



Third Session - Thirty-Seventh Legislature

of the

**Legislative Assembly of Manitoba**

**Standing Committee**

**on**

**Privileges and Elections**

*Chairperson*

*Mr. Conrad Santos*

*Constituency of Wellington*



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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Seventh Legislature**

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LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS

Wednesday, June 19, 2002

**TIME – 6:30 p.m.**

**LOCATION – Winnipeg, Manitoba**

**CHAIRPERSON – Mr. Conrad Santos  
(Wellington)**

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

**ATTENDANCE - 11 – QUORUM - 6**

*Members of the Committee present:*

Hon. Messrs. Mackintosh, Selinger

Messrs. Aglugub, Dewar, Faurschou,  
Loewen, Martindale, Nevakshonoff, Penner  
(Emerson), Santos, Mrs. Smith

**WITNESSES:**

Mr. Robb Tonn, Provincial Judges  
Association of Manitoba  
Mr. Richard Buchwald, Manitoba Bar  
Association

**MATTERS UNDER DISCUSSION:**

Report and Recommendations of the  
Judicial Compensation Committee dated  
April 19, 2002

\* \* \*

**Mr. Chairperson:** Good evening. Will the  
Standing Committee on Privileges and Elections  
please come to order.

This meeting has been called to consider the  
Report and Recommendations of The Judicial  
Compensation Committee dated April 19, 2002.

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

**Mr. Gregory Dewar (Selkirk):** I nominate Mr.  
Martindale.

**Mr. Chairperson:** Are there any further  
nominations? Seeing none, Mr. Martindale is  
appointed, by acclamation, Vice-Chair.

Before we get started, are there any  
suggestions for the committee as to how long we  
should sit this evening? I guess not.

I would like to provide the committee with  
some background information on the process the  
committee has followed in the past when dealing  
with the Judicial Compensation Committee  
report.

At previous meetings, the minister  
responsible has made an opening statement  
followed by a statement from the Opposition.  
Also, representatives from the Judges  
Association and other groups have appeared, by  
leave, before the committee dealing with the  
Judicial Committee Compensation report.

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

At this evening meeting, Mr. Robb Tonn of  
the Provincial Judges Association of Manitoba  
and Mr. Richard Buchwald of the Manitoba Bar  
Association both asked to speak to the  
committee. This will require the agreement of  
the committee. Is there leave that we allow these  
gentlemen to speak? *[Agreed]*

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

**An Honourable Member:** After.

**Mr. Chairperson:** After. Mr. Robb Tonn, Provincial Judges Association. [*interjection*] I am sorry. The minister wishes to make his opening statement first.

**Hon. Greg Selinger (Minister of Finance):** Mr. Chairperson, I am pleased to provide some introductory comments on the Judicial Compensation Committee report.

The committee was established by Order-in-Council 62/2001 pursuant to the provisions of The Provincial Court Act. The committee was made up of the chair, Mr. Martin Freedman; the government representative, Mr. Vic Schroeder; and the judges' nominee, Mr. Harold Piercy. Hearings took place in October and November in 2001, and the JCC, which is short for the Judicial Compensation Committee, was provided to the honourable Minister of Justice (Mr. Mackintosh) on April 19, 2002. On May 28, 2002, the report was tabled in the Legislature, which then referred it to the Standing Committee on Privileges and Elections for review. That is what brings us here tonight.

The report recommends salary increases for judges and masters as follows: 8.9% increase effective April 1, 1999, taking salaries to \$122,000; an additional 9% increase effective April 1, 2000, bringing salaries to \$133,000; and another 8.3% increase effective April 1, 2001, bringing salaries up to \$144,000.

Additional remuneration of \$10,000 is recommended for the Chief Judge, and \$3,000 for the Associate Chief Judge and Senior Master. For clarification, on July 6, 2001, The Provincial Court Amendment and Court of Queen's Bench Amendment Act, Bill 46, was adopted to provide that masters receive the same salary and benefits as judges, and the Senior Master receive the same salary and benefits as the Associate Chief Judge.

