



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 44

SECOND SESSION, FORTIETH LEGISLATURE

PRAYER

10:00 O'CLOCK A.M.

The House resumed the Interrupted Debate on the Proposed Motion of Mrs. STEFANSON:

THAT Bill (No. 200) – The Results-Based Budgeting Act/Loi sur la budgétisation axée sur les résultats, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Messrs. DEWAR, GOERTZEN, GAUDREAU and GRAYDON, Hon. Mr. CHOMIAK and Mr. SMOOK having spoken,

And Ms. WIGHT speaking at 11:00 a.m. The debate was allowed to remain in her name.

Mr. GAUDREAU moved:

Resolution No. 9: United Nations World Day for Cultural Diversity for Dialogue and Development

WHEREAS Manitoba is a multicultural mosaic that was first inhabited by Aboriginal peoples and comprised today of people of diverse international ethnicities; and

WHEREAS since 1999, Manitoba has welcomed over 125,000 new immigrants, with more than 25,000 choosing to live in rural Manitoba; and

WHEREAS Manitobans have come here from 150 countries, speak 148 different languages and have established over 300 different ethnocultural community organizations across the province; and

WHEREAS Manitobans value and celebrate ethnic diversity as evidenced by multicultural organizations and their inclusive year round festivals and events; and

WHEREAS World Day for Cultural Diversity for Dialogue and Development, as recognized by the United Nations, is dedicated to deepening our understanding of and appreciation for cultural multiplicity; and

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WHEREAS in agreement with UNESCO, Manitobans recognize that respect for cultural diversity and universal promotion and protection of human rights, including the right to development, are mutually supportive; and

WHEREAS this day is an opportunity for stakeholders to promote cultural diversity in all its forms including heritage and creative industries which offer goods and services that support prosperity, sustainable development and global peaceful coexistence.

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba commend the United Nations and every cultural organization across this great province for promoting inclusion and acceptance; and

BE IT FURTHER RESOLVED that the Legislative Assembly of Manitoba recommit to welcoming international newcomers to Manitoba and recognize the special talents we are all fortunate to share; and

BE IT FURTHER RESOLVED that all members of the Legislative Assembly of Manitoba pay respect to the first people – the First Nations and Inuit – and all ethnic communities while continuing to work towards greater acceptance of social diversity and be urged to support related opportunities for development.

And a debate arising,

And Messrs. GAUDREAU and GOERTZEN, Hon. Ms. MARCELINO (Logan), Mr. EWASKO, Ms. CROTHERS and Mrs. STEFANSON having spoken,

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

1:30 O'CLOCK P.M.

On motion of Hon. Ms. OSWALD, Bill (No. 45) – The Competitive Drug Pricing Act (Various Acts Amended)/Loi sur les médicaments à prix concurrentiel (modifications de diverses lois), was read a First Time and had its purposes outlined.

The following petitions were presented and read:

Mr. GOERTZEN – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (D. Trueman, D. Trueman, C. Comte and others)

Mr. WISHART – Legislative Assembly of Manitoba to request that the appropriate Ministers of the Provincial Government consider repairing St. Ambroise Provincial Park and its access points to their pre-flood conditions so the park can be re-opened for the 2013 season or earlier if possible. (D. Stoyko, P. Hawk, S. Hawk and others)

Mr. EWASKO – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (V. Hrechkosy, C. Neurenberg, B. Hodgson and others)

Mr. PEDERSEN – Legislative Assembly of Manitoba to urge the Provincial Government to build the Bipole III transmission line on the shorter, more reliable east side of Lake Winnipeg route, in order to save Manitobans from a “BILLION DOLLAR BOONDOOGLE”. (R. Schultz, S. Schultz, P. Philippot and others)

Mr. GRAYDON – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (B. Singbek, P. Dixon, T. McClelland and others)

Mr. BRIESE – Legislative Assembly of Manitoba to request the appropriate ministers of the Provincial Government to consider outlining to Parks Canada the importance that a viable recreational facility in the Mount Agassiz area would play in the local and provincial economies and to consider working with all stakeholders, including Parks Canada, to help develop a plan for a viable, multi-season recreation facility in the Mount Agassiz area. (B. Bonnez, R. Christiansen, H. Bell and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (J. McMillan, D. Lockhead, M. Resch and others)

Mrs. MITCHELSON – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (L. Clark, H. Carroll, J. Christianson and others)

