



**LEGISLATIVE ASSEMBLY OF MANITOBA**

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**VOTES AND PROCEEDINGS** No. 25

**FIFTH SESSION, THIRTY-EIGHTH LEGISLATURE**

**PRAYER**

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

On motion of Hon. Ms. WOWCHUK, Bill (No. 18) – The Organic Agricultural Products Act/Loi sur les produits agricoles biologiques, was read a First Time and had its purposes outlined.

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The following petitions were presented and read:

Mr. LAMOUREUX – Legislative Assembly of Manitoba to urge the Premier and his NDP Government to cooperate in uncovering the truth in why the Government did not act on what it knew and to consider calling a public inquiry on the Crocus Fund Fiasco. (M. Ambalina, J. Bacani, L. Bacani and others)

Mrs. ROWAT – Legislative Assembly of Manitoba to request the Provincial Government to consider stopping the removal of these positions from our community (Minnedosa), and to consider utilizing current technology in order to maintain these positions in their existing location. (M. McNabb, B. Andrews, D. Shorrock and others)

Mrs. TAILLIEU – Legislative Assembly of Manitoba to urge the Minister charged with the administration of The Liquor Control Act to consider allowing the owners of Headingley Foods to sell alcohol at their store, thereby supporting small business and the prosperity of rural communities in Manitoba. (J. Johher, J. Fritsch, L. Klimack and others)

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Hon. Mr. ROBINSON, the Minister responsible for Sport, made a statement to celebrate the successful completion of the 2007 Worlds Women's Hockey Championship tournament held in Manitoba.

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

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

Following the Prayer on April 4, 2007, the Honourable Leader of the Official Opposition raised an alleged matter of privilege regarding statements made by the Honourable First Minister regarding the Crocus Investment Fund, statements that the Honourable Leader of the Official Opposition asserted were intentionally misleading. At the conclusion of his remarks, the Honourable Leader of the Official Opposition moved “THAT the Premier be directed to apologize to the Legislative Assembly and the people of Manitoba for bringing false information before this House and undermining the integrity and respect of the Legislature.” The Honourable First Minister, the Honourable Member for River Heights and the Honourable Government House Leader also offered contributions to the Chair. I took the matter under advisement in order to consult the procedural authorities.

I thank all Honourable Members for their advice to the Chair.

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.

The Honourable Leader of the Official Opposition asserted that he was raising the issue at the earliest opportunity, and I accept the word of the Honourable Member.

Regarding the second issue, of whether a prima facie case of privilege has been established, it has been ruled on numerous times in this House that a Member raising the matter of privilege must provide specific proof of intent to mislead the House on the part of the Member in question. I should note for the House that providing information that may show that the facts are at variance is not the same as providing proof of intent to mislead. As ruled by Speaker Dacquay, 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 impossible to prove that a Member had deliberately intended to mislead the House.

Also, in the words of the federal Standing Committee on Procedure and House Affairs in its 50th report, “intent is always a difficult element to establish in the absence of an admission or confession.” Although the Leader of the Official Opposition tabled several documents, none of them contained an admission from the Honourable First Minister that there was an intention to mislead the House.

The procedural authorities also offer commentary on the issue of misleading the House. Joseph Maingot states 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. He also states on page 223 of the same edition that disputes 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. 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 fulfill the criteria of a prima facie case of privilege.

Turning to the issue of the request from the Honourable Leader of the Official Opposition that the Speaker make a determination whether information claimed to be false was put on the record in good faith or whether it was put there intentionally, this is not within the role and the purview of the Speaker. As I advised the House on April 29, 2004 and in rulings delivered on May 5, 2005; June 13, 2005; December 6, 2005; April 18, 2006 and April 27, 2006, it is not the role of the Speaker to decide on questions of facts. As House of Commons Speaker Milliken advised on February 19, 2004, it is not the role of the Speaker to adjudicate on matters of fact, as this is something that the House itself can form an opinion on during debate. I think this point is worth repeating, as Members may have some confusion regarding this concept, given that it has been raised six times since I gave my initial ruling on April 29, 2004.

Also, the Honourable Leader of the Official Opposition asserted that the statements of the Honourable First Minister were obstructing Members in the performance of their duties by obstructing the ability to question and criticize the government. However, given that Members have been able to ask questions in Question Period, raise grievances, make Members' Statements and participate in debate and in committee meetings, it is difficult to agree with the suggestion that Members were obstructed from performing their parliamentary duties.

I would therefore rule, with the greatest of respect that the matter raised is not in order as a prima facie case of privilege.

From his decision, Mr. GOERTZEN 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
ASHTON	MELNICK
BJORNSON	NEVAKSHONOFF
BRICK	OSWALD
CALDWELL	REID
CHOMIAK	ROBINSON
DEWAR	RONDEAU
DOER	SALE
IRVIN-ROSS	SANTOS
JENNISSEN	SHELLENBERG
JHA	SELINGER
KORZENIOWSKI	STRUTHERS
LATHLIN	SWAN
LEMIEUX	WOWCHUK.....31
MACKINTOSH	

NAY

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

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Pursuant to Rule 26(1), Mrs. ROWAT, Messrs. JENNISSON, MAGUIRE and AGLUGUB and Hon. Mr. GERRARD made Members' Statements.

