



PROVINCE OF NEWFOUNDLAND AND LABRADOR  
HOUSE OF ASSEMBLY

HOUSE OF ASSEMBLY  
MANAGEMENT COMMISSION

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Ninety-Sixth Meeting

Tuesday, May 21, 2024

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**HANSARD**

Speaker: Honourable Derek Bennett, MHA

The Management Commission met at 9:30 a.m. in the House of Assembly Committee Room/video conference.

**SPEAKER (Bennett):** Good morning, everyone, I'm going to call the meeting to order.

First of all, I'd like to introduce Members and officials in attendance today. On the Management Commission we have the hon. John Hogan, Government House Leader; Barry Petten, Opposition House Leader; the hon. Lisa Dempster, MHA for Cartwright - L'Anse au Clair; MHA Evans will be joining us very shortly; Craig Parry, MHA for Bonavista; Lucy Stoyles, MHA for Mount Pearl North; and Kim Hawley George, the Acting Clerk of the House of Assembly.

Also with staff we have Bobbi Russell, Principal Clerk of Committees and Director of Policy; Gerrie Smith, Law Clerk and Parliamentary Counsel; and as indicated, the Members of the MCRC, if needed.

Everyone should have a copy of the agenda and the briefing package. The first item is the approval of minutes for the meetings of February 21, April 11, and May 1, 2024. The draft minutes are included in the briefing package that was distributed today.

Before we call for a motion, anyone have any comments, errors or omissions?

Seeing none, I call for someone to move that the Commission approve the minutes of February 21, April 11 and May 1, 2024.

Moved by MHA Stoyles.

Seconder?

MHA Petten.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

On motion, minutes adopted as circulated.

**SPEAKER:** The next agenda item is the Speaker's report on rulings on allowance use. Section 24 of the *House of Assembly Accountability, Integrity and Administration Act* outlines the process for ruling on allowance use. The act gives the Speaker authority to make rulings when expenditures of Members have been rejected for payment, provided the ruling is distributed to and receives concurrence from the Management Commission. The reports detailing all such rulings for the period ending today have been distributed to the Commission in their briefing packages and also posted on the House of Assembly website.

So this is basically for reporting purposes, but I'll open up the floor if any Members have any questions or comments.

Seeing or hearing none, we'll move to the next item. This is also through a reporting process for the Commission. The *House of Assembly Accountability, Integrity and Administration Act* states that the Commission must regularly, and at least quarterly, review the financial performance of the House of Assembly as well as the actual expenditures of Members compared to what is approved allocations.

The financial reports and Members' expense reports for the period ending December 31, 2023, are included in the briefing package for reporting purposes.

Again, there is no decision required, but I will open up the floor for any comments or questions the Committee may have.

Seeing none, we'll move to the next agenda item.

The next agenda item is related to the ratification of urgent budget transfers approved by the Management Commission.

The House of Assembly *Transfer of Funds Policy* delegates authority for the approval of a transfer of funds that is required urgently and there is not enough time for the Commission to meet at a scheduled, regular meeting.

There was an urgent budget transfer approved using this authority due to the cut off and the processing of government payroll for the January 21, 2024, pay period. The details of the transfer are outlined in the briefing package. The budget transfer was approved by the Commission and processed, but it requires ratification at today's meeting.

I'll open up the floor for any questions. As I said, this has been already reviewed and approved by the Committee, it's just that we need to formalize it.

Hearing no questions, I'll ask for a motion that the Commission ratify the transfer of funds approval in accordance with section 5 of the *Transfer of Funds Policy*.

Moved by MHA Petten; seconded by Minister Dempster.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

We will call upon members for the next agenda item, the Members' Compensation Review Committee. So I'll bring in members just in case any of our Committee Members has questions. Joining us today, we have Heather Jacobs, Maureen McCarthy and Sandra Barnes, also.

**J. HOGAN:** Speaker, I don't know if any Members have any questions to be honest with you. I'm overhearing them talking outside (inaudible).

**SPEAKER:** They're all good?

**AN HON. MEMBER:** They're all good.

**J. HOGAN:** Yeah.

**SPEAKER:** Okay. There are no questions.

They may want to sit out there in case something does come up unexpected.

**AN HON. MEMBER:** Yes.

**SPEAKER:** Okay.

**OFFICIAL:** Okay, well I'm going to sit away (inaudible).

**SPEAKER:** No, we're going to call you in if we need you.

**OFFICIAL:** Okay.

**SPEAKER:** My apologies.

As I said, the next item is regarding the Members' Compensation Review Committee, the report that was submitted. Section 16 of the *House of Assembly Accountability, Integrity and Administration Act* requires a review of salaries, pensions, severances and allowances of Members of the House of Assembly once each General Assembly.

Heather Jacobs was appointed to the Members' Compensation Review Committee by resolution of the House effective December 1, 2024, to conduct a review in the 50th General Assembly. The 2024 MCRC delivered the report to myself, as Speaker, and the Management Commission on March 26. Further, you will recall that the Commission did receive a briefing on the report on April 11, 2024.

