judges should receive the same formula pension at retirement as new appointees with the same number of years of judicial service? The committee also looked at the ranking of judicial pensions in Manitoba, noticed that we were nine out of 10 as of 1991, and a supplementary plan increased that rank to fifth or seventh, but depending on the particular circumstances. If the minister is going to proceed with his plan, it is likely that we are going to again be losing ground and come out nine out of 10 again as we are with judicial salaries across Canada.

Also, I remind the minister that comparing the pension scheme available to employees may not be the right measurement or the right pension scheme to compare to the judges' pension scheme, given that you have to serve 10 years at the bar, I believe, before one even can be considered for appointment to the bench or different considerations. It is more appropriate that the pension schemes be compared across jurisdictions in Canada, at least that is what the committee concluded, and there does not seem to be anything unreasonable about that.

I might also add that when it comes to salary increments, the government should perhaps take the view that rather than being so niggardly on the contribution of public servants to Manitoba, that a reasonable salary enhancement should be considered by this government and be part of its policy, rather than being niggardly and using the low-wage policy of this government for public servants as a reason to be stingy and subvert the independent process for the compensation of judges.

Mr. Chairperson: Do any of the other members of the committee have any further comments upon this issue?

Mr. Stefanson: One last and I do not want to prolong the discussion or debate unless we feel we are getting into additional areas of information. We can certainly continue to have political discussions in the Legislature or elsewhere, but on this issue of pensions I think the other thing that is important for all committee members to understand is we are not talking about a further adjustment or enhancement to the pension plan. What we

are talking about is taking a plan that is currently in effect from July 1, 1992, and applying it retroactively to all of the judges that currently sit at the bench, and that is the cost of \$1.5 million that I refer to.

I have already explained to all of you why I think that is unreasonable, unfair and obviously an added significant cost to the taxpayers of Manitoba where individuals going back prior to 1992 who accepted these positions under certain arrangements knowing what the compensation was, knowing what the pension was at that particular point in time. People accepting appointments subsequent to '92 are now under the revised adjustment to the pension plan.

Again, I think it is important that committee members understand the two issues and, from our point of view, they are very different and should be treated differently.

Mr. Chairperson: Mr. Minister, you have a motion.

Mr. Stefanson: Yes, I do, Mr. Chairman, I have a motion. I move

THAT the Standing Committee on Privileges and Elections adopt the proposal in Schedule A and recommend the same to the Legislative Assembly of Manitoba.

Schedule A has three points:

1. That effective April 1, 1995, salaries for Provincial Court Judges be increased by 2.3 percent to \$96,173.
2. That the additional remuneration for the Chief Judge and Associate Chief Judges remain \$7,000 and \$2,000, respectively.
3. That all other compensation including the Supplementary Judicial Pension Plan be continued in the same manner as currently exists.

Motion presented.

Mr. Chairperson: Any further discussion on the motion? Question?

Mr. David Newman (Riel): I felt I must, as a member of the legal profession and also a member of the

Legislative Assembly as a professional parliamentarian, I just want to make clear for the record, in response to what Mr. Mackintosh said, that the process which has existed in Manitoba prior to even the introduction of the advisory committee was consistent with the requirements for judicial independence established by the Supreme Court of Canada in the Valente case. That was confirmed. It just refreshed my memory by the Law Reform Commission report dealing with this issue.

The creation of an advisory committee was consistent with the recommendations of the Law Reform Commission. The Law Reform Commission's rationale was consistent with what associations like the Canadian Bar Association had put forward and also consistent with the experience of some other jurisdictions. It was intended to take some of the potential degrading nature of interaction between the judiciary and the Executive Council in effect negotiating remuneration changes. It gives some element of transparency, independence and accountability, just simply the publication of the report does that, and that is what the report that I have read does. The Executive Council, through the Minister of Finance, has recommended and incorporated in a motion an improvement in the remuneration to \$96,173 retroactive.

* (1040)

An aspect that has not been mentioned, and with that background I want to mention, is that I have been very conscious and very vigilant and will continue to be about judicial independence and protection of the rule of law, which is an essential part of a democracy and something that I will always protect and always be very sensitive to because there is a very delicate balance. In this particular issue, I have studied it carefully and I am prepared to support this motion. I support the motion for an additional reason, besides what the minister has stated and what Mr. Benson stated in his dissenting report, and that is at some point in a jurisdiction like Manitoba where you are going to increase the rate of remuneration paid to anybody, even an independent judiciary, to a degree which is perceived to be unfair and out of step with other players and essential players in a democracy, whether it be professors who claim, and rightly so, academic freedom, whether it be teachers who claim they need respect and they need a sense of worth to be able to teach properly, all of these being fundamental parts of

democracy, but if you are out of step with what is perceived generally to be fair, you can bring disrepute on the very institution and the very freedom that you stand for.

In the province of Manitoba at this time, I have no difficulty believing that to be overly generous, relatively speaking to how other people are treated in this province, to judges in the Provincial Court would not bode well for judges in the court. It could result in a disrespect for those very judges. It could undermine the very kinds of independence, the very types of reputation that they work hard to engender and earn by conducting themselves as the professionals that they are. So I have no difficulty supporting this motion at this time in these circumstances.

Mr. Chairperson: Thank you, Mr. Newman. There has been a call for the question. All those—Do you wish to speak to the motion, Mr. Mackintosh?

Mr. Mackintosh: Yes, Mr. Chairperson.

Mr. Chairperson: All right. Please proceed.

Mr. Mackintosh: The issue of whether the judges' salaries would be so out of step as to put the administration of justice in disrepute, I think, is an imaginative argument but one that I certainly do not think

would sway. Based on the information that was considered by the Judicial Compensation Committee, the committee did consider that issue. It considered salaries of Manitoba judges as compared to Crown attorneys and the Deputy Minister of Justice, for example. This had such a relationship, it does not seem to be unreasonable, although the suggestion that the work of the judge cannot be compared to that of a Crown attorney or Deputy Minister of Justice. They also looked at the Canadian comparisons, which showed that the judges in Manitoba were, next to Newfoundland, the lowest paid in all of Canada. Repute also has to do with valuing, and I think that was considered by the compensation committee, so therefore we conclude that the compensation committee did not exclude consideration of that argument and that issue and does not have an unreasonable report in that regard. Deference should be made to the process and to the committee report.

Mr. Chairperson: There has been a call for the question. The motion has been read to the committee. Shall the motion pass?

Some Honourable Members: Yea.

Mr. Chairperson: I declare the motion has passed. Committee rise.

COMMITTEE ROSE AT: 10:43 a.m.