



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 64

THIRD SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYERS

1:30 O'CLOCK P.M.

The House resolving into Committee of Supply with the understanding that the House would resume for Routine Proceedings at 2:30 p.m.

The following petitions were presented and read:

Mr. SCHULER – Legislative Assembly of Manitoba to request the Provincial Government to consider providing East St. Paul with local ambulance service which would service both East and West St. Paul and to consider improving the way that ambulance service is supplied to all Manitoba's by utilizing technologies such as GPS in conjunction with a Medical Transportation Co-ordination Center (MTCC) which will ensure that patients receive the nearest ambulance in the least amount of time and to consider ensuring that appropriate funding is provided to maintain superior response times and sustainable services. (E. Pellaers, J. Pellaers, S. Kubara and others)

Mr. MAGUIRE – Legislative Assembly of Manitoba to request the Provincial Government to consider funding the PAA to ensure that we receive a reasonable COLA, and that any loss of purchasing power we will face will be minor. (D. Ott, R. Hawryluk, B. Masson and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to request the Legislative Assembly of Manitoba to consider the need to seek clarification on why the Government did not act on fixing the Crocus fund back in 2001. (V. Salangsang, V. Napoles, E. Muelan and others)

Mrs. MITCHELSON – Legislative Assembly of Manitoba to request that the Minister Responsible for Manitoba Hydro and the Government of Manitoba consider ensuring an informed, appropriate and fair Wuskwatim Project Development Agreement (PDA) Referendum vote, and a vote overseen by an Independent Qualified Third Party such as Elections Manitoba. (J. Mallett, C. Spence, R. Hart and others)

By leave, Mr. REIMER for Mr. ROCAN – Legislative Assembly of Manitoba to request the Minister of Intergovernmental Affairs and Trade to consider conducting a review of the circumstances outlined and to consider making a recommendation for redress to the Government of Manitoba. (S. Munduruca, D. Blais, D. Daher)

Mr. GOERTZEN – Legislative Assembly of Manitoba to request the Premier of Manitoba to consider covering the cost of insulin pumps that are prescribed by an Endocrinologist or Medical Doctor under the Manitoba Health Insurance Plan. (K. Kornelsen, A. Kornelsen, T. Broesky and others)

Mr. SANTOS, Chairperson of the Committee of Supply, presented the Report of the Proceedings of the Committee from May 16, 2005 to June 15, 2005 as follows:

IN THE COMMITTEE

In the combined section of the Committee of Supply sitting in the Chamber on May 30, 2005, during the consideration of the concurrence motion, a ruling of the Chair respecting a point of order raised by Mr. DERKACH was challenged. A voice vote was held, whereupon a count out vote was requested and held, which sustained the ruling (31-18).

In the combined section of Committee of Supply meeting in the Chamber on June 15, 2005, a voice vote was held on the motion previously moved by Hon. Mr. MACKINTOSH on May 16, 2005, "THAT the Committee of Supply concur in all supply resolutions relating to the Estimates of Expenditure for the fiscal year ending March 31, 2004, which have been adopted at this session, whether by a section of the Committee of Supply or by the full Committee". The motion was carried, on division.

On motion of Mr. SANTOS, the Report of the Committee was received.

Mr. Speaker presented:

Annual Report of Amounts Claimed and Paid pursuant to subsection 38(1) of the *Indemnities, Allowances and Retirement Benefits Regulation* for the fiscal year ending March 31, 2005.

(Sessional Paper No. 94)

Following Oral Questions, Mr. Speaker made the following rulings:

Following Oral Questions on Tuesday, June 7, 2005, the Honourable Member for Emerson raised a matter of privilege concerning comments made by the Honourable First Minister during Question Period. The Honourable Member for Emerson contended that the Honourable First Minister had given responses regarding an announcement of a disaster assistance program that would not in fact be in place unless a state of emergency is declared, and that the information given was not factual. He concluded his remarks by moving "THAT the Legislative Assembly ask the Premier to clarify his statements to the Legislature dealing with the matter of declaring a disaster area versus a state of emergency and which declaration constitute evacuation and which declaration would require the province and the federal government to assist in paying for and through disaster assistance." The Honourable Government House Leader and the Official Opposition House Leader also offered advice to the Chair on the matter. I took the matter under advisement in order to consult the procedural authorities.

I thank all Members for their advice to the Chair on this matter.

There are two conditions that must be satisfied in order for the matter raised to be ruled in order as a prima facie case of privilege. First, was the issue raised at the earliest opportunity; and second, has sufficient evidence been provided to demonstrate that the privileges of the House have been breached in order to warrant putting the matter to the House.

Concerning the first condition of timeliness, the Honourable Member for Emerson asserted that he did raise the matter at the earliest opportunity, and I accept the word of the Honourable Member.

