

Fourth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Rules of the House

Chairperson
The Honourable George Hickes
Constituency of Point Douglas

Vol. LVII No. 1 - 4:15 p.m., Wednesday, December 7, 2005

ISSN 0715-2914

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy, Hon.	St. Vital	N.D.P.
ALTEMEYER, Rob	Wolseley	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
BJORNSON, Peter, Hon.	Gimli	N.D.P.
BRICK, Marilyn	St. Norbert	N.D.P.
CALDWELL, Drew	Brandon East	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CULLEN, Cliff	Turtle Mountain	P.C.
CUMMINGS, Glen	Ste. Rose	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
EICHLER, Ralph	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin	Steinbach	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HICKES, George, Hon.	Point Douglas	N.D.P.
IRVIN-ROSS, Kerri	Fort Garry	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
JHA, Bidhu	Radisson	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MELNICK, Christine, Hon.	Riel	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
OSWALD, Theresa, Hon.	Seine River	N.D.P.
PENNER, Jack	Emerson	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim, Hon.	Assiniboia	N.D.P.
ROWAT, Leanne	Minnedosa	P.C.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SCHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Scott, Hon.	Brandon West	N.D.P.
STEFANSON, Heather	Tuxedo	P.C.
STRUTHERS, Stan, Hon.	Dauphin-Roblin	N.D.P.
SWAN, Andrew	Minto	N.D.P.
TAILLIEU, Mavis	Morris	P.C.
<i>Vacant</i>	Fort Whyte	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON RULES OF THE HOUSE

Wednesday, December 7, 2005

TIME – 4:15 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Hon. Mr. George Hickes
(Point Douglas)**

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

ATTENDANCE – 11 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Hickes, Mackintosh

Ms. Brick, Messrs. Derkach, Dewar, Ms.
Korzeniowski, Messrs. Lamoureux, Reimer,
Rocan, Schellenberg, Santos

APPEARING:

Mr. Jim Maloway, MLA for Elmwood

Ms. Patricia Chaychuk, Clerk of the Legislative
Assembly of Manitoba

MATTERS UNDER CONSIDERATION:

To consider proposed rules changes for the
Legislature

* * *

Mr. Chairperson: Good afternoon, will the
Standing Committee on Rules of the House please
come to order.

This meeting has been called to consider
proposed amendments to the Rules, Orders and
Forms of Proceedings of the Legislative Assembly of
Manitoba.

You will find before you on the table, pretty
soon, copies of a document containing draft
amendments to the Rules, Orders and Forms of
Proceedings of the Legislative Assembly of
Manitoba, which we will be considering today.

How does the committee wish to proceed with
consideration of these amendments?

**Hon. Gord Mackintosh (Government House
Leader):** Perhaps you can just put some preliminary
words on the record. There may be some outstanding
issues relatively minor in nature. The rules that will

be distributed are the result of quite extensive
consultations and negotiations over the course of
about a year and, in the end, reflect very significant
change to how the Public Accounts are dealt with in
Manitoba, specifically by bringing in an era whereby
current ministers and deputy ministers may be called
as witnesses before the Public Accounts Committee.

I understand that, if these rules are adopted by
this committee, they would then be introduced into
the House this afternoon, following which there
would be four meetings scheduled pursuant to the
new rules starting as early as tonight.

My understanding, from discussions with the
Member for Inkster (Mr. Lamoureux), is that, under
Rule 111(1), which requires from four to eight
meetings, after consultation with the Chair and Vice-
Chair, there is an interest in changing that to from six
to eight meetings. But I think it would also be
important to put on the record that, where the Chair
and Vice-Chair request a meeting of the Government
House Leader, the meeting shall be called by the
Government House Leader. So I wanted to make that
clear that that is how I read the rule. Now that was
the change.

The other change was that there was a gap in the
discussions when it came to Crown corporations, and
so that has been dealt with here, because we deal
with departments and agencies but Crowns were not
dealt with, and now they are.

The other item I just wanted to put on the record,
just for certainty, this rule change provides that a
minister and deputy minister can be called as a
witness. Also, of course, you see here the chief
executive officer of a Crown corporation, the
intention here that has to be clear is that the extent of
witnesses is restricted to those classes of office
holders.