The report contains 32 recommendations requiring consideration by the Commission, which are outlined in Attachment 1 of the briefing report. Also, implementation considerations including financial,

legislative, regulatory and policy are outlined in Attachments 2 to 4 of the briefing materials. The Members of the MCRC team are here today, so if they need to be referred to for any questions, we can call them back in.

With that said, I'm going to open up the floor for any discussion on the MCRC. I guess, as a Committee, there are a couple of different options we can look at. We can look at it as an entirety of one to look at implementing the 32 recommendations. As Members are aware, we can only accept or modify, and if we do decide to modify, it cannot be of a greater benefit to Members.

I guess the other option we can look at doing it by category or section, which we can do salary adjustments and move into the different areas, if Committee Members would like to do so.

So I will open the floor first.

MHA Petten.

**B. PETTEN:** Thank you, Speaker.

On the point, we've had this report now for nearly two months, I guess, and we have debated and talked amongst ourselves and there have been lots of opportunity to review. I guess you can argue and defend any issue. I mean, salary seems to be the issue that comes up a lot in the public domain, when it did come up – and I haven't heard a whole lot about that of late. Regardless if we get a \$5 raise, a \$50 raise, \$5,000 or \$25,000, I think it's irrelevant. People got a view and they're either in favour or against.

In saying that, I think the report itself was done well. I've read the report. The recommendations were well founded, well thought out, well reasoned. My opinion is the Committee done a great job. We don't want to be here – I don't want to be here talking about my salary, and I've made that clear in the House previously and I've been

very outspoken on that issue. I don't think we ever should. We're faced with it and, as we've been told, we're more like a board of directors in this level of the Management Commission.

So one good thing is on a go-forward basis with this report, it will be tied to CPI and we won't be back talking about raises in the future, or future Members of this Legislature won't have to deal with the raises. It will be on a go-forward basis. It will be already dealt with, which I think is a good thing. So that seems to be the elephant in the room that people talk about. I've spoke about it publicly before and it is an uncomfortable situation for all of us to be in.

But my opinion is – and I've talked about this with a lot of Members – I think we accept the report in its entirety and there are things that got to happen. Certain other processes got to happen as a result of this. This is step one towards – you know, the report doesn't fully implement as a result of us accepting the report today. It certainly has to go to the House and what have you.

My recommendation would be that we accept the report. I think it stands on its own merit and that's basically where I stand with the MCRC.

Thank you.

**SPEAKER:** Thank you, MHA Petten.

I guess you are correct that whatever decision that the Management Commission makes today, it will have to go back for the House of Assembly for approval and voted on by all Members.

Minister Hogan.

**J. HOGAN:** Thanks.

I've obviously reviewed the report and had conversations. At this time, my position would be to accept any of the recommendations that don't require

legislative changes and to defer any legislative decisions to a further date for a meeting of this group.

There seems to be a lot of pressure to get this done, which I don't necessarily agree that that pressure needs to be there; there's not an election until October 2025. My understanding is that MCRCs need to be done once every sitting or session of the House – I'm not sure what the right word is.

So it no pressure to get this done in May. We have another sitting in the fall, so we do have time to reconsider what I suggest we defer, which is the legislative changes to a future date.

**SPEAKER:** MHA Petten.

**B. PETTEN:** Just something for clarity – if we accept this report, we're not saying it has to go to the Legislature this spring. If you accept a report, you can still go in the fall, or not go at all. Am I not correct when I ask that question?

**SPEAKER:** If you accept the report, I guess in its entirety, it would go back to the House to be voted on. However, like you say, if you're looking at the effective dates and things like that there, then it would have to be retroactive and go back to that date unless that particular date is modified.

**CLERK (Hawley George):** If I could just add from a drafter's perspective. If you were to accept today, there would be time to prepare whatever was required and it would go to whatever sitting of the House, when it's ready, basically. So whether that be the fall or be next spring, it's certainly at the call of the Government House Leader at that point.

But there would be time to prepare whatever legislative amendments would be required, in that sense. There's no requirement that if you accept it today, that it has to go this sitting. I guess that's just what I wanted to clarify.

**B. PETTEN:** Well, that's my point. I mean, if we're accepting the report in its entirety, it's not a whole lot different from what Minister Hogan was saying. We're saying the same thing basically. Ultimately, any legislative changes would have to be brought to the House anyway, whether you bring them or you don't bring them, or you reduce amounts, or you change amounts, as long as you're within the confines of the MCRC, it doesn't really matter if you – regardless, there is a moot point is what I'm trying to say, if you accept the report or not, or carve out certain things. You accept the report in its entirety and what Minister Hogan is referring to can still be done. Am I not correct?

**SPEAKER:** I guess you are correct, once it goes back to the House, the House has the ability to recommend changes, again, similarly that cannot be to the greater benefit of Members.

**B. PETTEN:** Yeah.

**SPEAKER:** So yes, so there is an option to accept in its entirety, or there is an option that we can, as Minister Hogan identified, to take out certain sections and to make recommendations towards them now, and then come back to another meeting and revisit the other recommendations.

**B. PETTEN:** But I'm saying even if you accept the entire report, you can still do that. We're talking about the same thing essentially.

**SPEAKER:** Yes, it would not come back to the Management Commission for review again. It would then go to the House of Assembly for approval.

