

Fourth Session – Forty-First Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mrs. Sarah Guillemard
Constituency of Fort Richmond

Vol. LXXII No. 3 - 1 p.m., Thursday, January 17, 2019

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-First Legislature

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ALLUM, James	Fort Garry-Riverview	NDP
ALTEMEYER, Rob	Wolseley	NDP
BINDLE, Kelly	Thompson	PC
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FIELDING, Scott, Hon.	Kirkfield Park	PC
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REYES, Jon	St. Norbert	PC
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SCHULER, Ron, Hon.	St. Paul	PC
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SMITH, Bernadette	Point Douglas	NDP
SMOOK, Dennis	La Verendrye	PC
SQUIRES, Rochelle, Hon.	Riel	PC
STEFANSON, Heather, Hon.	Tuxedo	PC
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WHARTON, Jeff, Hon.	Gimli	PC
WIEBE, Matt	Concordia	NDP
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WOWCHUK, Rick	Swan River	PC
YAKIMOSKI, Blair	Transcona	PC

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS
Thursday, January 17, 2019

TIME – 1 p.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mrs. Sarah Guillemard
(Fort Richmond)

VICE-CHAIRPERSON – Mr. Greg Nesbitt
(Riding Mountain)

ATTENDANCE – 11 **QUORUM** – 6

Members of the Committee present:

Hon. Messrs. Cullen, Fielding

*Messrs. Allum, Curry, Mrs. Guillemard,
 Ms. Lamoureux, Messrs. Marcelino, Nesbitt,
 Reyes, Wiebe, Yakimoski*

PUBLIC PRESENTERS:

*Ms. Susan Dawes, Provincial Judges Association
 of Manitoba*

MATTERS UNDER CONSIDERATION:

*Report and Recommendations of the Judicial
 Compensation Committee, dated May 23, 2018*

* * *

Madam Chairperson: Good afternoon. Will the Standing Committee on Legislative Affairs please come to order.

Our first item of business is the election of a Vice-Chairperson.

Are there any nominations?

Mr. Jon Reyes (St. Norbert): Yes. I nominate Mr. Nesbitt for the Vice-Chair.

Madam Chairperson: Mr. Nesbitt has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Nesbitt is elected Vice-Chairperson.

This meeting has been called to consider the Report and Recommendations of the Judicial Compensation Committee, dated May 23rd, 2018.

Before we get started, I would like to provide the committee with some background information on the

process followed in the past when dealing with Judicial Compensation Committee reports.

At previous meetings, representatives from the judges association and other groups have appeared, by leave, before the committee, and the minister responsible has made an opening statement, followed by a statement from the oppositions.

I would also like to remind members that prior to concluding consideration of this report, pursuant to the provisions of section 11.1(27) of The Provincial Court Act, a motion will be required in order to adopt or reject some or all of the recommendations in the JCC report.

I would also like to inform the committee that Ms. Susan Dawes of the Provincial Judges Association of Manitoba has asked permission to speak to the committee today. Is there agreement from the committee to hear from Susan Dawes? *[Agreed]*

Are there any suggestions as to how long we should sit this afternoon?

Mr. Matt Wiebe (Concordia): I really don't have much context in which to judge how long this committee might take, but I think it is important that we take the time to consider this report and hopefully move things along as efficiently as possible here today.

So maybe I could suggest that we would sit for one hour, and at that time revisit if there is a need to continue to ask questions or get more information.

Madam Chairperson: Is it the will of the committee to sit for one hour and then reconsider? *[Agreed]*

I will now call on Ms. Dawes to make a presentation.

Ms. Dawes, do you have any written materials?

Ms. Susan Dawes (Provincial Judges Association of Manitoba): I do.

Madam Chairperson: Please proceed with your presentation.

Ms. Dawes: Good afternoon, members of the committee. I'm counsel for the Provincial Judges Association of Manitoba and you have before you

consideration—for your consideration today the Report and Recommendations of the 2017 Judicial Compensation Committee. I'll refer to it as the 2017 JCC.

The 2017 JCC made recommendations about appropriate compensation for judges for the period April 1st, 2017 to March 31st, 2020. As many of you may be aware, this process is required by the constitution in order to ensure the independence of the judiciary.

The jurisprudence has determined that the setting of compensation for judges must be depoliticized. It's been recognized that whenever the expenditure of public funds is involved, the decision is inherently political, and in order to remove politics to the greatest extent possible, the Supreme Court of Canada has determined that each province must put in place an institutional sieve, a filter, to depoliticize the setting of compensation for judges.

The government must make its proposals to an independent, objective and effective tribunal like JCC, which then makes recommendations about what constitutes appropriate compensation for judges.

This standing committee and, ultimately, the Legislature, then considers the JCC's report and recommendations and may choose to implement or vary them, and if the decision is to vary the recommendations, the Legislature or, indeed, this committee, must provide legitimate reasons for so doing, which must have a reasonable factual foundation.

So, in Manitoba, it's The Provincial Court Act which sets out the JCC process. It requires the appointment of a three-person panel: a nominee of each of the judges association and the Province, and then those nominees agree on a chairperson, and the chairperson on this occasion was Michael Werier.

This was the fifth JCC that he has chaired. He's also chaired the 2002, '05, '11, and '14 JCCs and, without a doubt, he was chosen because of his proven track record in making fair and reasonable recommendations.

