



**PRAYERS**

**1:30 O'CLOCK P.M.**

Mr. SANTOS, Chairperson of the Standing Committee on Privileges and Elections, presented its First Report, which was read as follows:

Your Committee met on Thursday, August 3, 2000 at 3:00 p.m. in Room 255 of the Legislative Building to consider Bills referred.

At that meeting, your Committee elected Mr. SCHELLENBERG as Vice-Chairperson.

Your Committee heard representation on Bills as follows:

Bill (No. 4) - The Elections Finances Amendment Act/Loi modifiant la Loi sur le financement des campagnes électorales

David Goldstein, Bryan Stone & Bill Hansen	Canadian Association of Broadcasters and Broadcasters Association of Manitoba
Clint Szakacs & Bob Mummery	Manitoba Community Newspapers Association
Paul Nielson	Private Citizen
John Doyle	Manitoba Federation of Labour
Ken Mandziuk	Manitoba Association for Rights and Liberties
Dan Overall	Manitoba Chamber of Commerce
Paul Moist	Canadian Union of Public Employees, Manitoba Division
Victor Vrsnik	Canadian Taxpayers Federation
Brian Hanslip	President, Manitoba Party

Written Submissions:

Bill (No. 4) - The Elections Finances Amendment Act/Loi modifiant la Loi sur le financement des campagnes électorales

Aaron Freeman	Democracy Watch
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Bill (No. 17) – The Elections Amendment Act/Loi modifiant la Loi électorale

Rob Hilliard	President, Manitoba Federation of Labour
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Your Committee has considered:

Bill (No. 17) – The Elections Amendment Act/Loi modifiant la Loi électorale

and has agreed to report the same with the following amendments:

**MOTION:**

*THAT section 11 of the Bill be amended by adding "to their employer not less than five days before the requested leave is to take effect" at the end of the proposed subsection 24.2(2).*

**MOTION:**

*THAT section 11 of the Bill be amended by adding the following after the proposed subsection 24.2(2):*

**Notice of employer=s right to request exemption**

**24.2(2.1)** A request for leave from an employee must contain a statement that the employer has the right to apply to the Manitoba Labour Board for an exemption to the requirement to grant leave within three days of receiving the request.

**Timing of request for leave**

**24.2(2.2)** A request for leave may be made in advance of a writ of election being issued provided that an employee meets one of the criteria contained in subsection (1).

**MOTION:**

*THAT section 11 of the Bill be amended by adding "within three days after receiving a request for leave from an employee under subsection 24.2(2)" at the end of the proposed subsection 24.3(2).*

**MOTION:**

*THAT section 16 of the Bill be amended as follows:*

*(a) in subsection (1), by striking out "five days, from the Tuesday" in the proposed subsection 65(4) and substituting "six days, from the Monday";*

*(b) in subsection (2), by striking out "five" and substituting "six".*

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

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Hon. Ms. BARRETT, Minister of Labour, made a statement regarding an early morning explosion at the Hudson Bay Mining and Smelting operation in Flin Flon.

Mrs. MITCHELSON and, by leave, Hon. Mr. GERRARD commented on the statement.

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Hon. Mr. LATHLIN, Minister of Conservation, made a statement regarding an update on the forest fire situation in Manitoba.

Mr. ENNS commented on the statement.

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

During Oral Questions on July 26, 2000, I took under advisement an alleged matter of privilege raised by the Honourable Member for Russell, concerning comments spoken by the Honourable First Minister while responding to a question addressed by the Honourable Member for Russell. The Honourable Member for Russell contended that the Honourable First Minister had breached the Member's privileges by suggesting that the Honourable Member for Russell as Minister of Rural Development had received a report in August, 1999 and had kept the report from the people of southwestern Manitoba. The Honourable Member for Russell concluded his remarks by moving "That the Premier of this province did break the privileges of this Member of the House by accusing me as a Member for the constituency of Russell for covering up a particular report when such a report was delivered during the election period and that this matter be referred to the Committee of Privileges and Elections for the Committee's consideration." Contributions on the alleged matter of privilege were made by the Honourable First Minister, the Honourable Official Opposition House Leader, the Honourable Government House Leader, the Honourable Member for Lac du Bonnet, the Honourable Member for Lakeside, the Honourable Member for Emerson, the Honourable Member for River Heights, the Honourable Minister of Highways and Government Services, the Honourable Member for Ste. Rose, the Honourable Member for Minnedosa, and the Honourable Member for Turtle Mountain. I took the matter under advisement in order to peruse the procedural authorities and report back to the House.

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

The Honourable Member for Russell has satisfied the first condition, in that the matter was raised at the earliest opportunity.