The reason there is not a rule that says that is
because, as my colleague in the opposition said, that
would be redundant. So, as a result, we are prepared
to see this matter discussed and moved to the House
if there is agreement.

* (16:30)

Mr. Chairperson: So how does the committee wish to proceed? Does the committee wish to proceed rule by rule? That way, if there are any questions or clarifications, the members will have an opportunity. *[interjection]*

Let us go through the order. We will go rule by rule.

How long does the committee wish to sit this afternoon, until the business is done? *[interjection]* No later than midnight? Until the business is done? Is that agreed? *[Agreed]*

Does the committee wish the Clerk to provide any explanation regarding the amendments, yes or no?

Mr. Leonard Derkach (Official Opposition House Leader): I have a question as it relates to 118.1(3).

Mr. Chairperson: Do you want to deal with it when we get to it? We will do it rule by rule. We will start at the top. I think that is what we had agreed to do.

Do the House leaders have any opening comments? No? Okay.

We will now begin consideration of the document.

104(1) Members on the PAC shall serve for a term that is equal to the duration of the Legislature.

Is that accepted? Any questions? It has been agreed to?

Mr. Derkach: A question has been asked with regard to the Chairperson as well.

Ms. Patricia Chaychuk (Clerk of the Legislative Assembly of Manitoba): The Chairperson is a member of the committee, so the rule would cover the Chairperson off.

An Honourable Member: But he would get booted out after term one?

Ms. Chaychuk: No, no. Sorry, if I may, the intent of this is to try to have continuity on the committee. It is not saying you can only stay on for one Legislature. It is saying membership on the

committee should be for the duration of the Legislature rather than having members continually subbing off and on the committee.

Mr. Chairperson: 104(1)–agreed? *[Agreed]*

104(2) Despite Rules 85(2) and 104(1) each caucus may make up to two membership substitutions per meeting.

Ms. Marilyn Brick (St. Norbert): That includes the Chairperson?

Ms. Chaychuk: My understanding would be it would, but I would look to the House leaders, as this is part of some of the discussions that they have had behind the scenes.

Mr. Mackintosh: The rule has to speak for itself. My understanding is that the Chair is a member of the committee and they would be included in that subrule.

Mr. Derkach: I interpret that the same way.

Mr. Chairperson: Agreed then? *[Agreed]*

Mr. Kevin Lamoureux (Inkster): Again, 104(2) gives clarification which I think is good. What I am going to suggest is that we should have a 104(3) in there, and it would read to the effect that, despite Rules 85(2) and 104(1) independent members may assign another MLA to replace him or her on an interim basis by notifying the Chair.

Again, the purpose of that is just to give clarification for the same reason that we would have the second amendment. I have mentioned it to the Government House Leader and shared it with the Clerk.

Mr. Mackintosh: I defer to the advice of the Clerk, but it is my understanding that 104(2) only restricts the membership with regard to the two caucuses and independent members are not dealt with. In other words, there is nothing to restrict independent members from trading off as they see fit.

Ms. Chaychuk: Mr. Mackintosh has the same understanding of how the rule works as I do.

Mr. Lamoureux: That helps out greatly. My understanding, then, is that it is no problem for me and the member from River Heights to change any time we want to be able to change. That is correct?

Mr. Mackintosh: Well, there are some requirements in terms of notification of those changes to the Clerk, or to the Chair.

Ms. Chaychuk: Well, pardon me, the way it works now is, if possible, prior to the start of the meeting, the Whips give a list to the Chairperson of who the members on that committee will be. So, ideally, before the committee meeting, you would be letting the Chairperson know if you were going to be making a change to the meeting. However, committee changes can still take place during the meeting if things arise and happen to come up. Give notification to the Chair during the meeting, and then a member can be put onto the committee and taken off.

Mr. Jim Maloway (Elmwood): Mr. Chairman, this rule does not preclude any members in the Legislature from sitting in on the meetings?

Mr. Chairperson: No.

Mr. Maloway: So we are only talking about voting members here?

Ms. Chaychuk: That is correct. Any MLA can attend and participate, but you have to be a committee member to vote or move motions.

Mr. Chairperson: Is that clear then?

An Honourable Member: Yes.

Mr. Chairperson: So that has been agreed to? *[Agreed]*

(b) by replacing Rule 111 with the following, effective January 1, 2006.

Is that agreed to?

An Honourable Member: No, that is not a rule.