The report also recommends enhancements to the pension plan in two major areas; firstly, elimination of the actuarial reduction on a spousal pension benefit. For clarification, currently, the pension for the judge or master with a spouse is actuarially reduced in order to provide a two-third beneficiary pension to the surviving spouse. That would be eliminated in these recommendations. Similarly, it was recommended

that the actuarial reduction on a 10-year guaranteed pension for a judge or master without a spouse would be eliminated.

As the second significant enhancement to the pension plan, the JCC has recommended that the average salary on which the pension is calculated be changed from the best five years to the best three years. With respect to legal fees, the JCC has recommended that the Province pay 75 percent of the judge's legal and other fees up to a maximum aggregate payment of \$30,000, which is double the previous cap of \$15,000. Furthermore, there was a recommendation that the Province pay 75 percent of the master's legal and other fees up to a maximum amount of \$7500.

The JCC recommended that the current severance pay benefit be provided to the judges and the masters. The severance pay benefit would not be available for those judges and masters appointed after the date the Judicial Compensation Committee recommendations are implemented. For clarification, the existing severance pay benefit upon retirement provides for one week's pay per year of service to a maximum of 23 weeks.

As a separate and distinct matter, the committee suggested that the Province provide additional retroactive compensation for masters. The suggestion was made by way of moral suasion rather than a formal recommendation and urged the Province to make a lump sum payment to each master calculated at \$2500 for each year of service after March 31, 1989, and prior to April 1, 1999.

There were no increases in benefits recommended by the Judicial Compensation Committee. This concludes my opening remarks to the standing committee.

\* (18:40)

**Mr. Chairperson:** Is there any opening statement from the Opposition?

**Mrs. Joy Smith (Fort Garry):** This report, and recommendations set out by the Judicial Compensation Committee, seems to be a very thorough report. I think the salient factor this

evening is the equality and the fair and equitable practices across Canada. When you look at the other jurisdictions in other parts of Canada—the other provinces, this is a very reasonable report, based on the recommendations that are set forward. It is recognized that the judges' salaries were raised a number of years ago, but that there is a big gap between what has happened recently and what has happened in years past. When you look at the judicial salaries by jurisdiction, clearly we can see that Manitoba needed to have some revisions.

So we will await the comments by the presenters tonight with great interest. That is the conclusion of my opening remarks.

**Mr. Chairperson:** Since the committee's leave has been given, the Chair calls upon Mr. Robb Tonn of the Provincial Judges Association of Manitoba. Is there any written statement that the presenter wishes to give out?

**Mr. Robb Tonn (Provincial Judges Association of Manitoba):** I have some material. I will just wait while a few short documents are distributed, which, hopefully, will make what I am going to say a little clearer.

**Mr. Chairperson:** Mr. Robb Tonn, please proceed.

**Mr. Tonn:** I appear on behalf of the Provincial Judges Association to urge this committee to recommend the adoption of the recommendations of the JCC in their entirety. I want to say, at the outset, that the reason we feel that it is important to do so is fundamentally because of the importance of the process. This process has been established constitutionally and has now been put into place in Manitoba. The idea is to create an arm's-length recommendation to government, and, without going into all of the constitutional law, the fundamental proposition is that recommendation ought to be accepted unless there is a really good reason for not doing so.

I want to point out that the Judges Association did not receive all of the benefits that they requested in relation to this tribunal. The association had made recommendations with respect to other improvements, and benefits

and pension, and with respect to salary, which they felt would have brought them closer to what is an appropriate level. But we are not here to quarrel about that. We are here to say that we respect the decision of the JCC and urge it upon this committee and the Government. The JCC has spoken. Whether or not they agree specifically with us is not the principal issue before you.

Secondly, I hope, and as appears to be so far the case, that this report of the JCC has been so far received in a way that is marked by absence of controversy, which I think is a very important first step in showing the respect for the process and the important role that it plays. I have provided you with photocopies of two newspaper articles, not because I think that we should necessarily do what the *Winnipeg Free Press* or the *Brandon Sun* urge upon us, but to indicate that there does not appear to be controversy, and in Brandon, indeed, there is an editorial recommending adoption of this report in full.

