



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 25

FOURTH SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYERS

10:00 O'CLOCK A.M.

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

THAT Bill (No. 202) – The Good Samaritan Act/Loi du bon samaritain, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Mrs. STEFANSON, Messrs. DYCK, LAMOUREUX and DERKACH having spoken,

The debate was allowed, by leave, to remain in the name of Mr. SCHELLENBERG.

The House resumed the Adjourned Debate on the Proposed Motion of Mrs. ROWAT:

THAT Bill (No. 201) – The Child and Family Services Amendment Act (Grandparent Access)/Loi modifiant la Loi sur les services à l'enfant et à la famille (droit de visite des grands-parents), be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Mr. MARTINDALE, Mrs. DRIEDGER and Mr. HAWRANIK having spoken,

And Hon. Mr. GERRARD speaking at 11:00 a.m. The debate was allowed to remain in his name and, by leave, in the name of Mr. SCHELLENBERG.

Mr. CALDWELL moved:

Resolution No. 5: Wind Energy

WHEREAS promoting and facilitating the orderly development of energy resources, ensuring a reliable and low cost supply of energy to Manitobans and promoting conservation and clean and efficient energy use in accordance with the governments commitment to address climate change and the Kyoto protocol have been and are the objectives of the Province of Manitoba; and

WHEREAS the investment in the diversification of energy production ensures the strength of the Manitoba economy; and

WHEREAS wind energy is an important part of this program of diversification as it complements the already existing hydroelectric energy production in Manitoba; and

WHEREAS the production of wind energy is a clean, renewable and affordable energy source which is uniquely suited to certain rural regions of Manitoba and was up until 2001 an underutilized source of energy; and

WHEREAS the development of this new resource will require new technologies, products and services and would have beneficial consequences for Manitoba companies and would provide new high-technology jobs as well as an additional and stable source of revenue for rural farmers, landholders and municipalities; and

WHEREAS the first windfarm has already been established in St. Leon, Manitoba through partnerships with all levels of government and the private sector, a site established to be a world-class wind regime centre, which will ensure its commercial viability; and

WHEREAS the first turbines have already been built and tested in St. Leon and have provided an important example of the feasibility of wind energy for Manitoba;

WHEREAS upon completion the St. Leon windfarm will be one of the largest in Canada producing 99 megawatts of energy a year; and

WHEREAS the St. Leon windfarm is one example of several programs and services designed to help rural and northern Manitobans reach their economic potential by building on traditional strengths and focusing on new opportunities.

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba urge the Provincial Government to consider continuing supporting the wind farm at St. Leon and other such rural economic development initiatives that are in accordance with the principles of sustainable development; and

BE IT FURTHER RESOLVED that this Assembly urge the Provincial Government to consider continuing to develop wind energy with the goal of attaining 1,000 megawatts of production over the next ten years.

And a debate arising,

And Mr. CALDWELL, Mrs. MITCHELSON, Messrs. REID, ROCAN and MALOWAY having spoken,

And Mr. SCHULER speaking at 12:00 p.m. The debate was allowed to remain in his name.

The following petitions were presented and read:

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. (J. Kilgour, S. Graham, W. Graham and others)

Mrs. ROWAT – Legislative Assembly of Manitoba to request the Minister of Transportation and Government Service to consider providing sufficient resources to enhance driver and vehicle safety on Highway 10 and to consider upgrading Highway 10. (N. C. Miller, L. Ruddeck, A. Bardsley and others)

Hon. Ms. ALLAN, the Minister responsible for the Status of Women, made a statement regarding December 6, 2005, being National Day of Remembrance and Action on Violence against Women,

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

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

During Oral Questions on November 29, 2005, the Honourable Member for Tuxedo rose on a matter of privilege regarding answers provided during Oral Questions by the Honourable Minister of Health. She contended that the remarks of the Honourable Minister were obstructing debates in the House and interfered with her duties as the Official Opposition critic. She further asserted that the Minister was deliberately putting factually incorrect information on the record. She concluded her remarks by moving “THAT as a result of the seriousness of this breach of privilege that this matter be referred to the Standing Committee on Legislative Affairs; and THAT the Minister of Health be requested to apologize to Manitobans and to the Honourable Members of the Chamber for purposely and knowingly putting false information onto the public record and in doing so, misleading Manitobans and the Honourable Members of this Chamber.” The Honourable Government House Leader, the Honourable Official Opposition House Leader, the Honourable Minister of Health and the Honourable Member for River Heights also offered contributions 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 Honourable Member for Tuxedo asserted that she was raising the matter at the earliest opportunity, and I accept the word of the Honourable Member.

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.

