

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

Chairperson
Mr. Rob Altemeyer
Constituency of Wolseley

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MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Ninth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Thursday, May 20, 2010

TIME – 6 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Rob Altemeyer (Wolseley)

VICE-CHAIRPERSON – Ms. Marilyn Brick (St. Norbert)

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Blaikie, Chomiak, Hon. Ms. Irvin-Ross, Hon. Messrs. Selinger, Struthers

Mr. Altemeyer, Ms. Brick, Messrs. Eichler, Goertzen, McFadyen, Pedersen

APPEARING:

Shipra Verma, Deputy Chief Electoral Officer

MATTERS UNDER CONSIDERATION:

Annual Report of Elections Manitoba for the year ending December 31, 2003, including the conduct of the 38th Provincial General Election June 3, 2003

Annual Report of Elections Manitoba for the year ending December 31, 2006

Annual Report of Elections Manitoba for the year ending December 31, 2007, including the conduct of the 39th Provincial General Election May 22, 2007

Annual Report of Elections Manitoba for the year ending December 31, 2008

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Clerk Assistant (Ms. Monique Grenier): Good evening. Will the Standing Committee on Legislative Affairs please come to order.

Your first item of business is the election of a Chairperson. Are there any nominations for this position?

Ms. Marilyn Brick (St. Norbert): I nominate Mr. Altemeyer.

Clerk Assistant: Mr. Altemeyer has been nominated. Are there any other nominations?

Hearing no other nominations, Mr. Altemeyer, will you please take the Chair.

Mr. Chairperson: Social occasions aside, this meeting has actually been called to consider the following annual reports of Elections Manitoba: for the year ending December 31st, 2003, including the conduct of the 38th Provincial General Election June 3rd, 2003; for the year ending December 31st, 2006; and for the year ending December 31st, 2007, including the conduct of the 39th Provincial General Election May 22nd, 2007; and for the year ending December 31st, 2008.

Before we get started, are there any suggestions from the committee on how long we wish to proceed this evening, recognizing the honourable Minister for Energy?

Hon. Dave Chomiak (Minister of Innovation, Energy and Mines): Thank you, Madam Chair–Mr. Chairperson. It's the hair.

I suggest perhaps we follow standard practice and sit till 8 o'clock and reassess it then.

Mr. Chairperson: Reassess as opposed to recess?

An Honourable Member: Yes.

Mr. Chairperson: All right, if that is amenable to opposition members as well, we will proceed till 8 o'clock and then assess our situation then? *[Agreed]* Okay. Very good. Thank you.

And any suggestions as to the order in which we should consider the reports?

Mr. Kelvin Goertzen (Steinbach): Well, I think in the past we've had some global discussions on the reports, and that's probably the easiest way to proceed.

Mr. Chairperson: Thank you very much for that suggestion.

Mr. Chomiak: I–yeah, I think that makes sense. The only diversion is if we could pass something and we would probably go from the oldest to the most recent, but I guess we can reassess that as we go through.

Mr. Chairperson: That said, proceedings this evening will go in a global manner, then, for this committee. Thank you very much, everyone.

Now, moving on, does the honourable First Minister wish to make an opening statement and, prior to doing so, would you, perhaps, please introduce the officials in attendance to members of the committee tonight?

Hon. Greg Selinger (Premier): Our acting Deputy Chief, Elections Manitoba chief officer, Shipra Verma, and do you want to introduce the other staff, please?

Ms. Shipra Verma (Deputy Chief Electoral Officer): For sure. I have Mary Skanderbeg, the manager of Corporate Operations, and Kerry Foster, the manager of Elections Finances.

Mr. Chairperson: Very good. Thank you. First Minister, please proceed with your opening statement.

Mr. Selinger: Good evening and thanks for everybody being here today. I'd like to begin by welcoming Shipra Verma to the committee tonight. As you know, Ms. Verma is the Deputy Chief Electoral Officer and acts in the place of the Chief Electoral Officer while the search for a replacement is under way. Ms. Verma brings a wealth of experience with her as she assumes these added duties. Prior to being named Deputy Chief Electoral Officer, Ms. Verma served as manager of Elections Finances. In this capacity, I am certain she became familiar with all aspects of election campaigns.

As the office responsible for overseeing our electoral process, Elections Manitoba plays a key role in ensuring the fairness of our electoral process. The hard work of Elections Manitoba staff is instrumental in ensuring our democracy functions effectively and fairly.

