



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 49

SECOND SESSION, THIRTY-NINTH LEGISLATURE

PRAYER

10:00 O'CLOCK A.M.

In accordance with Rule 31(9), the Opposition Deputy House Leader announced that the Lack of Provincial Government Support for City of Winnipeg Nutrient Management Projects Resolution will be considered next Thursday, June 5, 2008.

By leave, it was agreed for the House to deal with the Debate on Second Reading of Bill (No. 229).

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

THAT Bill (No. 229) – The Manitoba Public Insurance Corporation Amendment Act (Elimination of Benefits for Auto Thieves)/Loi modifiant la Loi sur la Société d'assurance publique du Manitoba (non-admissibilité aux prestations — voleurs d'automobiles), 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. DEWAR,

And Mr. GOERTZEN, Mr. DEWAR (by leave), Mr. GRAYDON, Hon. Mr. SWAN, Messrs. BRIESE, CALDWELL and PEDERSEN having spoken,

And Hon. Mr. ASHTON speaking at 11:00 a.m. The debate was allowed to remain in his name.

Mrs. TAILLIEU moved:

Resolution No. 14: Privacy Commissioner

WHEREAS the Premier promised in 1999 to introduce legislation to install a Privacy Commissioner in the Province of Manitoba; and

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WHEREAS this year's budget marks the 10th of his time as Premier and still there is no mention of the establishment a true Privacy Commissioner; and

WHEREAS Bill 31 does not install an actual Privacy Commissioner; and

WHEREAS Bill 31 was designed solely to increase the government ability to withhold and censor information from Manitobans; and

WHEREAS polls have shown that 90% of Manitobans do not trust the government to protect their privacy; and

WHEREAS there is a need to establish an official that can advocate on privacy issues and educate Manitobans about what their rights are and how they can avoid having their privacy invaded, something that is not present in Bill 31; and

WHEREAS alleged government abuses of the FIPPA process, the lucrative black market sales of personal information, and the ever increasing threat of identity theft show the need for a public watchdog to protect Manitobans on the issues of privacy; and

WHEREAS the Manitoba Ombudsman has expressed her disappointment and concern over privacy issues, and the lack of government action, stating that "the provincial administration has shown little interest in the process"; and

WHEREAS the Privacy Adjudicator proposed by the Government is nothing more than a Junior Ombudsman and will not have the powers necessary to protect privacy and will not be accessible to the public.

THEREFORE BE IT RESOLVED THAT the Legislative Assembly of Manitoba urge the Provincial Government to consider the establishment of a true Privacy Commissioner within the Province of Manitoba, to strengthen the protection of privacy for Manitobans and to finally right this broken election promise to Manitobans.

And a debate arising,

And Mrs. TAILLIEU, Hon. Mr. ROBINSON, Mr. GOERTZEN, Hon. Mr. RONDEAU and Mrs. ROWAT having spoken,

And Ms. BRICK speaking at 12:00 p.m. The debate was allowed to remain in her name.

The following petitions were presented and read:

Mr. BRIESE – Legislative Assembly of Manitoba to urge the Minister of Family Services and Housing to consider addressing the shortage of Early Childhood Educators by enabling child care centres to provide competitive wages and benefits; and to consider adequately planning for the future child care needs of growing communities, and to consider making the development of a sustainable and accessible child care system a priority; and to consider the development of a governance body that would provide direction and support to the volunteer boards of child care centres and to consider the development of regionalized central wait lists for child care; and to encourage all Members of the Legislative Assembly to consider becoming more closely involved with the operations of the licensed daycare facilities in their constituencies. (J. Contios, B. Mazur, D. Belfast and others)

Mr. DYCK – Legislative Assembly of Manitoba to request the Minister of Health to strongly consider giving priority for funding to develop and staff a new 100 bed long-term-care facility so that clients are not exposed to unsafe conditions and so that Boundary Trails Health Centre beds remain available for acute care patients instead of waiting placement clients. (E. Friesen, K. Wiebe, A. G. Wiebe and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to urge the Provincial Government to consider establishing a 90 day guarantee for processing an application for a minimum of 80% of applicants that have family living in Manitoba and to consider removing the use of the restrictive job list when dealing with the family sponsor stream. (R. Franolsco, H. Macdangdang, P. Taah and others)