Mr. CULLEN – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (D. Jones, M. Smyk, J. Harrison and others)

Mr. EICHLER – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (E. Vergie, C. Mohr, E. Rupp and others)

Mr. FRIESEN – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (G. Minaker, G. Minaker, P. DeSmedt and others)

Mr. HELWER – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (M. McCarthy, W. Zillman, E. Vanhieuwtmenger and others)

Mr. MAGUIRE – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (J. Klassen, A. Fehr, L. Janzen and others)

Mr. SCHULER – Legislative Assembly of Manitoba to request that the Minister of Local Government afford local governments the respect they deserve and reverse his decision to force municipalities with fewer than 1,000 constituents to amalgamate. (B. Maccooh, A. Kluge, L. Popoff and others)

Mrs. STEFANSON – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (L. Wiebe, G. Poiron, D. Penner and others)

Hon. Mr. STRUTHERS presented:

Supplementary Information for Legislative Review 2013-2014 – Revenue Estimates – Finance.
(Sessional Paper No. 39)

Hon. Mr. SELINGER, the First Minister, made a statement regarding the passing of Elijah Harper on Friday, May 17, a former member of the Legislative Assembly of Manitoba.

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

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

Following the delivery of a ruling by the Speaker on May 13, 2013, the Honourable Member for Portage la Prairie raised a matter of privilege contending that his ability to do his job as an MLA had been impaired by the matter of privilege raised by the Honourable Minister for Infrastructure and Transportation in relation to a protest held at the Portage Water Diversion. The Honourable Member for Portage la Prairie stated that his ability to meet with groups and his constituents had been impaired and that this impairment reflected on all MLAs. He concluded his remarks by moving “THAT this House direct the Member for Thompson to apologize to all victims of the 2011 flood and particularly to this group of protestors that are my constituents.”

The Honourable Government House Leader also offered advice to the Chair. I took the matter under advisement in order to consult with the procedural authorities.

I thank the 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 it been demonstrated that the Member’s privileges have been breached in order to warrant putting the matter to the House?

The Honourable Member for Portage la Prairie indicated that he was raising his matter of privilege at the first available opportunity, that is, immediately after the ruling on the matter of privilege raised by the Honourable Minister of Transportation and Infrastructure had been given. It is evident that the Honourable Member had waited until the Speaker delivered a ruling on the matter that taken under advisement, and I thank him for his patience in waiting to raise the matter, as this is in keeping with the practices of this House.

On the second issue, whether sufficient evidence has been provided to demonstrate a prima facie breach of privilege has occurred, there are a number of considerations that must be taken into account. As always, when dealing with privilege, the Speaker is only considering the procedural aspects and does not rule on the substance of the issues involved.

First, in order for a breach of privileges of the House to have occurred, Joseph Maingot advises on page 222 of the second edition of *Parliamentary Privilege in Canada* the activity in question must involve a proceeding of Parliament. This concept is supported by rulings from Speaker Rocan in 1988 and 1991, by rulings from Speaker Hickes in 2003 and 2008, and in a ruling I delivered to the House on May 13, 2013. As noted in my May 13 ruling to the House, while debate in the Chamber does constitute a proceeding of Parliament, events taking place outside of the Chamber such as a protest do not fall within that purview.

Also, page 117 of O'Brien and Bosc's second edition of *House of Commons Procedure and Practice* specifies complaints are constituency related in nature do not constitute a violation of privilege. Further, Beauchesne citation 92 (sixth edition) states "A valid claim of privilege in respect to interference with a Member must relate to the Member's parliamentary duties and not to the work that the Member does in relation to of Member's constituency. Speaker Parent of the House of Commons ruled in 1997 "in order for a Member to claim that his privileges have been breached or that a contempt has occurred, he or she must have been functioning as a Member at the time of the alleged offence, that is, actually participating in a proceeding of Parliament. The activities of Members in their constituencies do not appear to fall within the definition of a 'proceeding in Parliament'". This finding is supported by rulings given by Speaker Rocan in 1991 and Speaker Hickes in 2004.

Maingot additionally advises on page 14 of the second edition of *Parliamentary Privilege in Canada* "to constitute privilege generally there must be some improper obstruction to the Member in performing his parliamentary work in either a direct or constructive way, as opposed to ... expression of public opinion or of criticisms of the activities of Members."