The committee held hearings in the summer of 2017, a year and a half ago now, and the report was provided in May of 2018. Prior to the hearings, the association and the Province provided extensive written submissions to the committee, and the committee then heard oral argument from counsel for the Province and counsel for the association.

At the hearing, the association called expert evidence from a professor of economics, Dr. Fletcher Baragar from the University of Manitoba. He testified about the economic conditions in the province and the Province's fiscal circumstances. He was cross-examined by the Province's legal counsel.

The Province also provided an economic report from Dr. Narendra Budhia, the director of Economic and Fiscal Analysis for the Province, and the Province's representatives.

Both its counsel and the civil servants who were tasked with preparing the Province's submissions worked very hard to advance the Province's position as to what compensation was appropriate for judges during the years in question.

The JCC report itself, as you'll have read, makes it very clear that all of the submissions from the parties were carefully considered by the committee in light of the factors that are identified in The Provincial Court Act.

I want to focus today on the most significant of the recommendations, which is that relating to judicial salaries for the years 2017, 2018 and 2019. The committee considered the extensive evidence and arguments provided by the Province and the association, and it properly focused on the six factors that are identified in the act.

From an economic perspective, the committee concluded that Manitoba continues to sit in the mid-range economically among the provinces across Canada and, significantly, it noted that this was not disputed by the Province's expert, Dr. Budhia, and the Province's most recent economic highlights document, dated January 4th, 2019, confirms that this continues to be the case today.

*(13:10)

Now, despite that, the committee rejected the association's proposal for a greater increase in the first year, 2017, in light of the fiscal challenges that had been identified by the Province and, in particular, the Province's deficit and accumulated debt. And it also considered and took into account the Province's policy with respect to public-sector wage restraint.

Now, ultimately, the committee recommended a salary of \$259,000, effective April 1st of 2017, and it recommended increases effective on each of April 1st, 2018 and 2019, based on the percentage change in the average weekly earnings for Manitoba over the preceding calendar year.

In making the recommendations for the last two of the years, the 2017 JCC endorsed the approach that had been taken by both the 2014 JCC and the 2011 JCC, and the salary recommendations of both of those commissions were accepted by the Legislature. The JCC also reasoned that this method of adjustment was appropriate because it protects judges against changes in the cost of living, and also reflects salary increases received by other Manitobans.

One significant consideration for the commission—or for the committee, and that's identified in the legislation, is the three-province—or what's called the designated average. The Provincial Court Act provides that if the salary figure is recommended—recommended for the first year of the JCC's mandate is less than or equal to the designated average, then it's binding on the Legislature.

And the designated average is the average of salaries paid to judges in Nova Scotia, New Brunswick and Saskatchewan. And so, in the report, it's identified that the designated average as of April 1st, 2017 was \$259,746. And the recommendation, as I said, was for a salary of \$259,000. So, as the recommended salary is less than the designated average, it's binding. And the only salaries to be considered by this committee are for the years 2018 and 2019.

I've provided you this afternoon with a updated chart which shows the most current information about judicial salaries across the country.

On the second page, there's a number of notes with respect to each jurisdiction, which show you the stage at which each province is with respect to its own compensation commission process.

And you can readily see that the 2017 salary puts Manitoba judges' salaries within a group of jurisdictions at the low end of judicial salaries, well below those paid in Alberta, Saskatchewan, Ontario and the federal jurisdiction. And the same will be true, we can expect, in the 2018 and 2019 years.

In closing, I'd like to make some general comments about the importance of the judicial compensation commission process.

As I said at the outset, both of the parties—the association and the Province—put forward extensive written and oral submissions to the committee. And it's critical that these recommendations are respected, or all of that work is for naught.

And I'll reiterate something that I say each time I come and speak to these reports: we're talking about

42 judges. And if you implement something other than what was recommended, it's not going to impact the Province's bottom line in any meaningful way. And as such, whatever you decide, your decision is really symbolic more than anything else.

And it's important to understand that there's two types of symbolism at play in this process. The first is the independence of the judiciary and the significance of respecting this constitutionally mandated process. The second is the desire of government to send a message to groups with which the Province is engaged in collective bargaining.

The very *raison d'être* of the committee is to depoliticize the process of setting judicial compensation. So now is not the time to be looking at this politically. That was done before the JCC itself. The government advanced a political position that was tied very closely to its position in the public-sector bargaining.

It was entitled to do that; it did that, and the Province's position was carefully considered and all of its arguments were taken into account in the JCC report.

The decision of the JCC on this occasion is unanimous. It's also well reasoned and takes into account the reasoning of past commissions in Manitoba and the position advanced by the Province, and so we urge you to expect—to respect the need to protect judicial independence and to depoliticize the setting of compensation. And you can do that by accepting, in full, the recommendations of this highly experienced, independent and objective panel.

So, if you have any questions about the report or any of the other recommendations, I'm pleased to answer them, but on behalf of the association, I want to thank the committee for granting leave for me to speak about this very important matter today.

Madam Chairperson: Thank you, Ms. Dawes, for your presentation.

Are there any questions for our presenter? Seeing no questions, thank you very much for your presentation.

Does the honourable minister wish to make an—any opening remarks today?

Hon. Scott Fielding (Minister of Finance): Yes, I could make some brief comments.