Mr. Chairperson: What is that, then?

An Honourable Member: This is just part of the instruction.

Mr. Chairperson: Okay. Sorry about that.

Meetings and Hearings

111(1) After consulting with the PAC Chairperson and Vice-Chairperson, the Government House Leader shall call for four to eight meetings of the PAC per year. To the extent practicable, the meetings shall be held at regular intervals.

Mr. Lamoureux: Mr. Speaker, I think that is supposed to be "six to eight meetings." That is what was indicated to us would be acceptable.

Mr. Chairperson: So, is there agreement to change it from four to six, or from four to eight, or six to eight? What is it?

Mr. Lamoureux: Six to eight.

Mr. Chairperson: Okay, is there agreement to change it to "from six to eight meetings"?

Mr. Derkach: I do not know how that accomplishes anything, Mr. Chair. I think we have to be reasonable about what, perhaps, is required for PAC meetings. I do not see any sense in calling a meeting for the sake of calling a meeting just because you have a number there. Up until this time we have been able to do our business with four meetings per year.

If we have a minimum of four and we can go to eight meetings, and I am sure that, if there were enough business that would warrant more, we could probably have an agreement between the House leaders that would allow us to have more. So I do not know what we accomplish by changing the four meetings to six.

I think we have set a range that is reasonable. It is one that I have had approval from my caucus to go with. This is the first I hear of six meetings. I am a little troubled by it.

Mr. Lamoureux: I can appreciate that from the member from Russell. One of the things that we had discussed with the Government House Leader when it was brought to our attention a few hours ago was I had an opportunity then to sit down with the member from River Heights, go over the proposal, and one of the conditions that the member from River Heights had talked about was that we need to increase it to six from four. Initially, it was to go with a minimum of eight. Then we had agreed to compromise to "six to eight." That is the impression that I had left the Chamber with, with my member from River Heights. Any deviation from that at this point would be opposite to what myself and the Government House Leader had talked about.

* (16:40)

Mr. Chairperson: So the proposal is changing "from four to eight" to "from six to eight."

Mr. Mackintosh: We are prepared to go "six to eight," because I know it was an important issue for the agreement of the independent members. Again, if the meetings are requested in the number of eight, the House leader I see here, it is my reading, shall call the meeting anyway. I think that deals with the issue of the maximum of eight.

It would be unfortunate if we did not need six meetings. That is the concern, I know, from the opposition, but in order to move this, we are prepared to accept six recognizing that this is going to be reviewed in March. By March, we will have a better idea as to how much business lies ahead after the clean-up session in February. Let us just make sure that, yes, as long as it is reviewable by March 31, I am prepared to go "from six to eight."

Mr. Derkach: I think we can concede.

Mr. Chairperson: Okay, so the agreement is to change "from four to eight" to "from six to eight"? That has been agreed to? *[Agreed]*

111(2) The Chairperson and Vice-Chairperson must set the agenda for a meeting and provide a copy of the agenda to the Government House Leader before the meeting is called.

Agreed?

Ms. Chaychuk: I just took a few points to raise for the committee's consideration. It does not really put any sort of time line specifically in there. I do not know if you want that in the rule or if you want to have a discussion on the record so that everybody is of the same understanding. When should the Government House Leader get, at like five minutes before the meeting or do you want a time frame, and when should the Chairperson or Vice-Chairperson be setting the agenda?

Mr. Mackintosh: Well, I think any interpretation would be a reasonable interpretation. The agenda must be set obviously before the meeting is called. The Government House Leader has the ability to work with the Chair and the Vice-Chair to conclude the date. I think there are checks and balances when you have both the Chair and Vice-Chair from two different parties doing that work, so I do not think we need a further clarification. I think we should leave it to the checks and balances that are inherent in the system.

Ms. Chaychuk: There was a procedure adopted by the Public Accounts Committee in 1991 where that letters have to go to all the committee members requesting agenda items. Is PAC wanting to keep that process or get rid of it because it may or may not be in conflict with this rule?

Mr. Derkach: I think we should try to keep the process as simple as possible and allow the words of the Chair and Vice-Chair, along with the House leader to flow as easily as possible. In my view, if we

can keep it as simple as the rule here says, that could be probably more practical.