Any other comments? Anything else you want to add to it?

**B. PETTEN:** Well, I was making a motion to accept the report and then any legislative requirements we can deal with that on a go-forward basis. That can be done between

the Legislature, the House Leader and, I guess, the House of Assembly really, like we would any other legislation.

Again, you'll get the report and there are changes in the report that will help Members (inaudible) right now, here we are, as we speak today; so my recommendation was we just accept the report and then, obviously legislatively, that's a separate issue altogether.

I felt, and I still feel, that we need to move ahead with this report and even by parking some it – we can still park some of it. That a moot point. That's my point. So if we accept the report, I don't see why we can't do what Mr. Hogan is referring to at a later date.

**CLERK:** I'll just play out the scenario.

If the report were accepted today in its entirety, then what the House of Assembly Service would do would be to action all of the recommendations, as you have required us to do. The legislative pieces would be worked upon in the time to come and whenever a bill would be ready, then it would be brought to the House, whether that be the fall or the spring.

In terms of the regulatory implications, some of that also has legislative connections, so some of that might be required to go in that bill as well. Some of it we might be able to do and make those adjustments to the rules, but still there are legislative implications to those as well.

With respect to, for example, the policy and the severance policy, we could do some of that work but that certainly could be actioned. With respect to the other stuff, the legislative and the regulatory are, sort of, tied together. There are some we could do and bring into force; some would have to wait for the bill.

So that is if everything is accepted today. If not, everything is accepted today, and we identify it by your motion, which you would

like us to move forward with, we will have to have a look – and Bobbi is doing it right now – on which recommendations those exactly would be to make sure we have the authority to move forward with those and then we would preserve the rest of it and bring it forward to another Management Commission meeting later and then we would, again, move forward with whatever you direct us to do.

**SPEAKER:** I guess for a quick overview, MHA Petten brought forward his recommendation that we would move forward with all the 32 recommendations that were presented by the MCRC team. You can correct me if I'm wrong, Minister Hogan, but Minister Hogan basically indicated that he would like to see the legislative changes be put forward now and the other issues would be basically put on hold for now and revisited at a later meeting.

Is that correct, Minister Hogan?

**J. HOGAN:** Correct, yes.

**SPEAKER:** MHA Petten.

**B. PETTEN:** I might have misheard you, you said legislative amendments would be put aside for now and the rest of the other issues would be approved.

**SPEAKER:** Yes, you're correct, yes.

**B. PETTEN:** You said the other way.

**SPEAKER:** I said the opposite, my apologies. Yes, legislative changes, correct.

Lela, would you like to comment on anything with regard to –?

**L. EVANS:** We are of like minds there. We already had a conversation before, just to discuss some of the options available to the Committee. Like I said, I agree with bringing them forward, with what Barry was proposing.

**SPEAKER:** Any further comments or any questions you want to put forward?

Would someone like to make a motion.

**B. PETTEN:** I made a motion.

**SPEAKER:** Okay, and your motion is to move –

**B. PETTEN:** Accept the report.

**SPEAKER:** In its entirety?

**B. PETTEN:** Then anything legislative we can deal with that down the road. I think we need to accept the report instead of kicking it further down the road and then we can deal with it, straight on, straight up.

**SPEAKER:** So we have a motion by MHA Petten that we move forward with the recommendations of the MCRC team, adopting the report in its entirety.

Do we have a seconder to that motion?

**C. PARDY:** Seconded.

**SPEAKER:** MHA Pardy.

All those in favour of the motion?

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against the motion?

**SOME HON. MEMBERS:** Nay.

**SPEAKER:** Okay, I'm going to take a short recess. Obviously, we have three Members in favour and three Members against the motion. Just going to take a short recess and I'll cast my vote then.

### Recess

**SPEAKER:** Just back from a short recess.

We're discussing the motion put forward with regards to accepting the recommendations presented by the MCRC.

With respect to the motion on the floor, I've considered the matters based on the following: The MCRC report is thorough and evidence based. The fiduciary responsibility of the Management Commission is to act in the best interest of this institution. My role as Speaker is to ensure Members have the opportunity to weigh in on these matters when they are brought before the House of Assembly. While I'm not bound by the casting vote convention that applies to Speakers when voting on Parliamentary matters, I am casting my vote in favour of this motion to continue discussion in the House of Assembly.

Motion is carried.

We now have to move forward with the other motions, and I ask Bobbi to bring them forward as required in order to move forward the process.

**B. RUSSELL:** So respecting the motion that was just voted on, the Commission further directs the following: That House officials proceed to submit the recommendations as accepted or modified to the Lieutenant Governor in Council regarding required amendments to the *House of Assembly Accountability, Integrity and Administration Act* and the *Members' Resources and Allowances Rules* to give effect to recommendations of the 2024 Members' Compensation Review Committee; that House officials proceed to submit the recommendations as accepted or modified to Treasury Board Secretariat regarding required amendments to the *Members of the House of Assembly Retiring Allowances Act* to give effect to recommendations of the 2024 Members' Compensation Review Committee; and that House officials proceed to draft directives and proposed policy amendments for consideration by the Commission at a future meeting required to give effect to recommendations of the 2024

Members' Compensation Review Committee as accepted or modified.