Well, thank you very much, and I'm pleased to make some introductory comments on the

judiciary compensation committee—JCC—report. The 10th Judicial Compensation Committee was formed pursuant of The Provincial Court Act in the spring of 2017. As indicated, it consists of Michael Werier as the chair, Robert Simpson as the government appointee, as well as David Shrom as the appointee for the Provincial Judges Association.

Briefs were exchanged in July of 2017 and oral submissions were completed on August 21st, 2017. The report was tabled in the Legislature on October 11th, 2018. It is being placed before the Standing Committee on Legislative Affairs here today.

The Judicial Compensation Committee follows rules set out in The Provincial Court Act. The JCC is designed, really, to ensure the protection of judicial independence that was presented from the presenter. It prevents governments from negotiating directly with judges and creates an independent body to make recommendations to the Legislature as a whole.

Courts have ruled that legislation that affects judges' compensation affects judicial independence. It is for this reason that the judges' salaries are not governed by The Public Services Sustainability Act. We respect the principles of independent judiciary.

On the other hand, we do believe that everyone needs to do their part when it comes to getting the Province's finances in order. Counsel for government argued strongly at the JCC that judges could and should expect increases to their compensation to be in line with the broader public sector. Those points were made, considered and ultimately not accepted by the JCC.

It is now this committee's responsibility to review each of the JCC's recommendations, other than those that are binding on the parties, and refer the recommendations to the Legislative Assembly as a whole. It is in this spirit that I will move forward.

Madam Chairperson: Thank you, Minister.

Does the official opposition critic wish to make any opening remarks?

Mr. Wiebe: I simply wanted to take this opportunity to thank Ms. Dawes for coming here this afternoon to present the report to the committee, for taking the time to allow us to understand a little bit about the process that was undertaken to prepare the report and to thank the commissioner, Mr. Werier, and all those that served in the panel and others that helped to prepare this report. I think it is a well-researched and well-thought-out document.

I think it has some compelling arguments that ultimately were, I think, you know, taken very seriously by members of this committee—or will be taken seriously by members of this committee as we go forward.

And, certainly, I hope that we take those arguments and respect that work that was put into them and move forward in a way that supports the work of these independent commissioners and respects the work that is being done by our judges in this province and in the justice system for Manitobans. Thank you.

* (13:20)

Madam Chairperson: We thank the member.

Does the critic from the second opposition party wish to make any opening remarks?

Ms. Cindy Lamoureux (Burrows): And I, too, would like to thank Ms. Dawes for her presentation this afternoon. It was very informative, very helpful. I agree, today could be rather symbolic, and it's important to maintain that level of respect and send a positive, non-politicized message throughout the province, and looking forward to the rest of the committee.

Madam Chairperson: We thank the member.

Are there any questions on the report?

Mr. Ted Marcelino (Tyndall Park): Yes, in light of this issue having been threshed out, meaning the judges' compensation, I think that it would be proper for us to take a closer look at initiating changes to the way judges' compensation is administered.

The—even if we declare and say and state in so many ways that the independence of judges is paramount, that the rule of law is paramount, that the administration of justice cannot be compromised by politics, even if we kept on saying that, the purse strings that governments have over these—pockets of the judges—is unacceptable as far as I'm concerned. There has to be a better way instead of us discussing whether we will approve it or not.

There is a better way of compensating the judges but assuring them absolute independence and impartiality. I think we influence that process very much by pretending that there's no politics when the policy of restraint of this government was used during the arguments before the JCC.

And it is not acceptable that governments have a hand in how those judges—all 42 of them and maybe more—are being asked to come with their hands

outstretched, asking for a \$4,000 increase. No. We should stop it. We should stop doing it that way.

Thank you.

Mr. Fielding: I do thank you for your comments. You know, we are following what is in legislation. I believe legislation was passed and amended in 2001, initially was started out in the '90s, and so this is a way to depoliticize the process. I guess if there are some concerns about the current legislation that might be something to bring up, I guess.

As an elected member, you can obviously address that through some legislation. But we are following the legislation that was on the books when we did come to office.

This is a way to depoliticize, as been mentioned, and ensure the independence of the judiciary in so many different ways. And so that's a discussion, I guess, can be had in terms of future legislations. But we are following the laws of the land right now in terms of this process.

Madam Chairperson: Seeing no further questions, does the honourable minister have a motion.

Mr. Fielding: I do.

I will move

THAT the Standing Committee on Legislative Affairs accept the recommendations in schedule A; and recommend the same to the Legislative Assembly.

In terms of schedule A, that the annual salaries of judges are, in part A—schedule A represents the recommendations of the judiciary compensation committee—okay. Okay.

I will move that schedule A, recommendations of the judiciary compensation committee, accept by the Standing Committee on Legislative Affairs,

1. That the annual salaries of judges are, under

(i) April 1st, 2017 to March 31st, 2018, be \$259,000;

(ii) April 1st, 2018 to March 31st, 2019—a cumulative adjusted equal to the annual per cent change in average weekly earnings for Manitoba on April 1st, 2018;

(iii) that April 1st, 2019 to March 31st, 2020—cumulative adjustment equal to the annual percentage change in the average weekly earnings for Manitobans on April 1st, 2019;

That the percentage change in the average weekly earnings shall be calculated based on the percentage change over the preceding calendar year.

This recommendation should apply to all who were judges as of April 1st, 2017, including those who retired or otherwise leave the bench prior to implementation.