Mr. Chairperson: Is that agreed to? *[Agreed]*

(c) *in Rule 114, by adding "and answer questions" after "provide advice and opinions";*

Pass? *[Agreed]*

(d) *by adding the following after Rule 118:*

Minister and deputy minister may be called as witnesses

118.1(1) If an Auditor General's report relates to a government department or agency, the Public Accounts Committee may call as a witness the minister currently responsible for that department or agency.

Ms. Chaychuk: Just something to, again, suggest to the committee. I know it says the words "may call," but committees technically only can invite people. They cannot compel or attend them because the House would have to be the body to issue a subpoena if a witness was refusing to attend. You may want to soften that to say "may invite" because "may call" makes it sound like it is a stronger enforcement power than the committee itself actually has.

Mr. Maloway: Mr. Chairman, I would like to leave it the way it is because if a witness does not want to attend, then you have the option of going to the House, but to put in some mealy-mouthed wording in here that is inviting insubordination, I think, if you do that.

Ms. Chaychuk: As long as you are aware that the committee cannot order, and that they would have to report back to the House then, and ask the House to take actions to make the witness go to the committee.

Mr. Mackintosh: Well, I think it is a fair interpretation that the word "call" means "invite"; it does not mean order. So there is no change.

Mr. Chairperson: Mr. Derkach, you had your hand up?

Mr. Derkach: Yes, I think that we should leave it as it is. I think we understand that, you know, if a witness refuses to come, then a next step has to be taken, and we would seek the advice of the table officers to see how we could implement the next step.

Mr. Chairperson: Is that agreed to leave as is? *[Agreed]*

118.1(2) If the Auditor General's report makes a recommendation relating to a government department, the PAC may call as an additional witness the current deputy minister for that department, to appear with the minister. The deputy minister may be questioned on matters related to the Auditor General's report recommendations and related matters of administration within the department. Questions of policy must be directed to the minister.

Agreed? *[Agreed]*

118.1(3) If an Auditor General's report makes a recommendation relating to a Crown corporation whose annual report stands permanently referred to the Standing Committee on Crown corporations, the PAC may call as an additional witness the chief executive officer of the corporation, to appear with the minister responsible for the corporation. The officer may be questioned on matters related to the Auditor General's report recommendations and related matters of administration within the corporation. Questions of policy must be directed to the minister.

Agreed? *[Agreed]*

118.1(4) Despite subrule (1), if the report makes recommendations affecting more than one government department or agency, the Chair and Vice-Chair, on the advice of PAC, may designate the current minister responsible for any of the affected department or agency as the lead minister. If there are areas not yet addressed by the lead minister or deputy minister, the Chair and Vice-Chair, on the advice of PAC, may call as witnesses, to deal with matters not yet addressed.

Ms. Chaychuk: Just a point, and hopefully this situation would never arise because the Chair and the Vice-Chair should be acting on the advice of the committee, but if you ever got into a situation where there was disagreement, where the Chair or the Vice-Chair were not of the same mind about this, that could be a bit of a problem because it almost sounds like they both have to be agreeing to this, although, again, it would be based on what the committee was recommending be done.

Mr. Chairperson: Okay, agreed to? *[Agreed]*

(a) the minister of any other department affected by the recommendations and, under

subrule (2), the deputy minister of that department; or

(b) in the case of a Crown corporation referred to in subrule (3), the minister responsible for the corporation and, under that subrule, the chief executive officer of the corporation.

Agreed? *[Agreed]*

118.1(5) The minister and deputy minister may bring to the PAC one or more members of their staff, selected by the minister or deputy minister, to provide advice to the minister or deputy minister on questions posed by committee members.

Ms. Chaychuk: Again, this may not be something you want to necessarily reflect in the rule, but it may be good to have an understanding at the Rules Committee whether or not this is implying that these people are speaking on the record or just there to advise as ministers because there is a potential for that situation to come up.

Mr. Derkach: I think our understanding in our discussions was that these individuals would not be there to answer questions of the members; rather, they would be providing advice to the minister or the deputy minister. The minister or deputy minister would be the ones who would be witnessing to the committee.

Mr. Chairperson: Okay, is that agreed to then? *[Agreed]*

118.1(6) The minister responsible for a Crown corporation referred to in subrule (3) and the chief executive officer of the corporation may bring to the PAC one or more members of the minister's or corporation's staff, selected by the minister or the officer, as the case may be, to provide advice to the minister or the officer on questions posed by committee members.