You will note that in the *Free Press* article there is a list of the proposed increases in judicial salaries, together with salaries from across the province. That is not quite accurate and up to date, and that is why I have provided the committee with the first page of the other package. I would ask you to note that the figure for Québec, rather than 137, is \$148,319. You will note, in the right-hand column, that the tribunal recommended \$180,000, the government decided on 148, and that matter is subject to judicial review at the moment.

You will note as well that, with respect to the province of Prince Edward Island, there has been a change from \$144,314 to \$150,011. That is because there is a formula that adjusts the P.E.I. amount every six months. Of course, that latest increase was not included. This was a 2001 increase.

Finally, with respect to Newfoundland, which is noted at \$112,000, in fact, the figure in Newfoundland, as adopted by the government, is \$139,900. The recommended amount was \$153,000. That matter is also subject to judicial review.

What this means, if you take a look at the other non-Queen's Bench jurisdictions across the

country, the provinces and the territories, you find, for 2001, an average salary for a provincial court judge of \$155,221. The Manitoba recommendation is, as you can see, for \$144,000. I would suggest that is a very moderate recommendation.

\* (18:50)

I have attached, for your information, and I will not take you through it, a table that shows up-to-date information with respect to where the process is across the country, and what the amounts appear to be. You can look to that to find support for what is on the first page. I would note that one of the reasons why you will find some difference in the figures is because of the fact that there are processes across the country, of course, staggered.

So information that exists as at the fall of 2001, when some of the processes are still going through what the recommendations would be for that year, ultimately becomes updated. That is why there may be some difference between this document and the *Free Press* document.

If you turn to the third page of the document I have prepared, I am just using this as an example, I could have given the committee information about the pension plans from across the country. The detail on that is found in the body of the report, and I do not intend to repeat that. We know from the new legislation that Saskatchewan, Nova Scotia, New Brunswick and Manitoba are contemplated to be related in some fashion. So let me say to you this is assuming full implementation of the salary recommendations and full implementation of the averaging for the pension and the spousal matter.

The pension for a Manitoba judge will still be significantly behind that of those in those three other provinces. There are a couple of reasons for that. One, principally, is the fact that Manitoba has a much longer accumulation period than does the other provinces, but you will see here that, for example, in Saskatchewan and Nova Scotia, after 23.6 years of service, there is a full 70% pension; in New Brunswick, 65 percent; and, in Manitoba, 61.5 percent.

I point that out to you in the sense of saying you should, by no means, consider the pension recommendations, with respect to this tribunal, to be grand or overreaching. Again, I think that they show a moderate approach to bringing Manitoba into line with other jurisdictions.

I have attached, as the fourth page, this is simply an item from the table of contents of the report, and there is a list identified: Legal and Other Fees. Let me just address that very briefly. The minister noted that, in fact, the recommendation for legal fees was twice the recommendation of the previous JCC. There is a very good reason for that. The previous JCC had a very brief hearing. It was not necessary to go into actuarial evidence or anything of that nature, and, accordingly, the amount of costs considered should have been smaller.

Secondly, this tribunal, you will note if you read the text of the report entirely, very much appreciated the presentations by both the Judges Association and the Province, including the involvement of actuarial advice, and felt that that was essential to the proper functioning of the committee. So in this circumstance they have recommended that figure.

I think that the approach that future JCCs would take, and I think that this one has taken, is not to have a set rule with respect to what costs are to be recommended but to consider what has happened before the committee. If the judges do not make a useful contribution or waste a lot of time, then there would be a recommendation for smaller compensation. The judges, I think, have been responsible in terms of what they presented.

The other issues, you will note that there are a list of benefits identified that the association had asked for with respect to vacations, sick leave, disability coverage, life insurance, travel expenses, professional allowance and so on and so forth. In most of those categories, Manitoba lags behind what is available in other jurisdictions, but the tribunal considered that given the recommendations they were making for changes in salary and pension, that they would not consider those at this time.

So, again, I put this before you to urge upon you that this is a very balanced and moderate report. It is certainly not reaching for the sky.