**SPEAKER:** Can we have a mover to that motion?

Moved by MHA Petten; seconded by MHA Evans.

The next item is regarding – although it's not on the agenda (inaudible) Members on Friday regarding a letter received on May 6, 2024, from the Member for Humber - Bay of Islands requesting to appear before the Management Commission at a public meeting to discuss matters outlined in his correspondence.

Before I open up the floor, I will note that the Commission received correspondence from the Member, which is substantially along the same lines on February 2, April 26, May 10 and May 19, 2023. This correspondence, at the time, was considered at three separate meetings of the Commission and on May 19, 2023, on the Commission's behalf and further to direction, I responded back to that Member.

I note that the Commission received further correspondence, which is substantially along the same lines, again, on October 20, to which I responded on October 23, 2023.

Further, I'm going to remind Members that on October 23, 2023, the Member gave notice at a private Member's resolution, which, among other things, was covered in this request letter. With the consent of the House, the Member then withdrew the PMR the next day and substituted it with an unrelated private Member's resolution which was debated the following week.

I also note that in advance to the Commission on this matter, our message has been consistent that the House made the decision, imposed the discipline and it is only the House that can revisit this decision. Any Member, excluding myself, can bring forward a resolution to address the matters

that are brought forward by the Member for Humber - Bay of Islands, which can be brought forward by a PMR or resolution of the House.

I will remind Members that prior to me as Speaker, previous Speakers have ruled on this issue and the Commission really has no authority to bring anything back to the House of Assembly with regards to a resolution to this issue. It's the House that made the resolution and it's the House that would have to change it.

So with that, I'm going to open up the floor. I think all Members should have had the opportunity to look at the letter over the weekend and, hopefully, reflect on previous correspondence.

Minister Dempster.

**L. DEMPSTER:** Thank you.

That was a good overview, Speaker. When I look around the table, I think I might be the longest-serving Member of the House Management, in and out for about eight years, for sure, a long time.

So just for my benefit, I've read the letter. I know the history. I've kind of been at the table through the history. What would be the benefit, or what would be the purpose of the Member coming now, if we have no authority at all, as a group, to respond?

That's where I'm just – it might be just me that doesn't know the answer to that.

Thank you.

**SPEAKER:** No, I think the only thing would be to give the Member an opportunity to present to the Management Commission. It's been reiterated many times over the past years that the Management Commission doesn't have the authority to bring forward a resolution to the House of Assembly, so it would be strictly to listen to what he has to say.

**L. DEMPSTER:** Okay. So it would be the Member coming in and presenting to the Management Commission, but there is a litany of correspondence that, at the end of the day, there is nothing that we can do. So it would just be giving our time to listen, knowing that we can't do anything, okay.

**SPEAKER:** Correct. Unless some Member, through a private Member's resolution or government, wish to bring forward a resolution, but as a Management Commission, on the advice and all the analysis that has been done, the Management Commission doesn't have that authority to report.

**L. DEMPSTER:** (Inaudible.)

**SPEAKER:** Correct.

MHA Petten.

**B. PETTEN:** Thank you.

The issues pertaining to the Member for Humber - Bay of Islands has been going on for a long time. We've talked about it in this room, we've talked about it in our caucus, we've talked about it with a lot of Members, including the Member himself. We've sent back correspondence and correspondence, and I'm not making sides here, farthest thing from it, actually, but I'd like to kind of move on with things, too. He keeps referring – and he's talked to me personally, I'm sure he's talked to a lot of Members here the same – that he's never been given an opportunity to speak to the Management Commission.

Now, I don't preconceive anything. Do we change our views? Do you change your correspondence? Probably not, I don't know, I can't speak for that. But one thing, I think in a response to maybe the group, was that every Member deserves – 40 Members have a right regardless, if we don't make preconceived judgments. He's been asking the same question for a long time: How

come you won't let me meet with the Commission?

If I'm not mistaken, I can't recall, but I've been around the Commission for a few years myself, I think there was a time when there was a motion we had put out and it had been defeated, but something along those lines of why not, let's give it a whirl, or we probably talked about it.

My opinion is, what harm can it cause if you give him the opportunity, in fairness, instead of prejudging it by the correspondence. Nothing will probably change. Maybe it doesn't, maybe it does, but I'm always of one of those opinions in fair process, and that's the request.

That's where I am with it. I struggle with it. Again, I've heard a lot of debate on this issue, a lot of commentary in the House and a lot of paperwork, but I think we have to be fair, park any predisposed judgment we may have or people may have. I think we've got to treat them like MHA A, B or C, like no different than we treat any other Member. I think sometimes we get clouded by – there's a lot of history here and some people that's been around the House have seen a lot of it unfold.

So I think in fairness, why not? What do you have to lose is my opinion. Give them that opportunity and maybe that will – for some reason, it's not going away, so there's something missing or something that they want to get off their chest and maybe just an exercise in listening. I'm not sure, but I think we probably owe it to the Member, not because of which Member it is, but I think we owe it to any Member.

Thank you.