In Manitoba, we have taken partisan politics out of many of the key decisions that surround our electoral process. Most recently, this was evident in the manner in which our constituency boundaries were redistributed. As many of you know, the '08 commission was comprised of five commissioners with representation from the north and from rural Manitoba. The commission held 12 public hearings in 10 communities throughout the province, with 260 people participating in public consultations.

Only one existing division's boundaries didn't change, yet the breakdown of the number of

divisions in Winnipeg, 31, versus the number outside Winnipeg stayed the same. Ten division names were changed to better reflect the communities within the boundaries. For example, the northern division of Rupertsland was renamed Kewatinook, Cree for from the north.

The final report of the commission was implemented as law, eliminating partisan politics in this crucial decision. The work of Elections Manitoba staff underpins the foundations of our electoral system, and we often take for granted the work of Elections Manitoba staff in this process. Following a boundary review, electoral maps need to be redrawn. New polling stations may need to be found. Staff must be put in place to oversee the organization of elections at the constituency level. Legislative changes may require the rewriting of manuals, the development of new procedures, and the ability to work closely with all political parties.

In Manitoba we have developed an all-party approach to appoint the independent officers who oversee these institutions that are the cornerstones of our democracy. These officers are non-partisan and operate independently of government. They report directly to the Legislature—Legislative Assembly through the Speaker, not to the government.

This all-party approach recently demonstrated in the hiring of the Auditor General has served Manitoba well. During the process to hire the Auditor General, an in camera exit interview was conducted by the Standing Committee on Legislative Affairs with the outgoing Auditor General. An expert advisory panel was struck to advertise for the position, interview applicants, and prioritize applications for the Standing Committee on Legislative Affairs.

A subcommittee of the Standing Committee on Legislative Affairs was struck to set the advisory panel's mandate. Using this process, the all-party committee made a unanimous recommendation with respect to the individual to be hired. We believe that this approach reduced partisan differences and thereby strengthened democracy in Manitoba. As we move forward with replacing the Chief Electoral Officer, we are hopeful we can proceed in this same post-partisan spirit.

Tonight, the most recent report of the Chief Electoral Officer for the year 2008 is under consideration. The report considers—contains a number of recommendations. Among them is a recommendation to establish a referendum act to deal

with the administrative conduct of referendums and campaign finance provisions. We have previously agreed to undertake this recommendation.

* (18:10)

Four recommendations relate to consequential changes or drafting oversights arising from previous amendments. There are a number of other recommendations that warrant consideration by this committee. These include the—that the election period be fixed rather than having a variable period of 25 to 35 days; a shortening of the revision period by four days to accommodate preparation of the final voters list; and documentation be carried by canvassers and other workers. Also, adjusting the tariff of fees and extending the period of tax registration to four months after the election.

As well, the member for Steinbach (Mr. Goertzen) has put forward, through Bill 229, a proposal which warrants further discussion. Through this committee, we have an opportunity to share our ideas and perspectives on these recommendations and suggestions. Such a discussion can only strengthen our democratic process. Thanks.

Mr. Chairperson: We thank the First Minister for that opening statement.

Does the honourable Leader of the Official Opposition have an opening statement? Please proceed.

Mr. Hugh McFadyen (Leader of the Official Opposition): Just a brief one, Mr. Chairman, and thank you for taking the Chair. And, also, I want to just thank you, Ms. Verma, for stepping into the role of Acting Chief Electoral Officer with all of the responsibilities and pressures that entails. And I should just tell you, by way of feedback, our party's CFO, Ken Lee, who is in fairly regular contact with your office, has commented very favourably about some of the dialogue that he's had with you and your office in connection with working through some of the issues of interpretation relating to some recent amendments and how they might get applied in a practical sense just to ensure compliance. I want to pass along to you those—that positive feedback about the very constructive and respectful dialogue that's taken place.

I want to thank the Premier for his comments. We, of course, continue to have concerns and others have raised concerns; others who are not partisan commentators have raised concerns about past

actions and decisions. Most of those actions and decisions that we would have concerns about predate your arrival at Elections Manitoba and there remain some unresolved issues. With that said, we have taken the position to date that we wanted some independent review and resolution of those issues prior to moving forward in connection with the search for a new Chief Electoral Officer. My understanding, further to the Premier's comments, through the dialogue that has ensued since the proposal put forward by the member for Steinbach, is that there may be a basis to move forward with—by agreement among the parties with that process and we would want to explore some possible models to move forward.