Agreed? *[Agreed]*

The Public Accounts Committee must review this rule by March 31, 2006.

* (16:50)

Ms. Chaychuk: Actually, this is not something that you necessarily need to put in the rule book because, if you agree to this, this line goes in the rule book. What you need to have is just the committee express at this committee that this is what they agreed to

because otherwise you are going to have, basically, like a sunset rule that is going to be there until March and then have to get taken out.

Mr. Mackintosh: If that could just be reflected as a decision of the committee without going into the rules.

Mr. Chairperson: Okay. Is it agreed that the Clerk be authorized to renumber the rules?

Mr. Mackintosh: There is one other set of proposed rule changes. They are relatively minor and if we can look at those now.

Ms. Brick: I was wondering if you could clarify for me what it means, "witness." Does that mean that an oath is taken? Could someone clarify what the word "witness" means in reference to this document?

Ms. Chaychuk: A witness basically would be anybody you are calling before the committee, and you can question them. Committees do have the power to put witnesses under oath, but that is very rarely done in Manitoba. Generally, persons come before the committee and answer questions, and they are referred to as witnesses.

Mr. Chairperson: Okay. A proposed rule to that the *Rules, Orders and Forms of Proceedings* list be amended as follows:

THAT Rule 23(1)–

An Honourable Member: Dispense.

Mr. Chairperson: Dispense with this?

Okay. I will just read them out.

THAT Rule 23(1) be repealed and replaced with the following:

Daily Routine

23(1) The daily routine of business in the House at 1:30 p.m., and at 10 a.m. when it sits on Friday, is as follows, unless the House orders otherwise:

- Introduction of Bills
- Petitions
- Committee Reports
- Tabling of Reports
- Ministerial Statements
- Oral Questions
- Members' Statements
- Grievances

THAT Rule 23(3) be amended by adding the following before the last sentence:

For the purpose of listing Bills on the Order Paper during Private Members' Business, Concurrence and Third Readings shall precede Debate on Concurrence and Third Readings, while Second Readings shall precede Debate on Second Readings.

THAT Rule 136(2) be repealed and replaced with the following:

Bill must be distributed before Second Reading

136(2) A bill must be printed and distributed in the House at least one day before Second Reading.

Agreed? [Agreed]

Is it agreed that the Clerk be authorized to renumber the *Rules, Orders and Forms of Proceedings of the Legislative Assembly* and make other minor corrections that in no way alter the intended meaning of these amendments? *[Agreed]*

Mr. Lamoureux: In terms of the procedures, where would urgent matter of importance fall on the Order Paper, if we change it with this?

Ms. Chaychuk: If it comes after Members' Statements and before Grievances, that does not change at all. All this is doing is changing the order of Routine Proceedings to permanently put the Introduction of Bills as the first item being called under Routine Proceedings.

Mr. Lamoureux: We have the MUIPs in between Members' Statements and Grievances then.

Ms. Chaychuk: It is not an item that is called as an order of business during Routine Proceedings. We only deal with MUIPs if members file a motion on that day with the Speaker.

Mr. Chairperson: Okay, clarified? Okay.

Is it agreed that staff at the Clerk's office be authorized to produce revised rule books incorporating all the amendments, additions and deletions? *[Agreed]*

When will these amendments to the rules come into force?

Mr. Mackintosh: It is intended that it go into the House now. But, just for clarification, there was also an agreement that the Chair and the Vice-Chair set the agenda for the meetings that will be announced and provide a copy of the agenda to the House leader

before the meetings are called. So, just to clarify that for the record.

Mr. Chairperson: So is that agreed? *[Agreed]*

Is it agreed that the Public Accounts Committee review these rule changes by March 31, 2006, and report their conclusions to the House? *[Agreed]*

Are these amendments to the rules to be permanent changes? *[Agreed]*

Is it agreed that these amendments to the *Rules, Orders and Forms of Proceedings*—order. We are not finished yet. We need to maintain a quorum here. We

are almost there.

Is it agreed that these amendments to the *Rules, Orders and Forms of Proceedings of the Legislative Assembly of Manitoba*, as agreed to by this committee, be reported to the House? *[Agreed]*

The hour being 4:55 p.m., what is the will of the committee?

An Honourable Member: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 4:55 p.m.