

KEVIN O'REILLY MLA FRAME LAKE

**MOTION
EXPULSION OF THE MEMBER FOR TU NEDHÉ-WIILIDEH
CARRIED UNANIMOUSLY**

November 23, 2021

MS. MARTSELOS: Mr. Speaker, I rise today as the mover of this motion to expel the Member for Tu Nedhé-Wiilideh from the Legislative Assembly...

...MR. O'REILLY: Merci, Monsieur le President. I want to thank the Member for Thebacha for raising a point of privilege yesterday and now this motion to deal with a remedy and the disposition report of the sole adjudicator. This is a very serious matter, and I would much rather devote attention to my constituents in making a better Northwest Territories, but we must protect the integrity of this institution and our staff.

I chaired the Standing Committee on Rules and Procedures in the 18th Assembly that developed a new, more rigorous and legally binding code of conduct. This was done at the direction of the House, and many of our constituents. The code was also incorporated into the Legislative Assembly and Executive Council Act amendments that included changes to modify the oath sworn by Members to include specific obligations, clarify the conflict of interest regime in respect of Members and former Members, require the adoption of the Legislative Assembly of a code of conduct that established standards for the conduct of Members, require Members to comply with any code of conduct adopted, and create the office of the Integrity Commissioner to carry out the duties of the former Conflict of Interest Commissioner as well as similar duties in relation to the code of conduct and hear complaints from many members of the public or MLAs.

The rules and procedures committee also reviewed and recommended changes to the Elections and Plebiscites Act that were used in the first time in the 2019 general election, including the following:

Section 80, a nomination paper for the nomination of a person to be a candidate must.

(a) be in the approved form which must include a copy of the code of conduct adopted under section 74.1 of the Legislative Assembly and Executive Council Act and information respecting the conflict of interests requirements under part 3 of the Legislative Assembly and Executive Council Act as they relate to a Member of the Legislative Assembly.

(b) contain a declaration that the person being nominated has reviewed the following information that shall be made available by the chief electoral officer.

(i) the code of conduct adopted under section 74 of the Legislative Assembly and Executive Council Act.

(ii) information respecting the conflict of interest requirements under part 3 of the Legislative Assembly and Executive Council Act as they relate to a Member of the Legislative Assembly.

Mr. Speaker, what all that means is that the Member for Tu Nedhé Wiilideh knew about the code of conduct before he became a candidate in the last election and declared that he had reviewed it and the conflict of interest requirements for MLAs. After his election, he signed an oath of office that states "I hereby affirm, subscribe to, and agree to follow the code of conduct adopted by the Legislative Assembly."

A sole adjudicator has now conducted a public inquiry into an alleged code of conduct by the Member for Tu Nedhé Wiilideh and has recommended to the House that the Member have his seat declared vacant or, in plain language, be expelled or removed as an MLA.

I personally watched the entire public hearing from start to finish. I fully accept the report of the sole adjudicator and his recommendation. I thank the sole adjudicator and all those who assisted or participated in that thorough and fair process.

I do wish to speak to comments that have been made about whether the House has the authority to discipline its Members and whether that authority should be modified in some way through so called recall legislation.

It is commonly accepted in all Westminster style parliamentary democracies, including this House, that Members retain the ability and duty to discipline themselves. The House of commons has expelled Members on four occasions: Louis Riel in 1874 and again in 1875 when he was re elected. For the record, Mr. Riel is one of my personal heros. In 1891, Thomas McGreevy was accused of corrupt practices and was found guilty of contempt of the House and expelled. In 1947, Fred Rose was convicted of violating the Official Secrets Act and was sentenced to serve six years in prison so the House declared his seat vacant. There's also been a number of other cases where disciplinary actions were started, including expulsion, but the Member in question resigned. Expulsion is obviously not common but a necessary remedy. According to the House of Commons Procedure and Practice 3rd edition, "the purpose of expulsion is not so much disciplinary as remedial. Not so much to punish Members as to rid the House of persons who are unfit for membership." I believe this is the case for the Member for Tu Nedhé Wiilideh based on the issues I and others raised yesterday during the debate on the point of privilege and also what the sole adjudicator has told us.

On the issue of whether recall is a better or more appropriate way for discipline of Members, recall legislation was examined during this Assembly by the Standing Committee on Rules and Procedures which I chaired at that point and on which the Member for Tu Nedhé Wiilideh serves. I would like to quote one section of the committee report on recall legislation as tabled in this House on February 23, 2021. "Both the chief electoral officer and Mr. Wasyliw recommended consideration be given to recall legislation. British Columbia is the only Canadian jurisdiction with recall legislation and since 1995 there has been only one petition with enough signatures to trigger a recall election. The MLA in question resigned prior to this happening. BC requires 40 percent of eligible voters in the electoral district to sign recall petition.

Alberta indicated it would introduce recall legislation but it has not done so yet. The committee notes that the purpose of recall legislation is not to overturn the results of an election because one candidate lost but to address concerns about an elected Member's conducts. The committee points to the new code of conduct which empowers residents to raise concerns with the Integrity Commissioner if a Member is not seen as doing his or her job, has behaved in a way that does not uphold the integrity of the House, or if the Member is in a conflict of interest. The Integrity Commissioner has the power to investigate and convene an inquiry under a sole adjudicator if the concern warrants it. The sole adjudicator can recommend that a Member be removed from office. Through the broad scope, the Integrity Commissioner has to start an investigation, the committee feels this is a more prudent use of public funds to deal with a concern around a Member's conduct than a costly and time consuming recall election and subsequent by election. The committee notes that information pertaining to the code of conduct must be provided to all candidates while the CEO has recommended that her office should not be required to circulate this information. The Committee believes the CEO is the best person as she is responsible for providing other documents with respect to candidates as part of the nomination process", Mr. Speaker.

Mr. Speaker, I am not aware of any work on or consideration of recall legislation in this House. I would not support such a bill if it came forward given our robust and thorough code of conduct system now in place. I recognize and knowledge this entire situation has been very difficult on all of us, including the Member for Tu Nedhé Wiilideh and his family, our staff, and this institution. We must act in a matter that protects our staff and begins to rebuild public confidence in consensus government. I very much regret that it has come to this point. Mr. Speaker, I'll be supporting the motion. Mahsi.