Finally, I would ask you to remember this, and that is if you are inclined to tinker with these recommendations, I urge you not to. The position that the Province put before the tribunal, the bottom line of the Province was, consider total compensation. That is what we need to consider. You need to weigh off salary versus pension. You need to consider the total package here. That is what this tribunal has very specifically done and has, in fact, commented that were the Province to decide that they wished to do something less in one of these respects, that they probably would have recommended more in another area.

So having urged the tribunal to take the overall compensation, total compensation model in terms of arriving at its recommendations, I would urge that this committee and ultimately the Legislature respect that balancing that the tribunal did and appreciate that this is put forth, again, as a moderate proposal compromising between the fairness to the judges and considering the economic and fiscal situation of the Province.

Those are my remarks, except one. I know that this committee is afforded by the legislation some considerable time to consider its decision, as is the Legislature. We have a problem, though, because of the introduction of the new legislation, and I am sure that the Minister of Justice (Mr. Mackintosh) would echo this. The situation is such that the next judicial compensation committee is, by statute, required to issue its full report and recommendations sometime prior to the end of September of this year. It will, of course, be difficult for it to do so and for the judges and the Province to make full recommendations if the current compensation from the last tribunal is not known before that.

So I urge this committee to, of course, give very careful consideration to this but to do it with the greatest dispatch that you can while doing justice to the task in order to facilitate the anomaly that has occurred as a result of the first year of the new legislation. Unless there are any questions, I am very grateful for the opportunity to have been invited to speak.

**Mr. Chairperson:** The floor is now open for questions.

\* (19:00)

**Mr. David Faurshou (Portage la Prairie):** I appreciate the presentation here this evening. Just in regard to a couple of the changes referred to as spousal or survivor benefits, are there further restrictions or definition offered outside of what we have been presented with here this evening? I perhaps may look to a retired justice being recently wed prior to his passing. Is that still the situation for the survivor or spouse, to receive full compensation for life?

**Floor Comment:** Well, I am not sure that I can answer that.

**Mr. Chairperson:** Excuse me. You have to be recognized first.

**Mr. Tonn:** I apologize.

**Mr. Chairperson:** Mr. Robb Tonn.

**Mr. Tonn:** I am not sure I can precisely answer that, because I have not looked at all of the text. I do not believe that judges are treated any differently with respect to spouses under this plan than are civil servants with respect to their spouses. So whatever the rules are with respect to who is a spouse and when they are eligible, and I see Mr. Irving nodding, whatever those provisions are for Manitoba civil servants, that is the provision with respect to judges. As far as I am aware, there are no current plans for an elderly judge to marry a babe. Thank you.

**Mr. Faurshou:** Thank you. Well, I appreciate that. I will not comment any further to that. I appreciate what you have said.

The other thing that I recall from a previous report, when I sat on committee, was that there was an expression of concern regarding security for the judges in coming and going from the courtrooms. I do not see that in this report at this point in time. Was that reconsidered, or not a current concern? As it was expressed in the past, you know, a darkened parking garage could present a situation where a judge may be compromised by someone wanting to do harm.

**Mr. Tonn:** Mr. Chairman, as you know, there had been a request made in relation to parking to

the previous JCC, which had recommended some compensation to judges in regard to parking. The Legislature chose not to implement that recommendation at the same time that it chose not to recommend the recommendations with respect to pension and costs. The matter went to the Court of Queen's Bench. While the recommendations with respect to pension and costs were reinstated the justice of the Court of Queen's Bench accepted that the Province had a valid reason for not accepting the recommendation with respect to parking.

The judges respect that decision, and, while that last recommendation was part of a total package, I can certainly see why it is the sort of thing that would be a lightning bolt. The judges have respected that decision, have not asked for their parking situation to be altered further.

**Mr. Chairperson:** Any further questions?

**Hon. Gord Mackintosh (Minister of Justice and Attorney General):** Thanks very much for your presentation, and indeed your role in the whole process and your role in helping to clarify the process over the last while. From time to time, people have noted that the number of courtrooms in the courthouse in Winnipeg, the Law Courts Building, are not being used in the afternoons. Now, I understand that there are certain cases, certain hearings that are indeed set down in the afternoons, but I understand that most types of hearings are not. It would appear that some of the courtrooms indeed are sitting empty in the afternoons.