**SPEAKER:** MHA Pardy.

**C. PARDY:** Thank you, Speaker.

This matter predates me, as Minister Dempster has stated. But in the letter that

he provided to us, to the Commission, he mentioned the *House of Assembly Accountability, Integrity and Administration Act* states that back at that time, there had to be representation to the Commission. But representation to the Commission also had to be a resolution concurred in the House.

What he stated in the letter was the fact that Principle 10 was the resolution that was concurred in the House at that time. Principle 10, according to him, was null and void. It didn't exist. It wasn't right. Anything else wasn't concurred in the House, according to his letter that (inaudible). He was figuring that we know how the court of law works, that if there's a mistrial, if there's something that occurs of which was based on inaccurate elements of the case, then usually sometimes the case is thrown out or it's revisited.

I glean from the letter that what he was saying was that the concurrence in the House that was presented was related to Principle 10, which Principle 10, according to some other authors, was null and void. It didn't apply to him.

So I throw that out to the legal experts on the table to find out as to whether that would be accurate or not.

**CLERK:** Thank you.

If I just might have the opportunity. So, yes, you're right. There have been many discussions and conversations about this particular matter. In the seven years almost that I've been here, it has comprised six of those years.

We have had many discussions and the advice has been consistent, and I'd just like the current Management Commission to know that previous iterations of the Commission have heard that you do not have the legal authority to make any changes.

So if you feel – or if any Member feels – that, for example, an interpretation or Principle 10 is at issue, then your avenue is to bring a resolution to the House to revisit the issue. Then you can provide direction to the Commission at that time, if that's what you so wish. But the Commission, itself, does not have the authority to do that.

With respect to the interpretation of the Member, however, I would point out that there are various pieces that went into the Commissioner's interpretation of his violation of Principle 10 and those were also based on what I call in my drafter's language, the preamble, but it's really the lead into the Members' Code of Conduct.

So in the Commissioner's finding, he also says that the Member failed to perform or did not meet his expectations in performing his duties with accountability, courtesy, honesty and integrity. Those are the lead-in words to the actual Code of Conduct that you comply in. So that is the evidence that the Commissioner used to make that finding under Principle 10.

The other thing I would add to the conversation is that, with respect to the Member at hand and the issue of how the matter got to the Commissioner, there were other considerations that the Commissioner had and there were not only Members included in his references. So reading directly from the report, the Commissioner found "that the manner in which he addressed this issue was unprofessional and showed a lack of mutual respect towards members of the public service by placing those individuals in the middle of a process that is supposed to be politically impartial."

So my point in reading that to you is that if you're interpreting that Principle, I think the Commissioner has asked you to read all of those things at that time. Again, that's how I would respond to your comments. With respect to what difference does it make, I suppose the matter is: What authority do

you have? That's the question that I would ask.

**SPEAKER:** MHA Pardy first and then Evans.

**C. PARDY:** Just a follow-up to that, and I know that he did supply us all with an excerpt from *Hansard* at that point in time, from November 6, 2018. And again, it predates my time.

Verbatim says: "WHEREAS in accordance with subsection 39 of *House of Assembly Accountability, Integrity and Administration Act*, the Commissioner for Legislative Standards has recommended to this hon. House that MHA Joyce be reprimanded for a violation of Principle 10 of the Code of Conduct for Members."

And I know that is what is stated in *Hansard*. It didn't say, you know, as far as Principle 10 and preamble. So the only thing being what is stated in there – and I am just talking about Principle 10 of the Code of Conduct for Members. And I guess that is what he included for all of us in his letter to state that that would be inaccurate.

The preamble is what you referenced, what the Commissioner had stated, that has relevancy, but it didn't come out in *Hansard* to state that the preamble was part of – or the Commissioner's statements were part of the Principle 10, unless it's all packaged in that Principle 10 somehow.

**CLERK:** Well, I guess, MHA Pardy, I just would respond to that by saying, the Commissioner issued a report. The report, in its finding, was accepted by the House. The finding was based on, as is in other different kinds of matters like this, based on evidence and the evidence that the Commissioner found in terms of basing his violation of Principle 10 were those words. The words are exactly the same, so whether or not it was in the motion and if the House doesn't agree with that, then I would invite

any Member of the House to bring that back.

**SPEAKER:** MHA Evans.

**L. EVANS:** I just don't want to duplicate what the Member for Bonavista has said. It goes back to before my time, but I do have to agree with what Craig is saying. When I read through his letter as well, the findings to discipline with him, the Commissioner for Legislative Standards, he said it was his findings under Principle 10 of the Code of Conduct.

The Clerk did say that he referred to other findings about the Member's behaviour being unacceptable and violating certain things, but the problem that I have with it – and I don't mean to be adding to this, but the Commissioner put it under the umbrella of Principle 10.

When you look at Principle 10, it talks about between an MHA and employees. He put it under the umbrella of Principle 10, and Principle 10 is only about that relationship between the MHA and the government employees. When you look at it, the discipline was for his behaviour as MHA against other MHAs. So technically – I mean, that was my concern. But if it's not, then could you just enlighten me again?

