



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 10

SECOND SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYERS

1:30 O'CLOCK P.M.

The following petitions were presented:

Mr. DYCK – Legislative Assembly of Manitoba to request the Minister of Transportation and Government Services to consider honouring the previous commitment and complete the four-laning of highway 32 through the City of Winkler, absorbing all costs related to the construction, as previously agreed; to consider the responsibility of the Department of Transportation and Government Services for the construction of rural highways; to consider the significant and strategic importance of the completion of four-laning highway 32 through the City of Winkler, especially as it relates to the economic growth and development of the City of Winkler and its trading area; and to consider the valuable contribution of the City of Winkler and its trading area to the provincial economy, and re-prioritize the four-laning of highway 32 for the 2004 construction season. (G. Ens, S. Roth, I. Willoughby and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to consider supporting the proposed Co-op program. (P. Lim, M. Bailey, N. Chartier and others)

Mrs. MITCHELSON – Legislative Assembly of Manitoba to request that the Premier of Manitoba notify the City of Winnipeg that the Provincial Government will not allow an increase of the sales tax without a referendum being held as required under Balanced Budget legislation. (D. Ross, E. Ranville, N. Johnson and others)

Mrs. TAILLIEU – Legislative Assembly of Manitoba to request that the Provincial and Federal Governments consider settling outstanding claims from the 1997 Flood of the Century before proceeding with a major expansion of the Red River Floodway; to consider ensuring that flood compensation mechanisms are evaluated, updated and enacted before a major expansion of the Red River Floodway proceeds; and consider clarifying outstanding flood-related issues, such as the threat of artificial flooding and the public's desire for clarification with respect to the floodway operating rules. (N. Zubach, R. Crowlay, F. Barbanchon and others)

By leave, Ms. BRICK, Chairperson of the Standing Committee on Social and Economic Development, presented its First Report, which was read as follows:

Meetings:

Your Committee met on Tuesday, December 2, 2003 at 6:30 p.m. in Room 255 of the Legislative Building.

Matters Under Consideration:

- **Bill (No. 2)** - The Biofuels and Gasoline Tax Amendment Act/Loi sur les biocarburants et modifiant la Loi de la taxe sur l'essence
- **Bill (No. 3)** - The Helen Betty Osborne Memorial Foundation Amendment Act/Loi modifiant la Loi sur la Fondation commémorative Helen Betty Osborne
- **Bill (No. 4)** - The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi
- **Bill (No. 202)** - The Nellie McClung Foundation Act/Loi sur la Fondation Nellie McClung

Membership Resignations / Elections:

Your Committee elected Ms. BRICK as the Chairperson.

Your Committee elected Mr. SCHELLENBERG as the Vice-Chairperson.

Substitutions received prior to commencement of meeting:

- Ms. BRICK for Mr. CALDWELL
- Hon. Mr. MACKINTOSH for Ms. IRVIN-ROSS
- Hon. Mr. SALE for Hon. Ms. MCGIFFORD
- Hon. Ms. ALLAN for Hon. Ms. MELNICK
- Ms. IRVIN-ROSS for Mr. MARTINDALE
- Mr. MURRAY for Mr. CUMMINGS
- Mr. SCHULER for Mr. MAGUIRE
- Mrs. ROWAT for Mr. TWEED

Public Presentations:

Your Committee heard 14 presentations on Bill (No. 2) – The Biofuels and Gasoline Tax Amendment Act/Loi sur les biocarburants et modifiant la Loi de la taxe sur l'essence, from the following individuals and/or organizations:

Kenneth Sigurdson
Bob McNab
Spencer Reavie
Ted Stoner
Randy Bialek
Roger Wilson
Fred Tait
Bill Wilkerson
David Rolfe

National Farmers Union
Town of Minnedosa
Pelly Trail Economic Development
The Canadian Petroleum Institute
Agassiz Agri-Ventures
Fox Warren Ethanol Agency
Private Citizen
Canadian Renewable Fuels Association
Keystone Agricultural Producers

Rick Verspeek on behalf of Bob McCallum	Turtle Mountain Sustainable Ventures
Edward Hiebert	Private Citizen
John Pittman	Manitoba Chamber of Commerce
Chris Lorenc	Manitoba Heavy Construction Association
Glen Koroluk	Private Citizen

Your Committee heard 4 presentations on Bill (No. 202) – The Nellie McClung Foundation Act/Loi sur la Fondation Nellie McClung, from the following organizations:

Gail Andrews	Manitoba Womens Liberal Association
Mary Pankiw	Local Council of Women of Winnipeg
Elizabeth Fleming	Provincial Council of Women of Manitoba
Beverley Parks	The Liberal Party of Manitoba

Written Submissions:

Your Committee received 1 written submission for Bill (No. 2) – The Biofuels and Gasoline Tax Amendment Act/Loi sur les biocarburants et modifiant la Loi de la taxe sur l'essence, from the following organization:

Gilbert Swan	Town of The Pas
--------------	-----------------

Your Committee received 1 written submission for Bill (No. 4) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, from the following organization:

Rob Hilliard	Manitoba Federation of Labour
--------------	-------------------------------

Bills Considered and Reported:

Bill (No. 2) - The Biofuels and Gasoline Tax Amendment Act/Loi sur les biocarburants et modifiant la Loi de la taxe sur l'essence

Your Committee agreed to report this Bill without amendment.