Mr. GRAYDON – Legislative Assembly of Manitoba to urge the Premier to consider reversing his decision to increase Pharmacare deductibles by 5 percent in Budget 2008 and to consider reducing health care bureaucracy, as previously promised, and to consider directing those savings into sustaining Pharmacare and improving patient care. (L. Schellenberg, L. Schellenberg, D. Buhr and others)

Hon. Mr. SELINGER presented:

Public Accounts of the Province of Manitoba for the fiscal year ended March 31, 2007
(Volume 4).

(Sessional Paper No. 57)

Hon. Mr. ASHTON, the Minister responsible for Emergency Measures made a statement regarding the current forest fire situation in Northern Manitoba.

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

During Oral Questions, Mr. Speaker interjected and requested that the words "high priest of procedural shenanigans" spoken by the Honourable Leader of the Official Opposition be withdrawn.

WHEREUPON Mr. MCFADYEN withdrew his remarks.

Subsequently during Oral Questions, Hon. Mr. GERRARD rose on a point of order regarding a "Closed" sign on the front doors of Legislative Building last night while committee meetings were being held.

And Hon. Mr. CHOMIAK having spoken to the point of order,

WHEREUPON Mr. Speaker ruled that there was no point of order.

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

ALLAN	MACKINTOSH
ALTEMEYER	MALOWAY
ASHTON	MARCELINO
BLADY	MARTINDALE
BJORNSON	MCGIFFORD
BRAUN	MELNICK
BRICK	OSWALD
CALDWELL	REID
CHOMIAK	ROBINSON
DEWAR	RONDEAU
HOWARD	SARAN
IRVIN-ROSS	SELBY
JHA	SELINGER
KORZENIOWSKI	SWAN29
LEMIEUX	

NAY

BOROTSIK	GRAYDON
BRIESE	LAMOUREUX
CULLEN	MAGUIRE
DERKACH	MCFADYEN
DRIEDGER	MITCHELSON
DYCK	PEDERSEN
EICHLER	ROWAT
FAURSCHOU	SCHULER
GERRARD	STEFANSON
GOERTZEN	TAILLIEU20

Subsequently during Oral Questions, Mr. DERKACH rose on a Matter of Privilege and moved:

THAT this serious matter be referred to the committee on Legislative Affairs and then be reported back to this House and that an extension be given to Manitobans registering for committee.

And Hon. Messrs. CHOMIAK and GERRARD and Mr. MCFADYEN having spoken,

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

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

Prior to Routine Proceedings on May 13, 2008, the Honourable Member for Inkster raised a matter of privilege concerning the impacts of Bill 37 and potential impacts on MLAs. At the conclusion of his remarks, the Honourable Member moved "THAT this matter be referred to a committee of the Legislature." The Honourable Member for Steinbach and the Honourable Deputy Government House Leader also offered advice to the Chair. I took the matter under advisement in order to consult the procedural authorities.

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 issue of whether the matter was raised at the earliest opportunity, the Honourable Member for Inkster did not address this aspect in his submission to the Chair.

Regarding the second issue, of whether a prima facie case of privilege has been established, the ability of Members to do their jobs is an important issue. There are various protections provided by parliamentary privilege which are in place in order to ensure that Members are able to perform their parliamentary duties in the House. I should note, however, that there are distinctions in the protection provided by privilege, and that not all duties and functions performed by Members are protected by privilege. For example, privilege provides the protections of freedom of speech, but only in the context of comments made in the House during a parliamentary proceeding. As the House well knows, comments made outside of the House are not protected by privilege.

Privilege also provides the protections of freedom from arrest in civil actions, exemption from jury duty, exemption from appearing as a witness, and freedom from obstruction, interference, intimidation and molestation. Privilege, however, as noted by Joseph Maingot, concerns a Member in the capacity as a Member, and not as a Minister, Party Leader, Whip, Parliamentary Secretary or Critic. Therefore, when looking at allegations of breaches of privilege, it is important to assess in what context the action complained of has taken place, and whether it involves a proceeding of the Legislature, and whether it involves the duties of an MLA performing as an MLA in the Legislature, and not as performing the duties of a Minister, Leader, Whip or Critic.