2. That the salary differentials for chief justice and associate chief justices remain in place as of April 1st, 2017. This will mean a salary of \$279,720 for chief justice and \$271,950 for associate chief justices.

This recommendation shall apply to all judges who would either—who were either a chief justice or associate chief justice as of April 1st, 2017, including those who retire or otherwise leave the bench prior to implementation.

3. Simple interest shall be paid from April 1st, 2017 to the date of retroactive payment of salary increases, including the differential from the administrative judges and related per diems for senior judges in accordance with the relevant prejudgment and post-judgment interest rates as set forth in The Court of Queen's Bench Act.

4. Prejudgment interest shall be payable from April 1st, 2017 to the date of the salary and per diem recommendations are implemented, whether by vote of the legislative or by virtue of subsection s. 11.1(29) of the act, and post-judgment interest should be payable from that date to the date the judges are paid the retroactive adjustments.

5. That the chief justice will be allowed to approve down payments in respect to any expenses related to educational conferences to be held in the next fiscal year in accordance with the court policy.

6. That there be a provision of a drug card to all active judges as part of the Prescription Drug Plan as soon as a predictable—after implementation of the recommendations.

7. The Province shall pay 75 per cent of the associates—association's responsible legal costs to the maximum aggregate of \$45,000.

8. That the Province shall pay 100 per cent of the association's distributions, including the costs of experts, to a maximum of \$22,500.

9. That, unless otherwise stated, all changes shall be effective on the date of approval by the Legislative Assembly of Manitoba.

10. In these recommendations, date of approval means

a. the date which the vote is 'cocurrent' referred to in subsection 11.1(28) of The Provincial Court Act takes place with respect to these recommendations; or

b. the recommendations must be implemented because of subsection 11.1(29) of The Provincial Court Act, that the first day after the end of the 21-day period referred to in the subsection.

Madam Chairperson: It has been moved by Minister Fielding that—

An Honourable Member: Dispense.

Madam Chairperson: Okay, I hear dispense.

The motion is in order. The floor is now—is there will to accept the motion as written? *[Agreed]*

I move that the Standing Committee on Legislative Affairs:

accept the recommendations in Schedule A; and recommend the same to the Legislative Assembly.

SCHEDULE A

Recommendations of the

Judicial Compensation Committee accepted by the Standing Committee on Legislative Affairs

1. That the annual salaries for puisne judges are:

(i) April 1, 2017 to March 31, 2018 is \$259,000;

(ii) April 1, 2018 to March 31, 2019—a cumulative adjustment equal to the annual percentage change in the average weekly earnings for Manitoba on April 1, 2018;

(iii) April 1, 2019 to March 31, 2020—cumulative adjustment equal to the annual percentage change in the average weekly earnings for Manitoba on April 1, 2019.

The percentage change in the average weekly earnings shall be calculated based on the percentage change over the preceding calendar year.

This recommendation should apply to all who were judges as of April 1, 2017, including those who retired or otherwise leave the Bench prior to implementation.

2. That the salary differentials for the Chief Judge and the Associate Chief Judges remain in place as of April 1, 2017. This will mean a salary of \$279,720 for the Chief Judge and \$271,950 for the Associate Chief Judges.

This recommendation shall apply to all judges who were either a Chief Judge or an Associate Chief Judge as of April 1, 2017, including those who retire or otherwise leave the Bench prior to implementation.

3. Simple interest shall be paid, from April 1, 2017 to the date of retroactive payment of salary increase(s) including the differentials for the administrative judges and related per diems for senior judges, in accordance with the relevant prejudgment and post-judgment interest rates as set out in the The Court of Queen's Bench Act.

4. Prejudgment interest shall be payable from April 1, 2017 to the date the salary and per diem recommendations are implemented (whether by vote of the Legislature or by virtue of s.11.1(29) of the Act), and post-judgment interest should be payable from that date to the date that judges are paid the retroactive adjustments.

5. That the Chief Judge be allowed to approve down payments in respect of any expenses relating to educational conferences to be held in the next fiscal year, in accordance with Court policy.

6. That there be a provision of a drug card to all Active Judges as part of the Prescription Drug Plan as soon as practicable after implementation of this recommendation.

7. The Province shall pay 75% of the Association's reasonable legal costs to a maximum aggregate of \$45,000.

8. The Province shall pay 100% of the Association's disbursements including the costs of experts to a maximum of \$22,500.

9. That, unless otherwise stated, all changes shall be effective on the date of approval by the Legislative Assembly of Manitoba.

10. In these recommendations, "date of approval" means

a. the date that the vote of concurrence referred to in subsection 11.1(28) of The Provincial Court Act takes place with respect to these recommendations; or

b. if the recommendations must be implemented because of subsection 11.1(29) of The Provincial Court Act, the first day after the end of the 21-day period referred to in that subsection.

The motion is in order. The floor is open for questions.

Mr. Wiebe: That is, as they say, a mouthful, so maybe could we just start with maybe some comment from the minister that the motion that—maybe just explain the motion that he just moved in plain language and whether—what he's trying to indicate here for the committee today is that he, in fact, accepts the recommendations in the report as presented, wholesale.

* (13:30)

Mr. Fielding: Yes. The answer is yes, we accept the recommendations wholesale.

Mr. Wiebe: Okay, well, that's helpful. And I think, maybe, you know, there might be more questions with regards to exactly some of the technical language from my colleagues but, certainly, it gives us a starting point.