I think Manitobans are looking to all of us to try to not just deal with past issues and concerns, but also look to the future in terms of how we move constructively toward dealing with issues and making important appointments for our province, for our Legislature and for our democracy.

And so, without going further into that, I think that we're quite interested tonight in perhaps exploring some of those discussions which have occurred both on and off the record of the past number of days in connection with the debate on the member for Steinbach's bill and other discussion which we're aware of.

With that said, we look forward to discussions around the content of the annual reports that remain before the committee. We continue to have unresolved questions and issues relating to matters flowing out of the 1999 election and matters that occurred prior to that.

But, without dwelling on that at the moment, I just want to just thank you and welcome you into the role you're in and welcome you to this committee, and we look forward to a good dialogue tonight and a good spirit of co-operation as we look to ensure to all Manitobans that we have well run and open and competitive election campaigns in our province, all with a view toward a stronger, healthier and more constructive democracy here in Manitoba. Thank you.

Mr. Chairperson: We thank the honourable official leader of the—or Leader of the Official Opposition for that opening statement.

Does the Deputy Chief Electoral Officer wish to make an opening statement?

Ms. Verma: I do.

Mr. Chairperson: Please proceed.

Ms. Verma: Thank you for inviting me and my staff to discuss our tabled annual reports and the positive feedback which we have received today.

I'm Shipra Verma, the Deputy Chief Electoral Officer. I would like to give a brief introduction of myself. I joined Elections Manitoba in March 2004, and in February 2009 was appointed the Deputy Chief Electoral Officer. Over this period of six years, I have worked in one general election and various by-elections. As required by The Elections Act, I am currently acting in the place of the Chief Electoral Officer, following the retirement of Richard Balasko after many years of service in that role.

Traditionally, the Chief Electoral Officer has commented on the most recent report before the committee. So I would like to spend just a few minutes doing that. I will also take this opportunity to update the committee members on the preparation for the next election, and to summarize the recommendations in the 2008 annual report.

Starting with our activities in 2008, early in the year we conducted a post-election evaluation, and this was really the first step in readying ourselves for the 40th general election. The evaluation served to highlight areas of strength, opportunities for growth and shape our strategic goals for the next election.

Mr. Chairperson, 2008 also saw the latest report of the Electoral Divisions Boundaries Commission. As per the report, there'll be new boundaries in every electoral division except one for the next general election. As mentioned earlier, this means new maps will have to be produced for 56 divisions, voting areas will have to be redistributed on the new maps and we'll have to establish voting places within each area. This requires significant effort by our patient staff. The change in boundaries also affects the political participants as new constituency associations must be set up for the new electoral divisions in order to nominate candidates for the next general election. Our staff is currently providing information and resources to support this process as part of our mandate to assist with compliance.

Mr. Chairperson, 2008 also saw the passage of Bill 37 which, of course, will have a significant effect on how we conduct elections in Manitoba, and, in fact, it's already having an effect on how we prepare.

During the previous election campaign, our regular staff of 13 people swelled to over 10,000.

This included approximately 3,000 door-to-door enumerators who prepared the voters list, and approximately 7,000 voting officers, assistant voting officers who operated the voting places. With more than 2,700 voting stations across the province, the co-ordination required to run a successful election was really quite remarkable.

A more intense preparation is required for the next election to meet the past standards and implement the legislative amendments since 2007. Co-ordination and preparation is well under way for the next election. Elections Manitoba advertised last fall for returning officers and assistant returning officers, and I am pleased to report that they're close to having in place a full complement of 57 returning officers and 57 assistant returning officers, about one-third of whom are reappointments. Those people have already gone through the first round of training, and have brought the knowledge of the local communities to the preparation of the new electoral maps I mentioned earlier. The new maps will be provided to the political parties for their comments starting next week.

We are also in the process of designing a new address data base for the province, which will be used to assist enumeration. This is a big job, particularly with finding reliable address lists for rural areas and the First Nations.

Last elections we significantly expanded opportunities for advanced voting, and saw advanced voting increase to 12 percent of the total votes cast versus 5 percent of votes cast in 2003 election. We intend to build on that success in the next election and the recent legislative amendments will assist us. We have an extra day for advanced voting, eight days instead of seven, as well as the new distance requirement, which means residents of population centres with more than 50 eligible voters in a community will not have to travel more than 30 kilometres in order to vote at an advanced location. With the next election date expected the fall of 2011, we also plan to have advanced voting on university and college campuses. In all, we expect to offer more than 250 advanced voting locations compared to 191 in 2007.