Regarding the second condition, it appears that the Honourable Member for Emerson is stating that the facts put on the record by the Premier are incorrect. Beauchesne citation 31(1) advises that a dispute arising between two Members as to allegations of facts does not fulfill the conditions of parliamentary privilege. Joseph Maingot, on page 223 of the second edition of *Parliamentary Privilege in Canada* states: A dispute between two Members about questions of facts said in debate does not constitute a valid question of privilege because it is a matter of debate."

Turning to Manitoba practice, in 1980, Speaker Graham ruled that a dispute between two Members as to allegations of facts did not constitute a breach of privilege. This finding is supported by two rulings from Speaker Walding, by three rulings from Speaker Philips, by eight rulings from Speaker Rocan, by two rulings from Speaker Dacquay, and by two rulings from the current Speaker.

I would therefore rule with the greatest of respect that there is no prima facie case of privilege.

* * *

Prior to Oral Questions on Thursday, June 9, 2005, the Honourable Member for Inkster rose on a matter of privilege complaining about an action he alleged had taken place earlier in the sitting day. The Honourable Member for Inkster asserted that after he had requested a quorum count during the morning sitting, the Honourable Minister of Aboriginal and Northern Affairs had gestured at him using the middle finger of his hand. The Honourable Member for Inkster pointed out that he had raised the issue at the time as a point of order, and when that point of order had been ruled out of order, the Honourable Member for Inkster raised a subsequent point of order to extend the Honourable Minister the opportunity to issue an apology. The Honourable Member for Inkster concluded his remarks by moving "THAT this matter be sent to a standing committee of this House." The Honourable Member for Carman and the Honourable Government House Leader also offered advice to the Chair. I took the matter under advisement in order to consult the procedural authorities.

I thank all Members for their advice to the Chair on this matter.

There are two conditions that must be satisfied in order for the matter raised to be ruled in order as a prima facie case of privilege. First, was the issue raised at the earliest opportunity, and second, has sufficient evidence been provided to demonstrate that the privileges of the House have been breached, in order to warrant putting the matter to the House.

Concerning the first condition, the Honourable Member for Inkster asserted that he was raising the matter at the earliest opportunity; however I have difficulty accepting this assertion, as by the admission of the Honourable Member for Inkster, he had raised the issue earlier in the day as a point of order. Therefore, the matter could have been raised earlier, and I do not accept that the matter of privilege was raised at the earliest opportunity.

Regarding the second condition, whether there is sufficient evidence that the privileges of the House have been breached, it is important to determine whether parliamentary privilege has been breached in the actions complained.

As I had advised the Honourable Member for Inkster when he initially raised the issue as a point of order, the Speaker did not see the action that he is complaining of. Additionally, there is no way for a gesture to be captured as part of the record of the House through Hansard or through the Votes and Proceedings.

In addition, I would like to advise the House that when a virtually identical matter of privilege was raised in the Canadian House of Commons where the Member for Simcoe-Grey complained that his abilities as a Parliamentarian were obstructed and threatened due to another MP flashing a certain finger in his direction, Speaker Parent ruled on February 10, 1998 that it would be difficult for the Speaker to check Hansard because such a gesture would not be recorded. Speaker Parent ruled that there was no question of privilege, but encouraged all Honourable Members to treat each other with courtesy.

I would also like to note for the House that the Honourable Member for Inkster had already raised the issue twice, earlier in the sitting day, as points of order, and I had ruled that there was no point of order.

Accordingly, I would rule that there is no prima facie case of privilege.

Pursuant to Rule 26(1), Messrs. PENNER, ALTEMEYER, FAURSCHOU and SWAN and Hon. Mr. GERRARD made Members' Statements.

In accordance with Rule 27, Mr. LOEWEN rose on a Grievance.

Hon. Mr. MACKINTOSH moved:

THAT this House concur in the report of the Committee of Supply respecting concurrence in all supply resolutions relating to the estimates of expenditure for the fiscal year ending March 31, 2005.

And the Question being put. It was agreed to, on the following division:

YEA

AGLUGUB	MARTINDALE
ALTEMEYER	MCGIFFORD
ASHTON	MELNICK
BJORNSON	NEVAKSHONOFF
BRICK	OSWALD
CALDWELL	REID
CHOMIAK	ROBINSON
DEWAR	RONDEAU
DOER	SALE
IRVIN-ROSS	SANTOS
JENNISSEN	SCHELLENBERG
JHA	SELINGER
KORZENIOWSKI	SMITH
LATHLIN	STRUTHERS
LEMIEUX	SWAN
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MALOWAY	

NAY

CULLEN	LOEWEN
CUMMINGS	MAGUIRE
DERKACH	MITCHELSON
DRIEDGER	MURRAY
DYCK	PENNER
EICHLER	REIMER
FAURSCHOU	ROCAN
GERRARD	ROWAT
GOERTZEN	SCHULER
HAWRANIK	STEFANSON..... 21
LAMOUREUX	

The report of the Committee was accordingly concurred in.