Regarding the second issue, of whether or not a prima facie case of privilege has been demonstrated, there are a number of factors that need to be taken into consideration.

Beauchesne citation 24 defines parliamentary privilege as "the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each house individually, without which they could not discharge their functions....the privileges of Parliament are rights which are absolutely necessary for the due execution of its powers. They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the service of its Members, and by each House for the protection of its members and the vindication of its own authority and dignity."

Marleau and Montpetit in "*House of Commons Practice and Procedure*", Chapter Three, list the individual parliamentary privileges of Members as: freedom of speech, freedom from arrest in civil action, exemption from jury duty, exemption from appearing as a witness, and freedom from obstruction, interference, intimidation and molestation. The collective privileges of the House are defined as: the power to discipline, the regulation of the House's internal affairs, the authority to maintain the attendance and service of Members, the right to institute inquiries and to call witnesses and demand papers, the right to administer oaths to witnesses, and the right to publish papers containing defamatory material. The complaint of the Honourable Member for Russell does not appear to fall into any of the enumerated categories.

Joseph Maingot, in *Parliamentary Privilege in Canada*, second edition, states on page 222 that alleged acts complained of must relate to a Member's parliamentary work, which means that there must be some act that improperly interferes with the rights of Members, such as freedom of speech. The alleged interference must obstruct the Member in his or her parliamentary work. The parliamentary work must relate to a proceeding in Parliament before the Speaker may find a prima facie case of privilege.

Maingot also states on page 224 that "privilege is concerned with the special rights of Members, not in their capacity as ministers or as party leaders, whips or parliamentary secretaries, but strictly in their capacity as Members in their parliamentary work. Therefore, allegations of misjudgment, or mismanagement, or maladministration on the part of a minister in the performance of his ministerial duties do not come within the purview of parliamentary privilege." Although the remarks complained of were raised in the House after the Member for Russell was no longer a Member of the Executive Council, the alleged actions were reported to have taken place while Member was a Minister. Also, on page 250, Maingot opines that reflections on Members must relate to the Member's parliamentary work.

Beauchesne citation 31(1) indicates that a dispute arising between two Members as to allegations of facts does not fulfill conditions of parliamentary privilege. Citation 69 states that "something can be inflammatory, can be disagreeable, can even be offensive, but it may not be a question of privilege unless the comments actually impinges upon the ability of Members ... to do their jobs properly."

Turning to rulings given by Manitoba Speakers, Madam Speaker Dacquay in a ruling given on June 7, 1995, noted that Maingot states "improper reflections by one Honourable Member upon another is a matter of unparliamentary language – that is, it is a matter of order, not a matter of privilege." On June 15, 1994, Mr. Speaker Rocan ruled that privilege is concerned with the special rights of Members in their capacity as Members in their parliamentary work, not in their capacity as Ministers or party leaders or whips. On December 10, 1992, Mr. Speaker Rocan cited from Beauchesne citation 69 that "it is very important ... to indicate that something can be inflammatory, can be disagreeable, can even be offensive, but it may not be a question of privilege unless the comment actually impinges upon the ability of Members ... to do their job properly."

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Although the comments of the First Minister may be discourteous, and may arguably contain an imputation of unworthy motives or a personal charge against a Member, it has not been demonstrated that a prima facie case of privilege exists according to the procedural authorities cited and according to previous rulings of Manitoba Speakers'. I would therefore respectfully rule the Honourable Member for Russell's motion out of order as a prima facie case of privilege.

Hon. Mr. DOER voluntarily withdrew his remarks,

And Mr. DERKACH having spoken to the ruling.

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Following the presentation of a Speaker's ruling on July 31, 2000, the Honourable Interim Leader of the Official Opposition rose on a point of order respecting the words "it is still a stupid question" that the Honourable Interim Leader of the Official Opposition attributed to the Honourable Minister of Family Services and Housing. The Honourable Minister of Family Services and Housing also spoke to the same point of order. I took the matter under advisement in order to peruse Hansard.

The words complained of do not appear in Hansard. I therefore rule that there is no point of order.

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Pursuant to Rule 23(1), Mr. TWEED, Ms. ASPER, Messrs. MAGUIRE, AGLUGUB and PITURA made Members' Statements.

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By unanimous consent, it was agreed that the Standing Committee on Privileges and Elections would meet at 4:00 p.m. on Tuesday, August 8, 2000, concurrently with the House.

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By leave, it was agreed to waive the quorum requirement in the House for August 8, 2000.

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By unanimous consent, it was agreed to proceed with Second Reading of Bill (No. 201) – The Electoral Divisions Amendment Act/Loi modifiant la Loi sur les circonscriptions électorales sponsored by the Honourable Member for Gimli, for Private Members' Business for Tuesday, August 8, 2000.