Now, I understand that during the JCC process, counsel for the Province did ask the JCC to require production of statistics about the utilization of the courtrooms, but it would appear that the JCC declined to do that, refused to make an order, and I can read in some of their rationale and so on.

But I am just wondering, in light of that, I would be interested in hearing your comments or your thoughts on the situation and, in particular, in your view what would be the helpfulness or the relevance of that kind of statistical information on the issue of judicial compensation.

**Mr. Tonn:** Thank you, Mr. Minister. At the end of the day, I do not think that the courtroom utilization statistics are a very significant

element in relation to judicial compensation. I think that they should be considered differently. I think they are very important, and I will address them in a moment.

But, for example, I do not think that a judge's salary should go up every time there is a slight increase in workload or go down because of the fact that a case is stayed. I think that you have to separate the question of the compensation that needs to be paid to a judge for the purposes of judicial independence and the efficient operation and administration of justice in the best way that one can.

I would like to clarify, if I may, with respect to the courtroom statistics, and I do not obviously want to go into details of which I know the minister is aware and some others may not be, but there were communication problems obviously within the provincial bench, and reliable statistics with respect to courtroom utilization were not available to the Judges Association.

Just interestingly, I think one of the problems in relation to that is that I know that the process of computerization is being introduced to the courts. It has not yet been introduced with respect to the Provincial Court in relation to those matters, and therefore there has been a problem in terms of statistics gathering. I understand that in the new legislation there is some expectation that there will be an annual report that will address some of these matters. I have no doubt that the Government will provide resources to the court in order to be able to give them the information they want.

But let me say what I think. The second thing about courtroom utilization statistics that is misunderstood: it is said that matters are not scheduled for most of the courts in the afternoon. This is not correct. What happened is this. It used to be that there were separate morning and afternoon dockets for most of the courts. You would schedule some matters for the morning and some for the afternoon. The problem arose that that was not a very efficient use of the court because of the fact that you never know which cases are going to fold and which do not. So what would happen is, if something was completed in the morning, the courtroom is



sitting there, the judge is there, the matter can be dealt with. But the defence lawyer is not there, the accused is not there and you cannot proceed with the next trial. One of the things that happened in relation to that was sometimes trials which started in the afternoon did not get completed and had to get put over for continuations.

So the courts that do not have a separate docket for the afternoon are scheduled for the entire day, not for mornings only, and indeed many of them do go into the afternoon. It depends on how those matters are conducted. Some courts in which it is known that there will be a completion of matters in the morning with respect to, for example, bail and those kinds of things may have a separate docket scheduled for the afternoon. So that is the accurate state of affairs. I want to say one final point on this. We could get much, much more efficient courtroom utilization statistics in Winnipeg if we eliminated circuits. If we did not have resident judges in Dauphin, if we did not send judges to remote northern communities where often the court party will go in and might have only one matter to deal with on that particular day because there have been a bunch of remands, you could boost efficiency by having everybody come to Winnipeg.

\* (19:10)

That is not what this Province wants to do. We need equal access to justice and good justice takes time. You do not want to feel that the court is in a rush when it is trying to decide how long you are going to be sent to jail for or whether or not you are going to be deprived of your freedom. So I think that it is important, and in my understanding, the Provincial Judges Association and the judges are interested in exploring with the government matters involving the more efficient use of courtrooms. I understand there is an experimental program underway at the moment which we will find out about how well it works. But we want to have accurate information, and we did not want to get into a side issue before that tribunal on something which could probably generate a fair amount of heat and very little light.

**Mr. Mackintosh:** Just for the record, it remains my view that we can often predict the length of

hearings. If the prediction is wrong and if matters go over, it is my belief that we can also schedule over, but that is a matter I think that I can raise in another form, recognizing the independence of the court and its role over scheduling. I will raise that with the Chief Judge as I have in the past and I have with the Acting Chief Judge and so on.