Hon. Mr. SELINGER moved:

THAT there be granted out of the Consolidated Fund for Capital purposes, the sum of EIGHT HUNDRED TWENTY-THREE MILLION, THREE HUNDRED FORTY-TWO THOUSAND Dollars (\$823,342,000.00) for the fiscal year ending March 31, 2006.

And the Question being put. It was agreed to.

Hon. Mr. SELINGER moved:

THAT there be granted to Her Majesty for the Public Service of the Province for the Fiscal Year ending the 31st day of March 2006, out of the Consolidated Fund, the sum of SEVEN BILLION, EIGHT HUNDRED FORTY-EIGHT MILLION, NINE HUNDRED TWENTY-EIGHT THOUSAND, SIX HUNDRED DOLLARS (\$7,848,928,600.00), as set out in Part A (Operating Expenditure) and TWO HUNDRED TWENTY-SIX MILLION ONE HUNDRED THIRTY-TWO THOUSAND NINE HUNDRED DOLLARS (\$226,132,900.00), as set out in Part B (Capital Investment) of the estimates.

And the Question being put. It was agreed to.

On motion of Hon. Mr. SELINGER, Bill (No. 45) – The Appropriation Act, 2005/Loi de 2005 portant affectation de crédits, was read a First Time and ordered for Second Reading immediately.

Hon. Mr. SELINGER moved:

THAT Bill (No. 45) – The Appropriation Act, 2005/Loi de 2005 portant affectation de crédits, be now read a Second Time, and be referred to Committee of the Whole.

And a debate arising,

And Hon. Mr. SELINGER, Mrs. STEFANSON, Messrs. LOEWEN, LAMOUREUX and HAWRANIK having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to Committee of the Whole.

On motion of Hon. Mr. SELINGER, Bill (No. 46) – The Loan Act, 2005/Loi d'emprunt de 2005, was read a First Time and ordered for Second Reading immediately.

On motion of Hon. Mr. SELINGER, Bill (No. 46) – The Loan Act, 2005/Loi d'emprunt de 2005, was read a Second Time, and referred to Committee of the Whole.

The House resumed the Interrupted Debate on the Proposed Motion of Hon. Mr. SELINGER:

THAT Bill (No. 44) – The Budget Implementation and Tax Statutes Amendment Act, 2005/Loi d'exécution du budget de 2005 et modifiant diverses dispositions législatives en matière de fiscalité, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And leave having been denied to have the matter remain in the name of Mr. CULLEN,

And Mr. MAGUIRE, Mrs. MITCHELSON and Mr. HAWRANIK having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to a Committee of this House.

The House resolving into Committee of the Whole.

Bill (No. 44) – The Budget Implementation and Tax Statutes Amendment Act, 2005/Loi d'exécution du budget de 2005 et modifiant diverses dispositions législatives en matière de fiscalité, was considered in Committee of the Whole and reported with the following amendments.

THAT the proposed section 7, as set out in Clause 44 of the Bill, be amended

(a) in clauses (a) and (b), by striking out "\$75." and substituting "\$70."; and

(b) in clause (b), by striking out "\$9.50" and substituting "\$7."

Bill (No. 45) – The Appropriation Act, 2005/Loi de 2005 portant affectation de crédits, was considered in Committee of the Whole and reported without amendment.

Bill (No. 46) – The Loan Act, 2005/Loi d'emprunt de 2005, was considered in Committee of the Whole and reported without amendment.

Hon. Mr. MACKINTOSH moved:

THAT Bill (No. 46) – The Loan Act, 2005/Loi d'emprunt de 2005, reported from Committee of the Whole, be concurred in and be now read for a Third Time and passed.

And a debate arising,

And Hon. Mr. MACKINTOSH, Messrs. FAURSCHOU and LAMOUREUX having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly concurred in, read a Third Time and passed.

Wednesday, June 15, 2005

Hon. Mr. MACKINTOSH moved:

THAT Bill (No. 45) – The Appropriation Act, 2005/Loi de 2005 portant affectation de crédits, reported from Committee of the Whole, be concurred in and be now read for a Third Time and passed.

And a debate arising,

And Hon. Mr. MACKINTOSH and Mr. CUMMINGS having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly concurred in, read a Third Time and passed.

Bill (No. 44) – The Budget Implementation and Tax Statutes Amendment Act, 2005/Loi d'exécution du budget de 2005 et modifiant diverses dispositions législatives en matière de fiscalité, was concurred in, read a Third Time and passed, on division.

The House then adjourned at 7:16 p.m. until 10:00 a.m. Thursday, June 16, 2005.

Hon. George HICKES,
Speaker.