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By unanimous consent, it was agreed to proceed with Private Member's Resolution No. 83 sponsored by the Honourable Member for Charleswood, for Private Members' Business for Tuesday, August 8, 2000.

On motion of Mr. DYCK:

ORDERED that the composition of the Standing Committee on Privileges and Elections be amended as follows:

Mr. LOEWEN for Mr. CUMMINGS.

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The Order of Day having been read for consideration of Bill (No. 42) – The Public Schools Amendment and Consequential Amendments Act/Loi modifiant la Loi sur les écoles publiques et modifications corrélatives, as amended and reported from the Standing Committee on Law Amendments, the House resumed the Interrupted Debate on the Proposed Amendment of Mrs. SMITH (Fort Garry):

*THAT Bill 42 be amended in the proposed preamble, as set out in section 2 of the Bill,*

*(a) in the ninth clause, by striking out everything after "interest" and substituting "that educational resources be managed efficiently and effectively for the good of students and communities;" and*

*(b) in the tenth clause, by adding "and accountability" after "responsibility".*

And the debate continuing on the amendment,

And leave having been denied to have the matter remain in the name of Mr. PENNER (Emerson),

And Hon. Mr. CALDWELL having spoken,

And the Question being put on the amendment. It was negatived, on division.

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Mrs. SMITH (Fort Garry) then moved:

*THAT Bill 42 be amended in section 4 by adding the following after the proposed subsection 105(2):*

**Factors**

**105(2.1)** If a matter under arbitration may reasonably be expected to have a financial effect on the school division or school district, the arbitrator or arbitration board shall, in addition to any other relevant factors, consider the following:

(a) the school division's or school district's ability to pay, as determined by its current revenues, including the funding received from the government and the Government of Canada, and its taxation revenue;

(b) the nature and type of services that the school division or school district may have to reduce in light of the decision or award, if the current revenues of the school division or school district are not increased;

(c) the current economic situation in Manitoba and in the school division or school district;

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(d) a comparison between the terms and conditions of employment of the teachers in the school division or school district and those of comparable employees in the public and private sectors, with primary consideration given to comparable employees in the school division or school district or in the region of the province in which the school division or school district is located;

(e) the need of the school division or school district to recruit and retain qualified teachers.

And a debate arising,

And Mrs. SMITH (Fort Garry), Messrs. DERKACH, SCHULER, MAGUIRE, TWEED and DYCK having spoken,

And Mr. CUMMINGS speaking at 5:00 p.m. The debate was allowed to remain in his name.

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On motion of Mr. DEWAR:

ORDERED that the composition of the Standing Committee on Privileges and Elections be amended as follows:

Mr. MALOWAY for Hon. Ms. MIHYCHUK.

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Mr. HELWER moved:

THAT (No. 201) – The Electoral Divisions Amendment Act/Loi modifiant la Loi sur les circonscriptions électorales, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Mr. HELWER having spoken,

The debate was, on motion of Mr. REID, adjourned.

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Ms. KORZENIOWSKI, as amended by leave, moved:

Resolution No. 83: Peacekeeping Day

WHEREAS Canada has been a supporter of the United Nations since its founding in 1945; and

WHEREAS Canada was instrumental in the establishment of the United Nations' Peacekeeping force; and

WHEREAS many Canadians have participated in peacekeeping operations for more than fifty years; and

WHEREAS many Manitobans have served or are serving in peacekeeping operations; and

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WHEREAS the element of danger is inherent in peacekeeping missions; and

WHEREAS the largest number of Canadians who paid the supreme sacrifice while participating in a peacekeeping operation was August 9, 1974; and

WHEREAS the August 9, 1945 destruction of Nagasaki also marks one of the all-too-many days in human history that have demonstrated the consequences of a breakdown in peaceful relations; and

WHEREAS many Manitobans who have served in a peacekeeping operation wish to have a dedicated day once each year in which they may promote the good work of peacekeepers within their community and remember their comrades who have served both Canada and Manitoba through their work to help maintain peace in the world.

THEREFORE BE IT RESOLVED THAT the Legislative Assembly of Manitoba urge the Provincial Government to consider recognizing August 9<sup>th</sup> as Peacekeeping day.

And a debate arising,

And Ms. KORZENIOWSKI, Mrs. DRIEDGER, Messrs. RONDEAU and LAURENDEAU having spoken,

And the Question being put. It was agreed to unanimously.

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The House then adjourned at 5:53 p.m. until 1:30 p.m. Wednesday, August 9, 2000.

Hon. George HICKES,  
Speaker.