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

THAT this House approves in general the budgetary policy of the government.

And the proposed amendment moved by Mr. MCFADYEN as follows:

*THAT the Motion be amended by deleting all the words after "House" and substituting:*

therefore regrets that this budget neglects many of the current and future needs of Manitobans by:

- (a) failing to set out a coherent plan to stem the flow of people out of Manitoba, after the loss of 35,000 Manitobans to other provinces since 1999; and
- (b) failing to make Manitoba a "have" province, reduce the debt and decrease the NDP government's reliance on federal transfer payments; and
- (c) failing to implement taxation measures to make Manitoba competitive with other provinces; and
- (d) failing to entice businesses to come to Manitoba and spur economic and job growth while Manitoba now ranks seventh in job creation as it falls even further behind other jurisdictions; and
- (e) failing to address serious issues of crime such as auto theft, gang activity, and violent crime; and
- (f) failing to address chronic problems in health care, which has led Manitoba to be ranked 10th out of 10 provinces on health by the Conference Board of Canada; and
- (g) failing to address the emergency physician shortage that has crippled Manitoba hospitals and threatens to close more emergency rooms; and
- (h) failing to implement an effective strategy to reduce wait times for diagnostic testing, surgical procedures and appointments with specialists; and

- (i) failing to address the needs of farm families, increase slaughter capacity, develop a comprehensive biofuel strategy, and provide a sustainable plan for growth of agriculture and the rural economy; and
- (j) failing to declare a definitive end to the NDP government's practice of raiding Manitoba Hydro's revenues, which has negatively impacted the Crown Corporation's financial position; and
- (k) failing to address the fact that the government's mismanagement of the child welfare system has led to vulnerable children falling through the cracks; and
- (l) failing to embark on a long-overdue, science-based effort to clean up Lake Winnipeg, contrary to the Premier's earlier promise that the environment "trumps all other issues" in government; and
- (m) failing to acknowledge that the NDP government's inaction on the environment resulted in a 480,000 tonne increase of Manitoba's greenhouse gas emissions between 2004 and 2005, the highest percentage increase in Canada; and
- (n) failing to make meaningful progress to ensure the strength and competitiveness of our post-secondary institutions; and
- (o) failing to provide clear information about the Spirited Energy campaign, the subject of yet another investigation of the NDP government by the Auditor General; and
- (p) failing to be accountable to Manitobans for exorbitant cost overruns on the Floodway Expansion project and Manitoba Hydro office tower.

As a consequence, the Government has thereby lost the confidence of this House and the people of Manitoba.

And the debate continuing on the amendment,

And Mr. MARTINDALE and Hon. Mr. GERRARD having spoken.

Hon. Mr. GERRARD moved an amendment as follows:

*THAT the amendment be amended by adding thereto the following words:*

And further regrets that this budget also ignores the present and future needs of Manitobans by:

- (q) failing to acknowledge that the province needs to stand shoulder to shoulder with Manitoba's First Nations and Métis Communities in responding to the major needs in the areas of housing, nutrition, wellness and other areas both by direct provincial action and by effectively calling the Federal Government to account for its shortcomings;
- (r) failing to take adequate measures to protect children in the care of Manitoba Child and Family Services and to provide adequate transition to children in care so that they are not at high risk after leaving care;
- (s) failing to provide an effective strategy to deal with child poverty;

- (t) failing to provide Manitobans with the legal rights to timely, quality health care;
- (u) failing to present an adequate approach to reduce phosphorous levels and algal blooms in Lake Winnipeg;
- (v) failing to provide an adequate five year plan and the needed resources to address the child care needs of Manitobans;
- (w) failing to provide adequate funding for the primary organization which provides provincial operating funding for health research the Manitoba Health Research Council;
- (x) failing to provide a vision for rural communities and farm families outside of the City of Winnipeg;
- (y) failing to provide adequate support for libraries in Manitoba – when libraries are one of the major building blocks needed to improve literacy in our province;
- (z) failing to provide adequate support to municipalities and small farming operations to end the practice of winter spreading of animal manure and human bio-solids;
- (aa) failing to make rapid transit a priority in the City of Winnipeg;
- (bb) failing to install an environmental levy on cosmetic fertilizers containing phosphorous that continue to aggravate the algae problems on Lake Winnipeg.

WHEREUPON Mr. Speaker ruled the sub-amendment in order.

And the debate continuing on the sub-amendment,

And Messrs. JHA and DERKACH having spoken.

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

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The House then adjourned at 5:00 p.m. until 1:30 p.m. Thursday, April 12, 2007.

Hon. George HICKES,  
Speaker.