Bill (No. 3) - The Helen Betty Osborne Memorial Foundation Amendment Act/Loi modifiant la Loi sur la Fondation commémorative Helen Betty Osborne

Your Committee agreed to report this Bill without amendment.

Bill (No. 4) - The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi

Your Committee agreed to report this Bill with the following amendment:

THAT the proposed subsection 96.1(1), as set out in Clause 6 of the Bill, be amended by striking out everything after "to pay compensation" and substituting "to the director for any loss the employee incurred as a result of the contravention, or reinstate the employee, or do both."

Bill (No. 202) - The Nellie McClung Foundation Act/Loi sur la Fondation Nellie McClung

Your Committee agreed to report this Bill without amendment.

On motion of Ms. BRICK, the Report of the Committee was received.

Hon. Mr. SELINGER presented:

Return pursuant to section 20 of The Public Officers Act dated December 3, 2003.
(Sessional Paper No. 11)

Annual Report of The Trade Practices Inquiry Act for the period ending December 3, 2003.
(Sessional Paper No. 12)

On Motion of Hon. Mr. MACKINTOSH Bill (No. 6) – The Cross-Border Policing Act/Loi sur les services de police interterritoriaux, was read a first time and had its purposes outlined.

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

Following the Prayer on November 25, 2003, the Honourable Member for River Heights rose on an alleged matter of privilege. He contended that the holding of an event to commemorate the proclamation of Child and Family Services Authorities legislation for the Aboriginal Community on the same afternoon when the Leader of the Official Opposition spoke in the Throne Speech debate was a breach of privilege. At the conclusion of his remarks, he moved "THAT this matter of privilege that I have raised be referred to the Standing Committee on Legislative Affairs." The Honourable Government House Leader, the Honourable Official Opposition House Leader, the Honourable Premier and the Honourable Member for Inkster 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.

Regarding the first condition, the actions complained of occurred on the afternoon of November 24, however the Honourable Member for River Heights did not raise the matter until November 25. I would respectfully suggest that the matter could have been raised in the House on November 24.

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

Joseph Maingot advises on page 224 of *Parliamentary Privilege in Canada*, second edition that "parliamentary 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, claims that privilege has been violated due to activities performed as the Leader of a Party are not the basis for a prima facie case of privilege.

Maingot also advises on page 99 of *Parliamentary Privilege in Canada* that in order for the privileges of the House to have been breached, the activity must involve a proceeding of Parliament. This concept is supported from two rulings from Speaker Rocan in 1988, and one ruling from Speaker Rocan in 1991. Although debate which occurs in the Legislative Chamber does constitute a proceeding of Parliament, outside events, such as a ceremony, do not fall within the purview of a proceeding of Parliament.

I believe it is important to quote for the House comments that Speaker Parent made in 1997 in ruling on a case of privilege that came up in the Canadian House of Commons. He stated "the Chair is mindful of the multiple responsibilities, duties and constituency related activities of all Members and of the importance they play in the work of every Member of Parliament. However, my role as your Speaker is to consider only those matters that affect the parliamentary work of Members."

I would therefore rule that there is no prima facie case of privilege. I would however note for the House that the Honourable Premier had offered that the government would send a letter to all persons who attended the event, to advise that the Leader of the Official Opposition was required to be in the Chamber for part of the afternoon, to participate in the Throne Speech debate. Hopefully this remedy will conclude the matter.

Pursuant to Rule 26(1), Mr. DYCK, Hon. Ms. MELNICK, Mrs. ROWAT, Mr. NEVAKSHONOFF and Hon. Mr. GERRARD made Members' Statements.

By leave, it was agreed to waive Private Members' Business for Thursday, December 4, 2003.

The House resumed the Adjourned Debate on the Proposed Motion of Mr. JENNISSEN:

THAT the following address be presented to His Honour the Lieutenant Governor:

We, the Members of the Legislative Assembly of Manitoba thank your Honour for the gracious speech addressed to us at this Second Session of the Thirty-Eighth Legislature of Manitoba.

And the debate continuing,

And Messrs. ROCAN, MARTINDALE and REIMER, Hon. Mr. STRUTHERS, Mr. DYCK, Hon. Mr. LEMIEUX, Mr. MAGUIRE and Hon. Mr. DOER having spoken.

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

YEA

AGLUGUB	MALOWAY
ALLAN	MARTINDALE
ALTEMEYER	MCGIFFORD
ASHTON	MELNICK
BJORNSON	MIHYCHUK
BRICK	NEVAKSHONOFF
CALDWELL	OSWALD
CHOMIAK	REID
DEWAR	ROBINSON
DOER	RONDEAU
IRVIN-ROSS	SALE
JENNISSEN	SANTOS
JHA	SCHELLENBERG
KORZENIOWSKI	SELINGER
LATHLIN	SMITH
LEMIEUX	STRUTHERS
MACKINTOSH	WOWCHUK..... 34

NAY

CUMMINGS	MAGUIRE
DERKACH	MITCHELSON
DRIEDGER	MURRAY
DYCK	PENNER
EICHLER	REIMER
GERRARD	ROWAT
GOERTZEN	SCHULER
HAWRANIK	STEFANSON
LAMOUREUX	TAILLIEU
LOEWEN	TWEED 20

The House then adjourned at 5:06 p.m. until 10:00 a.m. Thursday, December 4, 2003.

Hon. George HICKES,
Speaker.