We're also making good progress in fulfilling our mandate to promote voting and educate citizens on the importance of democratic engagement. In 2007, we developed an education guide called *Your Power to Choose*, which was designed for teachers in grade 6, 9 and 11. Over 1,300 guides have been

distributed, and numerous free workshops provided to schools across the province since 2007.

Now we are putting the finishing touches on a modified program for adult learners which we developed in consultation with the Adult Learning and Literacy branch of Manitoba Advanced Education and Literacy. We expect our resource materials will be well used in adult learning centres and literacy places. We intend to distribute close to 200 of these kits by the end of the year. We'll be pleased to also distribute a kit to each of the sitting MLAs.

* (18:20)

I'd like to now bring your—to your attention the recommendations in the 2008 annual report. There are three new recommendations that relate to the conduct of the next election and three which are carried forward.

One is that the revision period be shortened. The reason why we are recommending that is that currently The Elections Act says revisions should end on the second Thursday before the election date. This causes a problem because advance voting begins just two days later. That means we have only one day, Friday, to complete the revised voters lists, print them and deliver them to all the advanced voting locations. Saturday in many communities is an ideal day to hold advance voting, but, under the current act, this would be very challenging because an official voters list may not reach distant or remote locations in time. So the recommendation is that the revision period be shortened to the end of the third Monday before election day, thus allowing us adequate time to distribute the voters' list.

Another recommendation is the candidates or candidates' representatives be required to carry a prescribed form of identification when campaigning in multiple-residence buildings, and be required to produce this identification upon request.

Thirdly, we recommend that the tariff for fees be adjusted to allow for appropriate compensation for all election workers. In particular, we recommend that vacation pay be paid in addition to the tariff rate. In the 2007 election, we heard concerns that election workers weren't adequately compensated, in part because the fees included vacation pay. Adding the vacation allowance to wages does seem to be a more equitable payment practice. In addition, we now have to consider that the returning officers and assistant returning officers now—their flat fees now covers

their engagement over a 75-day election period calendar versus 33 days in the past.

The Legislature has accepted many recommendations of the Chief Electoral Officer in recent years. The three outstanding ones that I would like to touch upon just briefly: Firstly, we recommend a rewrite of The Elections Finances Act. That statute has often been amended over the years and is very difficult for election volunteers to navigate. As the former manager of Elections Finances, I can tell you that political volunteers who are responsible for compliance with the act would greatly appreciate a statute that is easy to understand.

The second recommendation deals with set election period. While we currently have a set election date, we don't have a set election period. Rather, the election campaign can vary from 28 to 35 days. If we had a set election period, this would confirm the day of the writ, which would allow all political campaigns to better manage their resources.

The third recommendation is that there should be a Manitoba referendum act.

That concludes my remarks. Thank you for your time and attention. I'd be pleased to answer any questions which you may have.

Mr. Chairperson: We thank the Deputy Chief Electoral Officer for those opening remarks.

The floor is now open for questions.

Mr. Goertzen: I want to thank the Acting CEO for Elections Manitoba for her comments and welcome her into the position she holds here today, and welcome her as well to the committee.

A question for the Premier related to some of the comments that he put on the record, both today and in the House regarding the hiring process for the new Chief Electoral Officer. And I also had opportunity to have discussions on the record with the member in a debate—the member for Elmwood (Mr. Blaikie) in debate this morning—I won't put on the record conversations that were off the record because I don't believe that that's an appropriate way to proceed, but certainly on the record he indicated that there was some interest to discuss a model that they have in British Columbia regarding unanimous consent for the elections officer—the Chief Electoral Officer to be hired that might correspond with what the Premier was saying in question period about a process that would be arrived at only by consensus and the hiring only by consensus.

I wonder if he could elaborate a little bit further on his comments and the on-the-record comments from his House leader this morning.

Mr. Selinger: Yes, as I indicated in my statement tonight, when we look back on the process of how we hired the Auditor General, we moved on it in such a way that we found a consensus that all party members sitting on the committee agreed on the recommended candidate, and that was preceded by some work done by others, and started with an exit interview, as I indicated earlier, and then an expert advisory panel role, who conducted the advertising for the position, interviewed applicants and 'prioritized' them for the Standing Committee on Legislative Affairs. And then a subcommittee on the Standing Committee on Legislative Affairs was set to—was struck to put the advisory panel's mandate in place, and then the all-party committee made a unanimous recommendation with respect to the individual to be hired. So that gave greater confidence in the individual hired in the case of the Auditor General.

