

Paul G. Thomas, "The Legislature is an essential institution"

The Manitoba Legislature is a crucial guardian of democracy. It is meant to be the principal forum where the government explains and defends its actions. In the midst of a pandemic and an economic recession, everyone accepts that it cannot be business as usual in the Legislature.

Given the need for expeditious and bold actions, as well the requirement for physical distancing, plenary sessions of the Legislature and the traditional processes of a daily Question Period, notice periods for bills, debates, votes, and public hearings on bills all have to be modified.

The Legislature must not be bypassed and become irrelevant. The 57 MLAs are the voices of constituencies across the province. In difficult times requiring tough choices, the proceedings of the Legislature can contribute to public awareness, and support, to transparency and accountability, and to the legitimacy of government actions.

For the duration of the crisis three principles should govern the relationships between government and the Legislature.

First, the government must not use the crisis to justify shutting down the Legislature or limiting its scrutiny unduly. It would be helpful for the premier to acknowledge publicly that the government accepts that it must continue to explain and defend its actions before the public's elected representatives.

In theory, all MLAs are expected to provide scrutiny but in practice the task is performed mainly by the Official Opposition. During a crisis, this task becomes more difficult because the Opposition can be accused of obstruction when it is just trying to perform an essential function.

The second principle is that necessary modifications to existing procedures and traditions of the Legislature should be made on an all-party basis, not by the government acting alone. Even though the Liberals do not qualify as a recognized party they should be part of the discussions. To avoid dangerous precedents being set, the suspension of normal parliamentary practices should last only as long as the crisis.

On the eve of the emergency session held on April 15, media reports indicated that the government might violate this principle. In negotiations with the NDP, the government indicated it would use one leave motion (required to waive the procedural requirement for advance notice) to introduce a batch of new bills related to the crisis and would also insist on completion of second reading (which constitutes approval in principle) of other bills already on the order paper. When the NDP refused agreement, the government dropped its aggressive game plan. During the debates on the emergency, a relatively cooperative approach prevailed,

including the acceptance of significant NDP amendments to the Emergency Measures bill. The public was spared a political brawl among the parties in the midst of a crisis.

The third principle is that ingenuity and experimentation must happen in these unusual times. Risks of infection for MLAs, political staff and employees of the Legislature mean that full sessions cannot happen. Instead the parties through leadership provided by the Speaker should agree to a limited number of in- person and virtual meetings. Here are my suggestions.

In the one emergency sessions held to date only a third of the 57 MLAs attended. Such limited attendance sessions should only be held to allow for debates of high priority bills directly related to the pandemic and the recession. Other bills should be left on the Order Paper for later consideration.

The Speaker is investigating the potential for virtual meetings. This is no doubt technically possible, but probably would involve glitches at least initially. I would propose an on- line Question Period happening twice weekly on Tuesday and Thursday, each lasting 45 minutes. One QP would feature the premier and the second featuring a cabinet minister chosen by the opposition.

A vaunted feature of the legislative process has been public hearings on bills before the Law Amendments Committee. To preserve the opportunity for affected groups and interested individuals to have input into the debates over emergency bills, these hearings should go online with notices posted on line and in newspapers on how to register for a virtual appearance. A timetable for appearances and a list of MLAs to pose questions to witnesses could ensure orderly proceedings.

Another all-party committee operating online should conduct scrutiny of how the government is using the extraordinary emergency powers it has been granted and over the use of the billions of extra spending required by the crises. When the NDP proposed such an oversight committee the government declined to adopt it. The use of the existing Public Accounts committee, which is chaired by an opposition MLA and is supported by the Auditor General, could perform the usual function of promoting transparency and accountability, as well as gathering evidence for an eventual in- depth post-mortem.

After the crisis has ended, a sober analysis can be made of what worked well, what did not, and what procedural adaptations members might wish to continue in the longer term.

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