But I know the case for the management project, the court has to be commended on that, to show that leadership and I asked Judge Chartier and Acting Chief Judge, Bruce Miller, this: Does it deal with the two o'clock challenge? They said it did not. But it may unfold that way, and so I look forward to continuing my urgings and looking to see if there are obstacles that the Province can help remove in terms of looking for better utilization. I do believe it is a project that is worth all of us working together to tackle.

But thank you very much again for your role here, Mr. Tonn. I think it is a tremendous contribution that you have made to this process, if not the settlements or the end results of these processes over the last number of years.

**Floor Comment:** A brief comment.

**Mr. Chairperson:** Order, please. You have got to be recognized again, Mr. Tonn.

**Mr. Tonn:** Thank you. I appreciate the efforts of your department to try to address a number of those issues. I might just say, with respect to courtroom utilization, one of the problems that is perceived is that there need to be additional Crowns. I think that we will have speedier justice and better utilization if there are more Crown attorneys available to deal with some of those things. So I am not trying to lobby for the Crown, but I just indicate that there are other aspects of the system that are very important. I know of a number of situations in which judges are available, but they cannot get a Crown.

**Mr. Mackintosh:** I have to answer that. We called in an independent review to determine how the Crown resources could be used more efficiently or if additional resources were needed. While they identified additional resources as being necessary and the majority of those have now been put in place but there is a

phase-in that is continuing. We have invested significantly, of course, I think almost \$3 million more since coming into office. He put a 29% increase in resourcing, but that is not all there can be to an answer.

The Ernst & Young review did find that the Crowns needed more support services and management of support services, and so we now have a manager over there and additional support staff. It is our view that while it may generally be said that there should be more Crowns, I think the answer is somewhat more complex than that, as all the recommendations in Ernst & Young attested to. But most of those recommendations now have been addressed and some continue to be addressed in terms of getting information early on for files and making sure that there is a good predictability as to whether court time has to be set down or not.

But certainly the view that you have expressed I have heard, but we wanted to test that with an outside independent review—not a cheap process, I might add—which concluded that there was more to it than that, but additional Crown resources indeed was part of that.

**Mr. Tonn:** I absolutely agree that there is more to it than that. It is a complex process which can be best effected by the court and the administration working together for the administration of court services. I am hopeful and I know the judges are hopeful that that is something that will continue to improve.

**Mr. Selinger:** Thank you, Mr. Tonn, for your presentation, and I would like to thank you for the participation you had on behalf of the judges on this arbitration panel. If you see the other members of the panel, please extend our thanks to them for the service they provided there as well.

This is a very thorough report. I have not read it all, but I was listening carefully to your presentation and at the same time perusing the document. One of the fundamental principles that this process is intended to protect is judicial independence, and in your remarks you indicated that in order to protect that principle we should accept the recommendations of the report in totality in order to ensure that that process does

its job of ensuring that judicial independence is maintained. That was really the main point that was made in the Supreme Court judgment, as well, in terms of Mr. Freedman's excerpts that he puts in his report.

My question to you would be this: Under what conditions would you think it appropriate for a government to disagree with a report from a group such as this?

**Mr. Tonn:** Well, they might be many and varied, Mr. Minister. I do not think they exist at the moment. Let me say that.

But I can think of one situation offhand. Let us suppose that what happened was that a tribunal made a recommendation for the future three-year period, and shortly after that recommendation had been tendered, there was a significant economic event which greatly altered the circumstances.

Government is not supposed to just disagree with the weightings with respect to it, but if, for example, they have gone off and conducted the type of inquiry that is really beyond their mandate or have made recommendations that in some way are offensive, and let us just use the example of the last tribunal. It had recommended free parking as part of a package.

Now, at the end of the day, you know what, if they recommended another six hundred bucks in salary and no free parking, you would have come out to the same thing, and it probably would have gone through, but there was a statement to be made in relation to that, and government felt that that was not a good signal for valid reasons. The government determined that really the issue of whether or not judges pay for parking is unrelated to the issue as to whether or not that parking is secure.