It is also quite clear that parliamentary privilege offers protection for MLAs, but it is not extended to persons outside of the House who are not MLAs, and this includes constituents. Speaker Fox identified in a 1972 ruling that civil servants do not come within the purview of parliamentary privilege, which was the same finding in a 2004 ruling by Speaker Hickes and in a 2012 ruling by the current Speaker.

I can appreciate that the Honourable Member for Portage la Prairie has strong disagreement with the comments and characterizations made by the Honourable Minister of Infrastructure and Transportation, however I must respectfully rule that in accordance with the procedural authorities referenced and precedents cited, a prima facie case has not been met. This does not preclude the Member from raising his objections or defending his actions in the House during debate or during Oral Questions.

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 division.

Pursuant to Rule 26(1), Mr. FRIESEN, Hon. Mr. ASHTON, Mr. BRIESE, Hon. Ms. MARCELINO (Logan) and Mr. EICHLER made Members' Statements.

In accordance with Rule 27, Mr. PEDERSEN rose on a Grievance.

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In accordance with Rule 31(8), the Government House Leader announced that the Observance of Funeral Customs Resolution will be considered next Tuesday, May 28, 2013.

By unanimous consent, it was agreed that the Speaker would interrupt debate at 5:00 p.m. and call Second Reading of Bill Nos. 33, 22, 21, 23, 25, 36, 38 and 43, with the understanding that The House would sit no later than 6:00 p.m.

By unanimous consent, it was agreed to waive quorum calls and defer any recorded votes arising in the House after 5:00 p.m. for Tuesday, May 21, 2013.

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

THAT Bill (No. 20) – The Manitoba Building and Renewal Funding and Fiscal Management Act (Various Acts Amended)/Loi sur le financement du renouvellement des infrastructures et la gestion financière (modification de diverses dispositions législatives), be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Mrs. MITCHELSON, Mr. SCHULER, Mrs. STEFANSON and Mr. EICHLER having spoken,

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

Hon. Mr. LEMIEUX moved:

THAT Bill (No. 33) – The Municipal Modernization Act (Municipal Amalgamations)/Loi sur la modernisation des municipalités (fusions), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Messrs. LEMIEUX and GERRARD having spoken,

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

Hon. Mr. LEMIEUX moved:

THAT Bill (No. 22) – The Planning Amendment Act (Subdivision Approval)/Loi modifiant la Loi sur l'aménagement du territoire (approbation de lotissements), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Messrs. LEMIEUX and GERRARD having spoken,

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

Hon. Mr. SWAN moved:

THAT Bill (No. 21) – The Highway Traffic Amendment Act (Impoundment of Vehicles — Ignition-Interlock Program)/Loi modifiant le Code de la route (mise en fourrière des véhicules — programme de verrouillage du système de démarrage), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SWAN having spoken,

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

Hon. Mr. SWAN moved:

THAT Bill (No. 23) – The Highway Traffic Amendment Act (Increased Sanctions for Street Racing)/Loi modifiant le Code de la route (sanctions accrues en matière de courses sur route), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SWAN having spoken,

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

Hon. Mr. SWAN moved:

THAT Bill (No. 25) – The Statutory Publications Modernization Act/Loi sur la modernisation du mode de diffusion des publications officielles, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SWAN having spoken,

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

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Hon. Mr. SWAN moved:

THAT Bill (No. 36) – The Public Guardian and Trustee Act/Loi sur le tuteur et curateur public, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SWAN having spoken,

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

Hon. Mr. SWAN moved:

THAT Bill (No. 38) – The Provincial Offences Act and Municipal By-law Enforcement Act/Loi sur les infractions provinciales et Loi sur l'application des règlements municipaux, be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. SWAN having spoken,

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

Hon. Mr. SWAN presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 38).
(Sessional Paper No. 40)

Hon. Mr. CHOMIAK moved:

THAT Bill (No. 43) – The Manitoba Liquor and Lotteries Corporation Act and Liquor and Gaming Control Act/Loi sur la Société manitobaine des alcools et des loteries et Loi sur la réglementation des alcools et des jeux, be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. CHOMIAK having spoken,

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

Hon. Mr. CHOMIAK presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 43).
(Sessional Paper No. 41)

The House then adjourned at 5:58 p.m. until 1:30 p.m. Wednesday, May 22, 2013.

Hon. Daryl REID,
Speaker.