And that kind of a process, I think, would be appropriate here as well, that kind of an approach. There might be differences in the specifics, but I think what I was trying to indicate, both in the House and here tonight, is that you want to seek a place where you have all-party consensus on who the individual would be. And that would give greater confidence in all of us for the functions that they perform on behalf of democracy in Manitoba.

Mr. Goertzen: And, certainly, in those hiring processes, which I was able to be a part of at least one of them, I know that there was a consensus that was reached. But there are other schemes, and one of them which I introduced this morning for second reading into the House, modeled more or less on the model that comes out of Prince Edward Island, about the requirement to have within the House a two-thirds—a more than two-thirds vote of approval for a new electoral officer being hired.

There's also a B.C. model—which I have in front of me and I'm happy to share the legislative requirements with the Premier or anybody else on this committee—indicates that there a special committee must unanimously recommend for the appointment of a chief electoral officer. So there has to be a unanimous recommendation coming out of the committee.

Obviously, the Premier is indicating that he'd like a process where we attempt to reach a

consensus. But that's different than what other models are that either prescribe that there needs to be unanimous agreement from a special committee or, like the model that I introduced for second reading today, that there be more than two-thirds consent. So it's an actual requirement. And is that different than what the Premier is saying? He just simply wants to hope that a consensus is reached, or is he looking at a more prescriptive model as they have in other provinces?

Mr. Selinger: Well, the process we used for the Auditor General had no legislative requirement that a consensus had to be reached, and that might cause the member some concern that if there wasn't a consensus, the member might be concerned that the group with the largest majority on the committee, the government, would push through their recommendation.

And I—if that's the concern, I understand the—I would understand where he was coming from in that regard. The only thing I would say is that if we're going to have stronger rules about reaching unanimity or consensus that we have to be careful that it doesn't—or even on the proposed bill of two-thirds, we have to be careful that it doesn't become an opportunity for, perhaps, somebody to hijack that process. And I don't have any specific ideas there.

But I've seen in other two-thirds formulas in other legislatures that sometimes the will of the majority or even the will of the two-thirds of the majority gets thwarted sometimes by strong voices that are leveraging that requirement, that threshold, for other reasons. So we'd have to be a bit careful about that. But I think the spirit should always be that we try to find a consensus and that we should have the patience to do that and the willingness to do that together. And then how we structure the rules around getting that spirit accomplished I think is how we would want to have the discussion. So I don't have a preconceived notion about that.

What I really am driving at is that we get the right spirit of it and the right attitude so that we come out of it with a recommendation that we all have confidence in, and not have a situation where the rules would be in any way attractive for gaming, to undermine the spirit of what we're trying to achieve which is a strong consensus recommendation.

Mr. Goertzen: I think that the concern is that to enter into a process where the rules aren't clear can be a challenge for all parties. And I will admit I

would have some concerns, given the current environment regarding the office—not any individuals that are currently in the office, but the Office of the Chief Electoral Officer—going into a committee that is dominated by the government. Because, at the end of the day, and perhaps it depends on what one's layman's definition of hijack is. You might prescribe that to be one or two members of the House hijack a committee. We might say that there's no distinction if the government hijacks the process and rams through an appointment that they find to be preferable. So there's concerns on both sides, I suppose.

* (18:30)

But I—looking at both the B.C. model and the experience in Newfoundland, I think they haven't had that experience, and I suppose if there was that experience, there might be legitimate reasons for it. But, you know, I think that to simply say we're going to continue on with the current model, given the different context that we're in, given the different background that's happened over the last couple of years as a result of events we learned of, I think it's going to be very difficult for us to simply close our eyes, jump in and hope that the consensus that the Premier thinks is going to be reached will be reached.

Mr. Selinger: I take it the member—he didn't have a question. I think it was comments and I'll just reflect on his comments. It's an issue of trust. I understand that, on both sides or all sides. In this case, three sides.

This is where I think we should think about how valuable the role of the expert advisory panel could be, because if they do some of the groundwork in the interviewing and 'priorizing,' that can clean out a lot of the sort of trust issues. And then, when the Legislative Affairs Committee gets a recommendation, it gives some sort of sense of order, some sort of sense of the due diligence having been done by a non-partisan group, and then that can maybe give greater comfort to those recommendations.

But I understand the member's point. You want to, in all cases, have a situation where people feel that their views are going to be respected and not just ignored either way on either side.

Mr. McFadyen: If I could just take—just further reflect on the comments just made by both the First

Minister and the member for Steinbach and invite the Premier's response to this.