And, really, what that starting point is is a representation of a surprising flip-flop by this government in their support of this report. Because as we heard from Ms. Dawes and as we read in the report, there was quite a bit of effort that was undertaken by the government to—in fact, to block this increase for judges.

You know, the minister acknowledged that in his opening statement—acknowledged the duplicity of that position, but I think we see it being borne out here now in its complete—you know, in completeness—that, you know, the government came, made a presentation, tried to represent that judges in this province, you know, were like other public servants or other civil servants in Manitoba and that they should be subject to the public-sector wage freeze even though, as was argued by the JCC report and, ultimately, now being supported by the minister, that there is a difference, is what the argument is.

So, on page 27, the Province argued—quote, the Province argued that the equality of treatment enhances the perception of judicial independence.

The Province stated that the Manitoba Court of Appeal noted that it would be inappropriate for judges to receive differential treatment in times of economic restraint.

On page 29, quote, the Province reiterated the periods of economic restraint necessitate equality of treatment. When the Government has a policy of

restraint, which it does, it is not proper to treat judges in a different manner than employees in the public sector.

So what we're seeing here now is this: that the government is going back on these recommendations. It's going back on that original proposal.

So, I guess, what I wanted to ask the minister is if the province is in such a poor economic state, or the conditions in the province are so dire that measures such as Bill 28 need to be implemented across the board, why is it that now, all of a sudden, the well-reasoned and well-argued report from the JCC is being accepted wholesale?

Mr. Fielding: Well, I would say, No. 1, that our government respects the independence of courts. We wanted to follow the closest—the legislation that is in place. We're following the legislation that is in place clearly for this.

When you have negotiation, negotiations are ongoing, and the legislation 'befores' us allows the recommendations to come here. Our government made a decision; we think that the vast majority of this is binding. That's a part of it. We also know that the information, of course, with some of the economic data is two years old, and the economy has gone very well. I think we've covered that off very well in terms of the government, in terms of Manitoba's growth, in terms of the economy.

We've talked a lot about that in terms of the amount of jobs that are being created. We talked about private-sector capital investment within the last two years. This information is brought forward.

But at the end of the day, there's a process that's in place. We follow the process. We're recommending what is there. The vast majority of these items are binding upon this. We respect the independence of judges, and that's why we've taken the position that we have.

Mr. Wiebe: Well, I mean, what I can say is that I think you could go around the table and find everybody in agreement around this table about the independence of courts—of the courts, and especially within the opposition caucus.

But I think what the difference is is that we would also argue that there is an independence of the bargaining process and of labour unions to bargain in good faith across the board. And that isn't limited just to judicial—the judicial system and the judiciary.

So, Madam Chair, in the Winnipeg Free Press, on January 15th, 2019, the Health Minister stated, quote, clearly, Manitobans understand that we cannot sustain a half-billion-dollar deficit. There's no confidence in a system that does that, so we'll continue down this path because it's the right one for all Manitobans.

So if the minister's arguing that this is the right path for all Manitobans—in fact, every single Manitoban should tighten their belts and—what's the—*[interjection]*—all hands on deck, thank you very—you can tell that we've been on a bit of a break, because usually that's a snap of the fingers and we'll get that line out of them. But it took a couple minutes for everyone to just get back in on the right mode there.

But that is what we hear from the Premier (Mr. Pallister), and that is what the message has been given to workers in this province.

And yet, here, when presented with a report that says, well, in fact, there is not a—the economic sky is not falling in Manitoba and, in fact, we are in line with other provinces. And yet, you know, the Province comes out and wants to make a presentation in opposition of a proper wage freeze for workers in Manitoba.

Why is it that the minister is prepared to treat judges in a different manner than he has all other Manitobans in the province?

Mr. Fielding: Well, I would suggest to you that when we came to office, and knowing what we know from our Treasury Board officials, that the deficit would have been upwards of \$1.7 billion this fiscal year. We came to office where you had over two or three downgrades in the credit rating of the Province.

The net GDP skyrocketed under the previous administration, where it went from about 25, you know, around 25 to 34 in terms of the net debt to GDP. So, clearly, the financial situation of the Province was in peril. We've taken appropriate steps to address this.

We're making progress on reducing our deficit, where it was close to a billion dollars initially when it came in; it would have been up towards 1.7 this year.

This year, we tabled a budget where we cut that in half; it's upwards of \$521 million. I can tell you we're working hard and I have a strong suspicion that will be less; we'll be making some progress in the next budget. That process is very much under way.

Not only with just getting the finances in order, which is broken under the previous government, we're trying to repair the services for Manitobans. We know when we came to office that the wait times for ER wait times were some of the longest in the country.

In fact, the area that I was involved in had been highlighted—the Grace Hospital—as having the longest wait times in the country, which was unfortunate. We've taken steps to transform things like the health-care system, where we've actually seen about a 25 per cent reduction in the amount of time that people wait in wait rooms that's there.

We've made important investments, though, too. We've invested in things like hip and knee replacements. We think that's important; there could be around a thousand more procedures.

We've also done important things like looking at the amount of children in care. So, for the first time in over 15 years, we've actually reduced the amount of kids in care. And so we think that's important to repair the services.

But above and beyond fixing the finances and repairing the services, we've really tried to grow the economy—grow the economy, because if you can grow the economy for Manitobans, that's going to be effective.