**CLERK:** So just to add – and, again, this has been a matter of conversation many, many times.

**L. EVANS:** No, I understand that.

**CLERK:** I would just simply point you to the report itself. It's on the website, on the main page, right?

**L. EVANS:** Yeah, I read the report.

**CLERK:** In the report itself, the Commissioner examines and talked to a number of public servants. In particular, the Commissioner, himself, says both in the Executive Summary and in the remainder,

that the Member showed a lack of mutual respect towards members of the public service. If the Commissioner had only meant to include only another Member, then I question why he has written those words.

That's all I say. I'm bound by what is on the page and the words that are here. That's the basis for the advice that has been given over time. If the Members at the time had an issue with the way that the resolution was drafted, they certainly could have mentioned that. There was an amendment to it that succeeded; there was an amendment that failed at the time. So there was consideration of the motion at the time.

If Members, current, have a question they would like to resolve, then under Standing Order 49, your resolution is to bring it back to the House.

**SPEAKER:** MHA Evans.

**L. EVANS:** Clerk, I actually knew that answer. I read the report and I did understand it wasn't just between MHAs. I do understand in the report he also named government employees, so Principle 10 would hold there, and so we can get it on the record again for myself and MHA Pardy, that it is not only about what happened between MHAs, it was also about government employees, correct?

Correct.

**CLERK:** So I'm reading from the report itself, and that is what is in the report, it talks about public servants as well. If you're interpreting only those words, I would suggest that's what the Commissioner had in mind.

I can't substitute my decision for the Commissioners.

**L. EVANS:** No.

**CLERK:** I'm not a Member of the House. So that's an analysis that you'll have to do in order to feel comfortable with it.

**L. EVANS:** Yeah, but just to get clarification. So now we did ask the questions, we got the clarification, because it's really hard to defend sometimes on spur of the moment where you're being questioned or encouraged or whatever. I just wanted to be able to say my part here to get clarification here at this level, at the table, because it was never ever clarified to me, but now I can go back and say that. Do you know what I mean?

**SPEAKER:** Yeah.

MHA Stoyles.

**L. STOYLES:** I certainly wasn't here when the decision was made and the report was done. My understanding is it was already done and by him coming here and presenting, we still can't make any changes to the report. In order for any changes to be done, it has to go to the House of Assembly.

So why would we bring him or any Member in if we have no say? To me, it doesn't make sense. If he came in for an hour or three hours, we still can't – we've all heard arguments in the House of Assembly and him making his argument. But we've got no say here so what's the point of having him. That's my argument.

**CLERK:** Speaker, if I might just add. There has been conversation about issues surrounding Fraser March and the review of that particular issue by the House and the Management Commission and other independent entities.

So I'd just like to remind Members because it was in a presentation that we've had in the past that the process for that was that a resolution went through the House and it directed the Commission to do something in particular.

That's what we're saying here, is that if the House directs the Commission, the Commission can action whatever the House is directing but the Commission itself can't do that.

**SPEAKER:** Any further comments?

Minister Hogan.

**J. HOGAN:** I should have the email in front of me that the Member sent last week. Was the request in that email to meet with Management Commission? I can't – it was, was it?

**SPEAKER:** It was.

**J. HOGAN:** He wanted clarification about recent letters though. Did he want to clarify what MHA Pardy and MHA Evans spoke about, the motion back in whenever it was – 2018?

**SPEAKER:** Yeah, it's a fairly lengthy letter, but the request, essentially, was to meet in a public meeting.

MHA Evans.

**L. EVANS:** The reason why I said what I said, in relation to what MHA Pardy was saying, is because I think it would be really good for us to actually be all together, and I think there's value in meeting with him because it may not end but it would give us, as Committee Members, some closure. To me, if you say something long enough it becomes fact.

**AN HON. MEMBER:** (Inaudible.)

**L. EVANS:** No, no, I'm saying in today's society. So it might be good for us to have that closure, to be able to meet here, talk about Principle 10, talk about the report. Let him do his presentation. Let him make his arguments. Even though we can't bring something forward to the House, it would give us some closure, I think.

**SPEAKER:** Minister Dempster.

**L. DEMPSTER:** Thank you, Speaker.

I'm just asking a question again. It sounded like somebody said the Member in question wrote a letter and was seeking clarity from a 2018 letter. I think you maybe outlined at the opening multiple letters of response attempting to clarify 2018. So that's where I'm kind of a little bit lost.

As my colleague mentioned, I don't have a legal background, but, I mean, I look to the courts and the courts have been involved here as well.

I'm just failing to see and asking for someone to help me understand. I think what I'm understanding from some Members is some Members – correct me if I'm wrong – are saying, yeah, I know we can't do anything but let's just listen to him for an hour, two hours or three hours and then that will be done.

I'm wondering do my colleagues understand that there's nothing that we can do, but you think that this will improve things or the Member will feel better if we say yes, come in, sit down and present to us knowing that, at the end of his time and effort, the people around the table can't do anything? If I'm missing something please clarify that for me.

Thank you.

**SPEAKER:** MHA Stoyles.

**L. STOYLES:** That was my comment. If we could change something, are we all in favour of meeting with the Member? But if we have no authority, just to listen to him, what's the point of meeting? Isn't it better for him to bring it back to the House of Assembly? Isn't that what's recommended by – in order for anything to change, it has to be in the House of Assembly. So I'm just wondering what the difference is.