The Honourable Member for Inkster asserted that the Bill would have an impact on his ability to communicate with Manitobans as well as affecting his freedom of speech. There are several points to be mindful of. First, it is not up to the Speaker to decide interpretations or questions of law. Second, freedom of speech refers to comments made by Members in the House in connection with a parliamentary proceeding, and as Members know, comments made outside of the House are not protected by privilege. Citation 76(2) of the sixth edition of Beauchesne states in part “the court made it clear that freedom of speech was limited to the floor of the House.” Therefore, the Honourable Member cannot claim his privilege of freedom of speech is violated due to comments or communications outside of the Chamber.

Regarding the issue of the impact on communications with constituents, this aspect of the duties of an elected Member is not covered by the protections of parliamentary privilege, because there is a difference between parliamentary work and constituency work. On March 18, 1987, House of Commons Speaker John Fraser ruled that breaches of mailing and householder guidelines does not obstruct in any way a Member from carrying out the activities for which he or she was elected. Also, as noted on page 90 of Marleau and Montpetit’s House of Commons Procedure and Practice, House of Commons Speaker Sauvé stated on July 15, 1980 in finding there was no prima facie case of privilege in relation to a Member’s constituency work: “While I am only too aware of the multiple responsibilities, duties and also the work the Member has to do relating to his constituency, as Speaker, I am required to consider only those matters which affect the Member’s parliamentary work. That is to say, whatever duty a Member has to his constituents, before a valid question of privilege arises in respect of any alleged interference, such interference must relate to the Member’s parliamentary duties. In other words, just as a Member is protected from anything he does while taking part in a proceeding of Parliament, so too must an interference relate to the Member’s role in the context of parliamentary work.”

Similarly, in 1985 in response to a matter of privilege raised by an MP claiming that his ability to serve his constituents was being infringed or impeded by a departmental directive restricting the release of information about a government program, Speaker Bosley ruled that although the Member may have a complaint, it was not a prima facie case of privilege.

Therefore, with the greatest of respect, for the reasons cited, I must rule that there is no prima facie case of a breach of privilege.

From his decision, Mr. LAMOUREUX 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

ALLAN	MACKINTOSH
ALTEMEYER	MALOWAY
BLADY	MARCELINO
BJORNSON	MARTINDALE
BRAUN	MCGIFFORD
BRICK	MELNICK
CALDWELL	OSWALD
CHOMIAK	REID
DEWAR	ROBINSON
HOWARD	RONDEAU
IRVIN-ROSS	SARAN
JHA	SELBY
KORZENIOWSKI	SELINGER
LEMIEUX	SWAN 28

NAY

BOROTSIK	GRAYDON
BRIESE	LAMOUREUX
CULLEN	MAGUIRE
DERKACH	MCFADYEN
DRIEDGER	MITCHELSON
DYCK	PEDERSEN
EICHLER	ROWAT
FAURSCHOU	SCHULER
GERRARD	STEFANSON
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Prior to Members' Statements, Mr. GOERTZEN rose on a Matter of Privilege and moved:

THAT this matter be referred to the Standing Committee on Legislative Affairs for consideration and report back to the House.

And Hon. Mr. CHOMIAK, Messrs. MCFADYEN and LAMOUREUX and Mrs. MITCHELSON having spoken,

WHEREUPON Mr. Speaker ruled there was no Matter of Privilege.

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

And the Question being put, "Shall the ruling of the Chair be sustained?" As previously agreed to by the House on May 22, 2008, the division is deferred to take place on Monday, June 2, 2008.

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Pursuant to Rule 26(1), Mr. ALTEMEYER, Mrs. ROWAT, Ms. SELBY, Mrs. DRIEDGER and Mr. REID made Members' Statements.

The House then adjourned at 5:02 p.m. until 1:30 p.m. Monday, June 2, 2008.

Hon. George HICKES,
Speaker.