And what we've seen is actually a GDP growth of upwards of 2.5 per cent, our private sector capital investment, we've, in fact—are leading the nation. So there's companies like food-processing companies, companies like Ubisoft, companies like the movie industry where you're seeing upwards of \$250 million of movie production that are going.

So, on balance, our government is trying to get it right, to focus in on the economy, and although your comments were a little off-topic, I felt I had to respond on behalf of the government.

We are here to accept this recommendation. The vast majority of this is binding, and I guess it's really up to the committee whether they would accept the recommendations or not.

We know that the previous government challenged these recommendations in the courts, and what they actually showed is on two different occasions spent close to—I think it was \$75,000 on one occasion and I think close to somewhere around \$200,000 fighting these. And it was tested in the courts and they lost.

And so we think it is appropriate step. We think it's—the vast majority of these recommendations are binding. And I hope that answers your question.

Mr. Wiebe: Well, you know, I don't think my comments were out of order or, you know, from veering far from the subject matter in the sense that we're clearly talking about workers in Manitoba, public-sector workers, whether they be judges or otherwise, that are feeling the effects of this politically motivated austerity agenda of this government.

And, you know, when we have members of the representatives of the JCC come to this committee and ask us, plead with us, to not be political, to depoliticize this process within this committee, and yet, you know, the minister, I mean, I think he rattled off—I think the minister rattled off every single talking point—he's got it memorized well—every single one of them in that answer, but didn't get to the heart of the matter.

And, in fact, you know, simply went on and on about how great the economy is. Well, if the economy is doing so great, then what's the need for Bill 28?

* (13:40)

Will the minister withdraw Bill 28 and tell all Manitoba workers that he'd be happy to pay them and bargain with them in good faith and pay them an appropriate wage in this province?

Madam Chairperson: Before I recognize anyone, I just would like to say that this is not the venue to be discussing anything other than the judicial compensation motion and the motion that is before us. I want to remind all members that we are going to keep our discussions relevant to what we are here meeting today.

I also want to remind all members to direct your messages through the Chair as opposed to using you or your in your language.

Mr. Fielding: Well, the government wants, really, to ensure sustainability of public services for all Manitobans. Our government is committed to reducing costs and protecting front-line services, really, across government.

As part of the effort, we have asked civil servants and public sector to all work together, all-hands-on-deck—we like to say—approach to get Manitobans' finances back on track after 17 years of bad performance in terms of economics that's caused our debt. You know, it costs about a billion dollars in debt-servicing charges that are there.

We are really leading by example. We reduced the size of our Cabinet. We think that's important. We've also reduced the size of our senior and upper management within the public service. That's important.

Let's be clear: We respect the bargaining process and there is no reopening of existing collective agreements without the wage framework. A portion of sustainability savings identified through collective bargaining can fund increases and compensation.

There is also no restrictions on promotions or merit-based increases. Our government continues to request collaborative dialogue with organizational—organized labour, leadership and supports meaningful collective bargaining.

Again, that is a little bit outside what this committee is here to speak of, but I felt the need to put that on the record, Madam Chair, and—I'm not sure if I've got anything more to say upon that.

Mr. Wiebe: Well, we've moved past the point of the memorized talking points and on to the written ones, so that's certainly something. I do just want to acknowledge the guidance of the Chair and return to the report that's before this committee and keep our questions as tightly connected to that report as possible.

So, just turning to page 72 of the JCC report, the report there states, quote: We do not accept the fact that just because a Government adopts a policy of restraint, that this reflects the true fiscal position of the Province. End quote.

So this is the statement that's in the JCC report. It addresses these key issues that we've been discussing this afternoon, issues that certainly are—my colleagues have been talking about for a very long time, long before this report, but certainly highlights and reiterates those reports, so I think that—or those statements, so I think there is some value to that.

You know, we know that, again, coming from the report, experts are saying that the current economic state is not as poor as the Province is making it out to be.

On page 28, quote: In its written submission of the Province, while acknowledging Ms. Budhia's stated statement that the—that Manitoba's economy may be viewed as relatively well situated in comparison to other provinces, its performance is historically low and decidedly less rosy.

Fletcher Baragar, an economics professor cited in the JCC report, as was mentioned by Ms. Dawes today, the diverse nature of Manitoba's economy has allowed it to perform relatively well in relation to other provinces. Mr. Baragar maintained that the size of the deficit was not the cause for alarm as it was made out to be by the Province.

So, once again, we have a report here that, you know, by Mr. Werier, which I, you know, I think members of this committee would agree, is somebody that we can trust as legislators to be impartial and to give us the information that's been presented in a way that is truthful and comprehensive, you know, and yet, you know, this Province, the Province came out and said: No; wait a minute, wait a minute. You know, first we're going to oppose it and now we're going to go along with the report. It's a significant flip-flop, and I think that the minister has to be clear with this committee why that flip-flop happened and if he is, in fact, saying that the economy—it's the reason is that the economy is doing so much better now, I think he has to answer for the fact that Bill 28 remains an issue that the rest of the civil service, the rest of the public servants in this province are concerned about and concerned about the ability of their labour organizations to bargain in good faith with the Province. And I think that's a significant flip-flop this minister has to be accountable for. Would he be accountable today?