**SPEAKER:** You're correct, MHA Stoyles. We have no authority to bring back a resolution to the House of Assembly. The only ones that can bring back a resolution would be the government or a private Member's resolution.

**L. STOYLES:** So if we don't have a majority at a meeting that the Member came – let's say he came and spoke to not a majority, can the majority then vote on changing? They can't make any changes into it so –

**CLERK:** No.

**L. STOYLES:** So I don't know why we would meet if we have absolutely no say in just – I don't understand.

**SPEAKER:** First of all, if we didn't have the majority here, we could not have a meeting. We'd have to have a minimum of the majority in order to have a meeting.

Kim.

**CLERK:** Speaker, I'm advised sagely by our Law Clerk and Parliamentary Counsel to bring up the issue. In protection of that Member, I'll point out that depending on – if the Commission were to decide to meet with him, there could be legal risk to the Member himself, in the sense of this Management Commission is not like a Committee of the House, so parliamentary privilege may attach to certain portions, but not necessarily everything.

Whatever is said in this Commission is not protected by the freedom of speech collective parliamentary privilege, so depending on the what the Member were to present to the Committee, it could pose a legal risk to him in the context of whatever is in the report that the Commissioner has considered, things that have happened in the interim, matters that have been before the courts. So with respect to that Member and with respect to the Commission itself, there is identification of a risk there.

Speaker, just to add to the conversation that this Member had also the opportunity – and I remind Members that he had the opportunity to bring all of this forward in his private Member's resolution. It could have been very simple in the sense that it would have asked the House to reconsider the matter and send it somewhere else, either here or wherever, and the Member chose to withdraw the motion that he originally put in before the House in notice, and presented a motion that was not relevant to this matter.

So I just wanted to remind Members of that.

**SPEAKER:** MHA Petten.

**B. PETTEN:** Thank you, Speaker.

I have just one final comment on this, and I think that'll be my commentary for the day. I respectfully believe that everyone deserves their so-called day in court. I've sat on lots of Committees, I've sat on lots of boards, and if someone is requesting to come in, they have a preconceived notion of the outcome of the meeting – I never go to meetings like that, and who knows, maybe he comes in and has a say and everyone finally just says okay, we can move on. Maybe they say hang on, maybe there should be something more done, come to the House.

Because it's been gone on for a long time, and there are that many angles, and I'm still confused – as many briefings as I have, I find myself more confused. You get clarity one day, then the next day you're confused again.

So if I were to be totally honest with everyone, I find the level of confusion still persists, and I think every one of us could probably, in some form or another, say the same.

All I'm saying is don't prejudge anything. If he wants to come in and meet, you're not going to sit there for three hours, I don't think. None of us is doing that. Give him that

opportunity. I refer to it as your day in court, I think everyone has a right to – if they are requesting to meet with the Commission, why is that – why? So persistency – and I'm not prejudging anything, but that's my final comment on that. So I'll leave it to the table, but I just wanted that to be on record.

Thank you.

**SPEAKER:** Thank you.

I guess, ultimately, you reference to a day in court. The House of Assembly would be the day in court once it's brought forward to the House. I've said on multiple occasions during Management Commission meetings I would have loved to see this go back before the House to get some resolution. Whatever that may be, whether it's in favour of the Member or they stand with the report, I would like to see a resolution. This has been ongoing for six years. Staff has consumed countless hours dealing with the different correspondence over the years.

The Management Commission doesn't have the authority to bring it back to the House. Now, whether we want to sit down and entertain a meeting with the Member so he can state his case, I don't think our staff is going to get into debate over what's being said to him, to argue point by point and reiterate what we've said, but, like I say, if the Management Commission wishes to have him come forward, that's for the Commission to decide.

MHA Stoyles.

**L. STOYLES:** This is my last question.

So he can still bring it back in a private Member's motion to the House, even though he withdrew it in the past? The only place it can be dealt with anyway is in the House of Assembly. So he can still do that and bring it forward to the House of Assembly, right?

**CLERK:** So, to be clear, in parliamentary advice, the Member himself can bring it back when he next has a private Member's resolution day, Private Member's Day; or any Member of the House, on Private Member's Day, can bring that forward; or government can bring forward a resolution.

That advice has been consistent all along. The only person who doesn't have it is the Speaker.

**SPEAKER:** MHA Pardy.

**C. PARDY:** Just a concluding word from me.

We use the words "day in court," and realize that I can't go back and I'm not making judgment on a 2018 report. That's a fault that we have here in 2024. The only thing I know is that in watching – and not being a lawyer – a lot of court proceedings, there were a lot more technicalities larger than the one that this Member presents that would throw a case or overturn a case or reopen a case. Now, that is just in my unlearned, nonlegal opinion.

If the resolution wasn't worded well enough to cover everything that was in that report or didn't reference a report and spoke specifically about Principle 10 that we find out now that does not apply, I can understand that that would be a technicality. If Principle 10 is null and void, not the rest of the material that would be in there, if it is, then that seems to be the basis of his letter. Principle 10 would be null and void because it doesn't apply to him because he's not a government Member. I guess that seems to be the basis of which he's presented.