I think that we would—firstly, I think the addition of an expert panel helps—is a step in the right direction. It does help with some of the vetting and some of the groundwork that would lead up to a list of names coming to committee.

With that said, whichever direction we go in, there's going to be an element of having to trust one another as we enter into it, and the status quo is not ideal for any of us. We've—the status quo position that we're in of not having opposition parties participate is not a good position for our province to be in or for the government or for anybody to be in or the Office of the Chief Electoral Officer. We feel that we don't have an option but to take that position in light of other unresolved issues.

And so, to move forward, if there was willingness on the part of government members to agree that we have a rule that we must have unanimity at the committee level, we recognize is a ceding of a certain amount of power by the government in the process.

With that said, though, it's a step forward from where we are today. There are scenarios under which a member could hijack a committee like that, to the Premier's point, without really good grounds. That would be a risky position for any elected official to take, particularly leading up to an election campaign. You would have to, I think, have very good compelling reasons and—or risk the, perhaps, justified criticism of holding up a process leading into an election campaign.

So I would just, I guess, invite the Premier and the government members to give serious consideration to an agreement that there be a requirement leading into the process for unanimity, recognizing that any process that's entered into at this point involves a degree of trust, good will, and, of course, risk.

Mr. Selinger: I think the member from Fort Whyte is correct. There is a certain degree of trust required to enter into new arrangements and there's a certain risk attached to that, that one party might take advantage of that. And it's clear that if people overdo that, there's always the potential for opprobrium to come from any parties, including publicity. But publicity is a wonderful thing. It brings out all kinds of interesting behaviour on the part of all individuals who are elected or want to be elected; we

all know that. And sometimes that behaviour is constructive and sometimes that behaviour is less than constructive.

And I think what we're searching for here is a process that minimizes the destructive behaviour and maximizes the thoughtful consideration of the right person to be selected to fill this very important role.

And that is—and I appreciate the member suggesting that the expert advisory panel can help advance that. I think that's a useful mechanism. It's not in law but it moves the process along and takes some of the—I think it takes some of the clutter out of it in a sense, you know, and allows the field to be narrow, perhaps, to those that are—meet all the minimum tests of qualifications for the opportunity. And I think that's a useful thing because you'd get lots of applications. It's an attractive position for a variety of reasons to a variety of people.

And then the commitment to consensus—you know this is always an interesting discussion. And I think the commitment to consensus requires some personal commitment on the part of the group with the majority and the people sitting on the majority position. And they have to put some integrity into that to make that work and—or failing that they can delegate or offer the opportunity that if any one individual objects that's it's not a consensus and that—then you have to keep them negotiating around that. That has serious risks attached to it too because it, in effect, downloads all the power into the hands of one individual, and who knows what mood that individual may be in in that day and what may be motivating them.

And so, you know, in a democratic process you don't really want to have a veto power for any one individual and on the other hand you don't want to have the majority exercise its will without regard to the views of the people in the minority position. So, without having a preconceived outcome, I'm trying to find the balance between those two poles and the place where the majority is considerate and respectful of the minority views. And the minority views do not, in effect, give a de facto veto over the process to the frustration of the majority views.

So that's sort of my thinking on it and I don't have a precise mechanism to advance beyond that other than some offer of respect for the views of others, and some personal commitment on the part of elected people that sit on the committee to honour and respect those views and to follow through on them.

It's somewhat akin to some of the discussions that are going on with all levels of government these days around section 35 obligations in terms of the duty of the Crown to consult with First Nations. And the Supreme Court has said that you have to consult genuinely and respectfully but that does not give a veto power to the group you're consulting to be able to require you to do certain things. It means you have to listen carefully and have a proportionate response to those concerns without necessarily having to agree to everything that they may request or demand.

So it's that kind of a discussion and it's a very important discussion in the democratic process because there's some fuzziness and grey boundaries in there that have to be sort of worked through without getting too deterministic about it in terms of the rule-making process. So I just—those are my thoughts.

Mr. McFadyen: I think from the comments made that there is an agreement in terms of the principle that we want to pursue, and the principle is that we would all like to see the appointment occur with the support of every member in every party. That's the scenario—that's the best scenario for all of us and for the office and for the people of Manitoba.

There are models that have gone back and forth that are more or less prescriptive than others. The legislated position in British Columbia has—is that there's the requirement for unanimous recommendation. From what I'm aware of it seems to have worked there. I think members that have worked on that committee have appreciated the significance of the responsibility that comes with having, in effect, a veto power. That brings with it a certain amount of—with that power comes a certain amount of responsibility, which, I think, has been recognized by members of that province who have served in that capacity.