Mr. Fielding: While just correcting a bit of the record, and I do—taking a tour, sometimes taking a tour of the past allows you to make some informed decisions. I do remember the previous government, I believe, signed two years of zeros, if I'm not mistaken, with their public-sector unions. There was a longer term contract but I believe that was in the nature. So, somehow to suggest that having two zeros as—is some sort of a new approach, that is something that the previous government obviously entered into. So I'll put that on the table.

I can tell you that on a process basis, what we are committed to doing, a part of the legislation—I'm assuming you do still support the legislation—is the report, the JCC report does come here and government makes a determination, government and members of the Legislative Assembly make decisions on this and that's why it's here at this standing committee.

I can tell you, you know, we can go back and forth in terms of our government approach to things, but we are trying to make things better.

In fact, I think I would argue that we are making things better for Manitobans in so many different ways, of reducing our deficit, getting our services in order, growing the economy. You have businesses that are growing and prospering that are here. We think that's important.

When discussions happen, there's presentations back and forth, and government, and as you as a member of this committee and a member of the Legislative Assembly will have an opportunity to vote on this. And so that's what it's at. This—there's a number of these items that are, a part of this report, bringing it back to the report, that's what we're talking about of course here, that are binding, that are outside of it.

And so, if you have some concerns, even though it is your government that, quite frankly, crafted that—after the '90s they made some amendments to it—or if you don't agree with that process, I guess that's really your position to take, and I guess I would suggest to you that would be a bit of a flip-flop on your behalf because it was your legislation that you introduced.

So, if you don't support some of the recommendations that are there, that would be a flip-flop from your—on your behalf.

Mr. James Allum (Fort Garry-Riverview): I guess, let's be clear, first of all. We support and have supported the recommendations of the JCC and we're willing to support it here today. So let there be no mistake about what our position has been from the get-go.

What we take exception to is three things. One, this distorted, disingenuous narrative that the Province made in their submission, which is not remotely accurate and, in fact, is done under the cloud of Bill 28, which has still not been proclaimed, but yet hangs out there like a big matzo ball over the heads of public servants all across Manitoba. That, on its own, we take exception to.

Secondly, we take exception to the government politicizing this very process. And the politicization of it is not only in the disingenuous and distorted record and narrative put forward in this report by the government, but then it's further added to by coming to the table today and then saying, oh, we didn't mean the argument that we made in our submission; forget all that. In fact, we're here to endorse the recommendations.

Which is our third exception, then, to what the minister has proposed today, which is the very flip-flop that you've brought to the table.

Distorted, disingenuous, politicized process and a flip-flop at the end of the show. We take exception to all three things.

We are supporting the process. We support the recommendations. It's you who needs to explain why you engaged in such a distorted—

Madam Chairperson: Order.

I have given a little bit of leeway when using you and your, but I do want to remind all members that we are speaking through the Chair, so please use the third person and comment through the Chair.

Mr. Allum: You're absolutely correct in that.

So what we want from the minister today, Madam Chair, is an explanation for the distorted, disingenuous narrative here, the government's decision to politicize this very depoliticized process and then, thirdly, to account for the flip-flop that he's undertaken here today.

* (13:50)

Mr. Fielding: Well, I very much disagree with everything that you just had said. I can say—Madam Chair, I disagree with everything that you had said. I would suggest that you probably had a long time at Christmas working on all this charged-up language that you're using, but that's your right as a legislator to use as much language as you can and politicize this. I don't know—*[interjection]*

Madam Chairperson: Order, order. I'm going to give one more reminder that all comments through the Chair. We will refer to other members as the member, not by you or yours.

Mr. Fielding: Well, thank you, Madam Chair, and it's always entertaining hearing the member from Fort Garry, I believe it is, Fort Garry-Riverview, in terms of your language. I can say a deep politicized process is exactly what you're seeing here today.

There's a report—there is a process; everyone agrees, I think, on the process unless you don't agree with the process anymore which, of course, would be a flip-flop on your behalf. I don't know if you were there when the process was established into legislation, but the legislation clearly says that the JCC reports back.

You're making it politicized. What we have come to is we've come to this. In fact, we had some dialogue. We had—our government is an open and transparent government, so we like to have conversations with members that had the opportunity to speak to the Finance critic as well as the Liberals. We had some

communications for our staff on that to depoliticize this process, and that's what JCC was all about. It was depoliticizing the process.

You make arguments one way or the other a part of recommendations and then as government, as I'm sure the member from—the member knew when he was a member of Cabinet; sometimes, what happens is policies come. You make decisions in the background. You may or may not agree with decisions. You come up with a final decision as government and you make it. This decision is here. The vast majority of these items that are part of JCC are binding. We support this and we encourage the NDP and we encourage the Liberals to support this process.

So, again, there's no flip-flopping here. We're here to support this as part of a depoliticized process so we're happy to be here and we're happy to support it and our hope, our New Year's resolution was that you would not depoliticize these things but you've chosen the opportunity to come before the committee and turn it into a political circus. I don't think that should be the case. I think that we should be here supporting the legislation that was agreed upon at the day and as the current legislation.

If you decide you want to choose this, I know one of the members of your caucus has suggested that they don't agree with the process so it seems like there's still a little bit of difference between the members of your caucus, so maybe having a conversation to make sure that your whole caucus is in support of it—it's not a divided caucus—might be a process going forward.