That would conclude my remarks.

**SPEAKER:** Clerk.

**CLERK:** I think that we're straying into an area where, if the Commission would like to have legal advice on that, then that would be most appropriate for an in camera

meeting because that is where, in accordance with our act, the legal advice is given.

I don't concur with the Member on his interpretation of that in the previous advice that I have given as Law Clerk and Parliamentary Counsel.

**SPEAKER:** Minister Hogan.

**J. HOGAN:** I'll just say, there are three Members who want to give him the opportunity. I'm not going to stand in the way of that. If any Members feel that there's no point in them attending the meeting because of what we talked about here today, that Management Commission has no authority to do anything about this. I don't think they should be compelled to attend.

I think if we tell the Member to come in and do his presentation or whatever, I would just put the caveat in there that the advice that we've gotten as a group is that we have no decision-making authority to do anything once we hear from him as a group. If he has a different interpretation of that, something we can do, sure we'll listen to him but that's the comments I make.

**SPEAKER:** Any further comments?

Is the Committee ready to put a motion forward to this or do we need more time to discuss it?

Does someone want to make a motion?

**J. HOGAN:** Do we need a motion to put it on the agenda?

**SPEAKER:** Because we would respond back to his correspondence.

**CLERK:** I just add that, as far as we understand, in the years that other people have also supported the Management Commission, there is no precedent for a Member appearing before the Commission.

For example, if this were a matter under the Harassment-Free Workplace Policy that we currently have, there is an ability for a complainant and respondent to appear before the Privileges and Elections Committee and be heard in that context; but in the context, for example, of an appeal, if you were to appeal under the allowances and so forth, that is not a process that we currently have. I just want to make sure that everybody is clear.

So do we have a motion?

**B. PETTEN:** John's caveat or –?

**J. HOGAN:** Sure.

**B. PETTEN:** I'm okay with that, too. I'm just not saying no to it because I'm okay with that, yeah.

**SPEAKER:** Was that a motion, Sir?

**B. PETTEN:** (Inaudible) he was talking about the opportunity based on clear practice. I'm okay with that, to give him an opportunity.

**SPEAKER:** So are you making that a motion? I guess if we're looking at doing –

**J. HOGAN:** I move to add that to the next agenda or whatever agenda is appropriate to allow him to present to the Management Commission, with the caveat that the correspondence back to him clarifies that the advice we received as a group is that, even after hearing him, the Management Commission has no authority to do anything with regard to changes in the House of Assembly or motions in the House of Assembly, I should say.

**SPEAKER:** Would that be at a public meeting or an in camera meeting?

**J. HOGAN:** In camera.

**SPEAKER:** In camera?

**J. HOGAN:** Yeah.

**SPEAKER:** So we have a mover.

Did you want to speak to the motion or we'll get a seconder first?

Can I get a seconder?

**B. PETTEN:** Seconded.

**SPEAKER:** Seconded by MHA Petten.

**L. DEMPSTER:** I want to speak to the motion.

**SPEAKER:** Yeah, okay.

I'll open the floor for conversation.

**L. DEMPSTER:** Just in clarity for the motion, is the Member going to be made – will it be made known to him that whatever he says here, he's posing further risk to himself? Yeah, he'd need to be aware of that.

**J. HOGAN:** (Inaudible.)

**SPEAKER:** Okay.

**CLERK:** We would include that in the correspondence, just to be fair.

**SPEAKER:** Any other Members want to speak for or against the motion?

So the motion is that we would write MHA Joyce, invite him to an in camera meeting and that – do you have the rest of it, Bobbi?

**B. RUSSELL:** I think in summary, the Commission would invite the Member to appear before the Management Commission at an in camera meeting with the, I guess, caveat that the previous responses to the Member in terms of Commission's authority with respect to this matter be reiterated. Also, with respect to the application of parliamentary privilege as

it relates to Management Commission meetings, that would also be reiterated.

**SPEAKER:** Minister Dempster.

**L. DEMPSTER:** Just before the vote takes place, further to the Government House Leader's point, somebody said we can't meet unless we have a quorum. But you won't need a quorum if the Management Commission has no authority to do it anyway. So if only a couple of the Members shows up, it will still go ahead.

**SPEAKER:** No, we would still need a quorum for an in camera meeting also.

**L. DEMPSTER:** Even when were going into this knowing there's nothing that House Management can do?

**CLERK:** Because the motion is to hear the Members, yeah.

**SPEAKER:** Yeah, so we would need a quorum for that.

If there are no other speakers for or against the motion, I'll call for the vote.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

This concludes our meeting for today. I want to thank the Members of the Management Commission and the staff members for your attendance this morning. We'll have a conversation and look at some potential dates for future meetings and correspond back to the Committee soon.

With that, I'll call for a motion for adjournment.

Moved by Minister Dempster; seconded by MHA Pardy.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**SPEAKER:** All those against, 'nay.'

Motion carried.

This meeting stands adjourned until the call  
of the Chair.

On motion, meeting adjourned.