So that was a good reason. That was acceptable to the court as a good reason. I think we get guidance from that, but having said this, given that the objective is to have a considered opinion made after the presentation of all of the information. Think of it this way. This

committee has a lot less time to consider this than that tribunal did and a lot less information than that tribunal did, because it is unlikely that you are going to conduct hearings of the same degree because you have many things to do, or to go into that. So I think you have to give a lot of credence to three very respected individuals who were felt, by the parties, to be appropriate to deal with this matter. I hope that answers your question.

\* (19:20)

**Mr. Selinger:** I realize it is a hypothetical and perhaps a challenging question, and I think your answer does give some circumstances when government might be in a position not to accept the recommendations of a group like this. Some unforeseen exigency economically would affect it when some recommendation was arrived at which seemed to be beyond the terms of reference that the committee was supposed to operate under. If there was something that rose that seemed egregious and unnecessary and could be dealt with in another manner and achieve the same outcome with less negative implications, say, for the broader public sector, those are the kinds of reasons, I think, you have given. I think they are useful reasons and should be considered. Thank you.

**Mr. Chairperson:** Are there any other questions?

**Mrs. Smith:** I just want to conclude and thank you for your presentation. I must say to you that there is more than just reading the document. When you go into a committee like this, there is a lot of research that is done, historically. When you were mentioning the parking, I think the security element was the thing that maybe someday might come up again due to the fact of what is happening in this province in the area of crime. I think it is a very, very thorough report. We have to talk about fair and equitable, and we have to also talk about what is happening all across Canada. I just want to commend you for your presentation. Thank you.

**Mr. Tonn:** Thank you, and I just conclude by adding, as I forgot to say earlier, that I know that this committee does not normally hear from people. The Manitoba association of defence

lawyers has asked me to convey, on their behalf, that they also support the full implementation of the report.

**Mr. Chairperson:** Any other questions? Thank you, Mr. Tonn. The committee is now ready to hear Mr. Richard Buchwald of the Manitoba Bar Association.

**Mr. Richard Buchwald (Manitoba Bar Association):** Mr. Chairman, honourable ministers, members of the committee, I want to thank you for granting me leave to briefly address you this evening.

My name is Richard Buchwald. I am a member of the executive of the Manitoba Bar Association. The Manitoba Bar Association is the voice of the legal profession in Manitoba. We have approximately 1030 members, some of whom are members of the judiciary. So I feel, in addition to what Mr. Tonn is doing here today, that I, too, am speaking for some of our members who are judges in this province.

It is the position of the Bar Association that an effective and proper-running judiciary needs to be fairly and properly compensated. It is the position of the Manitoba Bar Association that an effective justice system needs to have fairly and properly compensated members of whom many are members of the judiciary. So, on behalf of the Manitoba Bar Association, I urge this committee to adopt the recommendations of the report of the JCC in its entirety.

Those are my remarks, Mr. Chairman, and subject to any questions anyone may have. Thank you.

**Mr. Chairperson:** Any questions from the committee? The honourable Mr. Penner.

**Mr. Jack Penner (Emerson):** Are there any—

**Mr. Chairperson:** Emerson. Excuse me, there are two Penners in the Legislature. Penner from Emerson.

**Mr. Jack Penner:** I would like to ask the witness whether it has ever been considered that there need be or might be some consideration of

performance or whether there are any requirements now within the system that would require that a judge hear at least a given number of cases for salaries rendered.

**Mr. Buchwald:** The Bar Association has not given that any consideration. I would simply add that the issue, as I understand it, is fair compensation for judges.

I think the report quite correctly points out that that compensation is lacking today.

So the Bar Association's position as to performance is not a factor and that it ought not to be a consideration at this time.

**Mr. Chairperson:** Any other questions from the committee? Thank you, Mr. Buchwald.

**Mr. Doug Martindale (Burrows):** Mr. Chairman, I move that the committee rise.

**Mr. Chairperson:** Is it agreed that the committee rise? *[Agreed]*

**COMMITTEE ROSE AT: 7:23 p.m.**