But I can tell you from our point of view, our government very much supports the independence of judges. We think it's important to depoliticize the process and that's why we're here; that's why we're supporting this recommendation that the previous government supported in legislation in previous years. We're just confused of why you're changing your opinion now on it.

Madam Chairperson: Before I recognize the next member, one more reminder that we want to have all comments directed through the Chair, third person. Please refrain from using you and your. We want to avoid this becoming personal. This is a discussion that we need to show respect both ways, and one way to do that is to speak through the Chair to ask questions and to answer them.

Mr. Allum: Madam Chair, I fail to follow the minister's argument there. We said right from the

get-go that we support the process and we support the recommendations. That hasn't changed.

But what has become clear to me in listening to him, listening to the minister, Madam Chair, is that the minister's obviously not familiar with the argument made by the government in their submission, and I am fair to say that I don't think the Justice Minister appears to be all that familiar either with the government's position leading up to today.

What we're seeing is a clear about-face and a clear flip-flop. We're glad they've come to their senses at the very last second here today before the committee, but the reality is, is that the argument made by the government in its submission to the JCC was a heavy, highly politicized, distorted, disingenuous view of the state of Manitoba today, yesterday, and now he's being called on it. It's that simple, Madam Chair.

So, the minister may well choose to respond to me or he may not, but let there be no doubt here today that this was a disingenuous and distorted view of Manitoba's situation and that the minister politicized the process, the government politicized this process, the Premier (Mr. Pallister) politicized this process by making the argument that was made. And at the end of the day, what we see is a government that flip-flops on almost every issue.

Mr. Fielding: Well, in that 'renspect', you know, I, quite frankly, am a little surprised and shocked that a former minister of Justice doesn't really understand or appreciate the binding nature of these things and what's part of legislation. It's really disappointing that he clearly hasn't done his homework as being a former Justice minister on it. I think you were a Justice minister, it was probably a doughnut and a coffee during the—during—remember when there was a—kind of this coup that happened, of course, with the NDP, but we'll leave that aside for right now.

What I can tell you is that there is a democratic process, there's a process, there's legislation our government is following, the legislation that's in the works. JCC is making the recommendations. Government has an opportunity, as well as other members of committee, as well as members of the Legislature, to make a decision on this. We're clearly at the point where we're ready to make a decision on this. We think it's important. We think that the vast majority of this is binding. We think that that has been tested in the water.

I know your previous government took it to the courts. And not only did you take it to the courts, it

cost taxpayers a good amount of money to take it to the courts where you lost.

And so we've come to the conclusion that we're going to support JCC, we think it's important as a government, and we invite you to speak with your vote. We invite you to support it. We think it makes a lot of sense. And we encourage all to support the motion that's on the table.

Mr. Wiebe: Well, if I could, Madam Chair, I just, you know, wanted to address some of the comments from the minister because, you know, if it indeed, as he said, makes sense here, now, all of a sudden for him based on this report, then, hopefully, it's also going to make sense when it comes to Bill 28 and he'll see the error in his government's ways in stepping on and interfering in the bargaining process within this province.

If he wants to call the proceedings here today a circus, that's his prerogative. But we don't see it as being any laughing matter standing up for workers in this province, and we will continue to do so whether that be the doctors in this province, whether it be nurses who are—who continue to try to do their job while this sword of Damocles hangs over their heads, whether it be teachers in this province, whether it be social workers, whether it be correctional officers, probation officers, counsellors, support workers, health and safety officers, librarians, airport staff, pilots, elevator inspectors, fire rangers; I could go on, Madam Chair, that every worker in this province deserves to bargain in good faith and to be compensated appropriately.

And in the same way that judges have come before us here today to make that argument, and now, apparently, the Province agrees with that, we hope that they will see that other workers in this province deserve the same respect.

Mr. Fielding: Well, I think we've rehashed the points. Our government here is to support this. I have said clearly in my opening comments, I'll repeat them to you because I think they're merited. We do believe that everyone needs to do their part when it comes to getting the Province's finances in order.

Counsel of our government argued strongly, as you mentioned, at the JCC that judges could and should expect increases to their compensation to be in line with the other broader public-sector employees. I don't think that's disrespect at all. I think that is a logical argument.

So I think that you would expect that not just from a government, but arguments to be made. This is a

process that's well document, was supported before you changed your opinion in terms of the legislation—bringing forward. But we are here to support this.

And I think to somehow—to suggest that everyone needs to do their part to fix our finances after the mess that was left after I don't think is out of bounds; in fact, I think it's very much appropriate and we're here to support this.

And we're hoping that the NDP decides not to politicize this, and use this as an opportunity to talk about other items that governments are facing.

But to deal with the items that are here, it's clearly on the table, and I guess that's your opportunity to support the JCC's recommendation, the recommendations that is supported. And I guess we'll soon see if you'll support it or if you won't.

An Honourable Member: Question.

Madam Chairperson: Is the committee ready for the question?

Some Honourable Members: Question.

Madam Chairperson: The question before the committee is as follows:

Shall the motion pass? *[Agreed]*

If there are no further questions or comments, is it the will of the committee to report to the House that we have completed our consideration of the report and recommendations of the Judicial Compensation Committee, dated March 23rd, 2018? *[Agreed]*

Before we rise—*[interjection]*

The hour being 2 o'clock, what is the will of the committee?

Some Honourable Members: Committee rise.

Madam Chairperson: Committee rise.

COMMITTEE ROSE AT: 2:01 p.m.

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