* (18:40)

If I can make a suggestion about how we proceed on this issue, because it's now the 20th of May and time is ticking by, I think it's in the interest of all of us as members of the Legislature and the province to try to see if we can find a way to move forward on the issue. Is there interest or desire on the part of committee members to recess and perhaps have an off-the-record discussion for a period of time and then resume committee after some discussion, or are we at an impasse on the issue?

Mr. Selinger: Without having had a recess to consult my colleagues, I would say that if you want to take a break and have—just kick around some ideas and see what's possible, I think that's fine.

I think we can also task our House leaders to do some discussion in terms of follow-up if we wish, once we map out some ideas. I think what we want to avoid is doing anything precipitous. But I also think we want to keep an open mind to finding a way forward within those parameters and issues that I've tried to identify. And we might need to do a little bit of research about how these approaches work in other jurisdictions to get some sort of sense on the ground of whether they're productive or not and responsibly handled and that might take a little time.

But my view is is that we should keep an open mind on this and see if there's—we can find a productive way forward because the constant vigilance around improving the democratic process, I think, is—serves us well in the future, and, I think that's what we're trying to focus on here, there's better procedures in the future.

So if there's an interest in taking a short break, I'd be willing to consider that. Why don't we—we're at quarter to 7, approximately, here. Why don't we consider a break until 7 o'clock and see where we're at and then take it from there.

Mr. Chairperson: Is there agreement then, on all sides of the committee, to have a recess for 15 minutes and reconvene at 7 o'clock? *[Agreed]*

The committee recessed at 6:42 p.m.

The committee resumed at 8:06 p.m.

Mr. Chairperson: We'll now resume deliberations with the committee and my apologies. We do have one tiny business. We had agreed that at 8 o'clock we would consider whether we wanted to continue to talk to each other, and I would just ask the committee to confirm that we will continue a little bit past 8 o'clock at least. *[Agreed]* Thank you very much.

Does anyone have anything to say?

An Honourable Member: Yes.

Mr. Chairperson: Recognizing the honourable First Minister.

Mr. Selinger: After that brief interlude, that summer solstice there, I move

THAT the motion passed at January 21, 2010, meeting of the Standing Committee on Legislative Affairs be rescinded and replaced with the following:

THAT a subcommittee of the Standing Committee on Legislative Affairs be struck to manage the process of hiring a new Chief Electoral Officer;

THAT the subcommittee may only report back to the committee with a recommendation that has received a general level of acceptance by all members;

THAT the subcommittee consist of four government members, two official opposition members, and one independent member;

THAT the subcommittee have the authority to call their own meetings, the ability to meet in camera, and be able to undertake duties it deems necessary in order to fulfil its responsibilities in the hiring process;

THAT the subcommittee appoint an expert advisory panel of three members to assist in the hiring process and ultimately provide the subcommittee with a prioritized list of candidates;

THAT the subcommittee establish the terms of reference for the expert advisory panel and that the Legislative Assembly staff may be authorized by the Chair to attend all meetings of the subcommittee and the expert advisory panel; and

THAT the subcommittee, during this process—that during this process, the House leaders will meet to discuss changes to The Elections Act with regards to future appointments to the role of Chief Electoral Officer.

And I think that is the result of a consensus approach to making a decision on getting a resolution through this committee—

Mr. Chairperson: Just, order. Sorry, I have to—we have to officially do something.

It has been moved by the honourable First Minister that—

An Honourable Member: Dispense.

Mr. Chairperson: Oh, dispense. Thank you. It is moved as read and as printed.

THAT the motion passed at January 21, 2010 meeting of the Standing Committee on Legislative Affairs be rescinded and replaced with the following:

THAT a subcommittee of the Standing Committee on Legislative Affairs be struck to manage the process of hiring a new Chief Electoral Officer;

THAT the subcommittee may only report back to the committee with a recommendation that has received a general level of acceptance by all members;

THAT the subcommittee consist of four government members, two official opposition members and one independent member;

THAT the subcommittee have the authority to call their own meetings, the ability to meet in camera, and be able to undertake duties it deems necessary in order to fulfil its responsibilities in the hiring process;

THAT the subcommittee appoint an expert advisory panel of three members to assist in the hiring process and ultimately provide the subcommittee with a prioritized list of candidates;

THAT the subcommittee establish the terms of reference for the expert advisory panel, and that Legislative Assembly staff may be authorized by the Chair to attend all meetings of the subcommittee and the expert advisory panel;

THAT during this process the House Leaders will meet to discuss changes to The Elections Act with regards to future appointments to the role of Chief Electoral Officer.