The issue of whether or not a Member has deliberately misled the House is not a new issue, and has been raised in the Manitoba Legislature numerous times. The first test that a Speaker must apply when such a claim comes up is whether or not the Member raising the matter of privilege has provided specific proof of intent to mislead on the part of the Member in question. Speakers Phillips, Rocan and Dacquay have, in previous rulings, cited the necessity for specific proof to be provided on the record that the Member purposefully and deliberately set out to mislead the House. Speaker Dacquay went as far as to advise the House that without a Member admitting in the House that he or she had the stated goal of misleading the House when putting remarks on the record, it is next to impossible to prove that indeed a Member had deliberately intended to mislead the House. In the words of the federal Standing Committee on Procedure and House Affairs in its fiftieth report, "Intent is always a difficult element to establish, in the absence of an admission or confession." In the case raised by the Honourable Member for Tuxedo, I have perused Hansard and found no admission by the Honourable Minister of Health that he had intended to mislead the House.

The procedural authorities also offer commentary on the issue of misleading the House. Joseph Maingot makes the point on page 241 of the second edition of *Parliamentary Privilege in Canada* that allegations that a Member has misled the House are in fact matters of order and not matters of privilege. In addition, when Manitoba Speakers have been asked to rule on whether matters of privilege involving the alleged misstatements by Members or the provision of misinformation or inaccurate facts by Ministers, Speakers Phillips, Rocan and Dacquay have ruled that such situations appeared to be disputes over facts, which according to Beauchesne citation 31(1) does not fulfil the criteria of a prima facie case of privilege.

Furthermore, it has been ruled in the Canadian House of Commons and also in this Legislature concerning cases of whether or not answers offered by Ministers are false in comparison with other information, it is not the role of the Speaker to adjudicate on matters of fact. Instead, this is something that is left up to the House to form an opinion on.

Therefore, with the greatest of respect, I must rule there is no prima facie case of privilege.

From his decision, Mr. DERKACH appealed to the House,

And the Question being put, "Shall the ruling of the Chair be sustained?" It was agreed to, on the following division:

YEA

AGLUGUB	MALOWAY
ALLAN	MARTINDALE
ALTEMEYER	MCGIFFORD
ASHTON	MELNICK
BJORNSON	NEVAKSHONOFF
BRICK	REID
CALDWELL	RONDEAU
DEWAR	SALE
IRVIN-ROSS	SANTOS
JENNISSEN	SCHELLENBERG
JHA	SELINGER
KORZENIOWSKI	SMITH
LATHLIN	STRUTHERS
LEMIEUX	SWAN
MACKINTOSH	WOWCHUK..... 30

NAY

CULLEN	LAMOUREUX
CUMMINGS	MAGUIRE
DERKACH	MITCHELSON
DRIEDGER	MURRAY
DYCK	PENNER
EICHLER	REIMER
FAURSCHOU	ROWAT
GERRARD	SCHULER
GOERTZEN	STEFANSON
HAWRANIK	TAILLIEU..... 20

Prior to Members' Statements, Mr. DERKACH rose on a Matter of Privilege and moved:

THAT the matter of the Minister of Health's statements as to not receiving a letter from the Maples Surgical Clinic dated May 12th, 2005 and then his quoting from the very same letter in this Chamber and as recorded in Hansard be referred to the Committee on Legislative Affairs.

And Hon. Mr. MACKINTOSH and Mr. LAMOUREUX having spoken.

WHEREUPON Mr. Speaker informed the House he would take the matter under advisement.

Tuesday, December 6, 2005

Pursuant to Rule 26(1), Mrs. ROWAT, Ms. IRVIN-ROSS, Mrs. TAILLIEU, Messrs. JENNISSEN and CULLEN made Members' Statements.

In accordance with Rule 27, Mrs. TAILLIEU rose on a Grievance.

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

THAT Bill (No. 11) – The Winter Heating Cost Control Act/Loi sur la limitation des frais de chauffage en hiver, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Mr. GOERTZEN having spoken,

The debate was allowed to remain, by leave, in the name of Mr. DERKACH.

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

THAT Bill (No. 5) – The Dental Hygienists Act/Loi sur les hygiénistes dentaires, reported from the Standing Committee on Human Resources, be concurred in and be now read a Third Time and passed.

And the debate continuing,

And Mrs. STEFANSON speaking at 5:00 p.m. The debate was allowed to remain in her name.

By unanimous consent, it was agreed that the Standing Committee on Justice would meet at 10:00 a.m. on Thursday, December 8, 2005, concurrently with the House.

By unanimous consent, it was agreed to waive the quorum requirement and any recorded votes arising in the House for the duration of the meeting of the Standing Committee on Justice on Thursday, December 8, 2005.

The House then adjourned at 5:02 p.m. until 1:30 p.m. Wednesday, December 7, 2005.

Hon. George HICKES,
Speaker.