And the motion is in order and the floor is now open for comments or questions.

Mr. Selinger: Just briefly, I think we took the opportunity to get together and find a way to move forward on this, and I believe we achieved a consensus.

Mr. McFadyen: I want to thank all members who participated in the discussion to arrive at the motion, and we support the motion. And I think if we could just confirm that the effect of the motion is such that there would have to be government and official opposition support for any recommendation that came up from the subcommittee to the Legislative Affairs Committee and just ask if that's consistent with the Premier's understanding.

* (20:10)

Mr. Selinger: I thank the Leader of the Official Opposition for the question. And the language that we used, "with a recommendation that has received a general level of acceptance by all members," in my view, means that we want everybody to have a level of comfort with this decision and that the opposition and the government parties have to agree on it, and that we find a place where we can all move forward together with as much support as we possibly can muster through this process.

Mr. Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Mr. Chairperson: Very good. The question before the committee is as follows:

THAT the motion passed at January 21st, 2010—

Some Honourable Members: Dispense.

Mr. Chairperson: Dispense? The motion is so dispensed as written.

Shall the motion pass?

Some Honourable Members: Agreed.

Mr. Chairperson: The motion is accordingly passed.

What is the—[interjection]—I was just going to ask, actually. What is the will of the committee regarding our topics tonight, which are a certain number of reports?

Mr. Selinger: Well, I think we made excellent progress on the process for selecting a new Chief Electoral Officer, and I just wanted to ask if there's any will to pass any of the reports tonight?

Mr. McFadyen: I think there would be agreement to pass report. Before we get to that, I think there was one or two questions that we just wanted to ask of the Acting Chief Electoral Officer on a matter that had come up in discussion.

So, if we could take a couple minutes there and then come to the reports.

Mr. Chairperson: We are certainly still at the stage of questions for this evening's meeting, so please proceed.

Mr. McFadyen: And, again, thank you to Ms. Verma. And I just want to ask, historically, it's been a policy and practice of Elections Manitoba to file

with the Archives records within the possession of Elections Manitoba on a fairly routine basis. And it's been noted that that practice seems to have stopped in or around 1999. There hasn't been any filing on the Archives of records in the period since 1999.

I just want to ask if you could comment on that change, and if you would be prepared to reinstate the past practice of beginning to routinely file records on Archives as part of the historic record of the Office of the Chief Electoral Officer?

Ms. Verma: Thank you for the question. To put it on record, the practice to file records with the Archives hasn't been stopped. Since 1999 there have been significant amendments to both The Elections Act and The Elections Finances Act. We are in the process of reviewing the schedules to be submitted to archive.

We've already submitted draft schedules to Archives. The stage which they are in—at—the Archives have to review it, give back their comments back to us, and then the schedules will be finalized. Once that is done, then the archive process will restart.

Mr. McFadyen: And would you be able to just indicate how long you think that process will take?

Ms. Verma: The Archives has informed us that there is a backlog and it will take some time. We are, though—we are proceeding with the draft schedules to back up the records at the office. So, as soon as we get the clearance from them that this is approved and we can submit the final schedules to them, we will start the process.

Mr. Chairperson: Seeing no further questions, is the committee ready for the consideration of passing of support—of reports?

Some Honourable Members: Yes.

Mr. Chairperson: Okay, thank you very much. I'll just read each of these out.

Shall the Annual Report of Elections Manitoba for the year ending December 31st, 2003, including the conduct of the 38th Provincial General Election June 3rd, 2003, pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: The report is not passed.

The Annual Report of Elections Manitoba for the year ending December 31, 2006—pass.

Shall the Annual Report of Elections Manitoba for the year ending December 31, 2007, including the conduct of the 39th Provincial General Election, May 22, 2007, pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: The report is not passed.

Shall the Annual Report of Elections Manitoba for the year ending December 31, 2008 pass?

Some Honourable Members: Pass.

Some Honourable Members: No.

Mr. Chairperson: The report is not passed.

Unless there's any further business, I would just ask all members to please leave any surplus copies of the election reports on the table so they can be appropriately reused.

And the hour being 8:16, what is the will of the committee?

Some Honourable Members: Rise.

Mr. Chairperson: Committee adjourn and rise.

COMMITTEE ROSE AT: 8:16 p.m.

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