



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 51

THIRD SESSION, FORTY-FIRST LEGISLATURE

PRAYER

10:00 O'CLOCK A.M.

Ms. LAMOUREUX moved:

THAT Bill (No. 229) – The Intoxicated Persons Detention Amendment Act/Loi modifiant la Loi sur la détention des personnes en état d'ébriété, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Ms. LAMOUREUX having spoken,

And Mr. EWASKO, Ms. FONTAINE, Hon. Mr. GERRARD and Messrs. LAGASSÉ and CURRY having questioned the Member,

And the debate continuing,

And Mr. EWASKO, Ms. FONTAINE, Mr. LAGASSÉ and Mrs. SMITH (Point Douglas) having spoken,

And the Question being put. Pursuant to Rule 23(5), the division was deferred to take place at 11:55 a.m. on Thursday, May 24, 2018.

Mrs. MAYER moved:

Resolution No. 16: Celebrating National Indigenous Peoples Day.

WHEREAS First Nations, Inuit and Métis are Canada's Indigenous peoples; and

WHEREAS First Nations, Inuit and Métis peoples are founding partners in the creation of Manitoba; and

WHEREAS June 21st is National Indigenous Peoples Day; and

WHEREAS National Indigenous Peoples Day recognizes and celebrates the many contributions of First Nations, Inuit and Métis peoples to Canada; and

WHEREAS this Provincial Government recognizes that Indigenous knowledge, art and culture helped to shape the province of Manitoba; and

WHEREAS this Provincial Government recognizes the need to continue working towards reconciliation with First Nations, Inuit and Métis peoples; and

WHEREAS this Provincial Government is committed to cultivating a relationship of mutual respect and reconciliation with First Nations, Inuit and Métis people.

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba recognize National Indigenous Day by celebrating the many contributions of First Nations, Inuit and Métis peoples and by reaffirming the commitment to reconciliation with First Nations, Inuit and Métis communities across Manitoba.

And a debate arising,

And Mrs. MAYER having spoken,

And Messrs. KINEW and LAGIMODIERE, Mrs. SMITH (Point Douglas) and Hon. Mr. GERRARD having questioned the Member,

And the debate continuing,

And Messrs. KINEW and LAGIMODIERE and Ms. FONTAINE having spoken,

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

1:30 O'CLOCK P.M.

Hon. Mr. FIELDING, the Minister of Families, made a statement regarding recognizing the work and retirement of Ms. Pat Wege, the former Executive Director of the Manitoba Child Care Association (MCCA).

Mrs. SMITH (Point Douglas) and, by leave, Hon. Mr. GERRARD commented on the statement.

Hon. Mr. CULLEN, the Minister of Crown Services, made a statement regarding Brandon's fires.

Mr. KINEW and, by leave, Ms. LAMOUREUX commented on the statement.

Hon. Mr. GOERTZEN, the Minister of Health, Seniors and Active Living, made a statement regarding MS Awareness Month.

Mr. SWAN and, by leave, Hon. Messrs. GERRARD and FLETCHER commented on the statement.

Pursuant to Rule 27(1), Messrs. TEITSMA, ALTEMEYER and SMITH (Southdale), Ms. LAMOUREUX and Mr. MICHALESKI made Members' Statements.

Following Oral Questions, Madam Speaker made the following ruling:

Following Question Period on May 9, 2018, the Honourable Government House Leader raised a matter of privilege suggesting that the official opposition demonstrated a disrespect of the practices and proceedings of the Legislature and that the privileges of the House had been breached because the Honourable Member for Point Douglas had shared the contents of Bill 223 – The Child and Family Services Amendment Act, with both the public and media before the Bill had been introduced and distributed in the Assembly.

The Honourable Government House Leader concluded his remarks by moving:

“That the Speaker rule that the practices of the Official Opposition, and particularly the Member for Point Douglas, are breaching the parliamentary privilege of all MLAs and are breaking the rules of the Legislative Assembly of Manitoba. The Official Opposition should respect the rules, proceedings and practices of the Manitoba Legislative Assembly and the privilege of all its Members.”

The Honourable Official Opposition House Leader and the Honourable Member for Assiniboia both spoke to this before I took the matter under advisement.

As Members may recall, there are two conditions that must be met to demonstrate a prima facie case of privilege. First, a Member must establish that they raised the issue at the earliest opportunity, and second, the Member must provide sufficient evidence to verify that the privileges of the House have been breached.

Regarding the first condition, the Honourable Government House Leader indicated that he was raising the issue at the first opportunity after receiving and reviewing Bill 223, The Child and Family Services Amendment Act. In my opinion this meets the test of timeliness.

Regarding the second condition, whether there is sufficient evidence to conclude that the privileges of the House have been breached, there are many factors to consider.

I will note first that the following examples reference the actions of Ministers, but in this context the information provided and the conclusions drawn apply to any Member of this House.

Joseph Maingot, on page 224 of the second edition of Parliamentary Privilege in Canada, advises that "a complaint that a Minister of the Crown has made a statement outside the House rather than in the House or that the government provides information only to its supporters in the House may well amount to a grievance against the government, but in the absence of an order in the House forbidding such activity, there is no personal or corporate privilege that has been breached in the doing, and neither does it constitute contempt of the House in the 'privilege' sense."

Further, there have been numerous rulings from the Canadian House of Commons on the subject of press conferences and legislation. I will share one of these with Members, as the findings do have a bearing on the situation in Manitoba. On May 13, 2003, Speaker Milliken delivered a ruling on a question of privilege raised in the House of Commons alleging that information on a Bill was widely available to the media, and that the Minister responsible had gone to Washington to talk to the US Attorney General about the proposed Bill before it was introduced in the House. Speaker Milliken ruled that unless there is considerable evidence that the Minister has made available copies of the Bill to someone else, it is hard for the Chair to find any breach of privileges. He also stated that "of course the Honourable Member I am sure will monitor the situation closely and watch and see if copies are being bandied about in advance, which I admit might be a breach of the privileges if that sort of thing were going on. We do not have evidence of that at the moment, so there is not a question of privilege here."

Looking at Manitoba precedents, Speakers from the last several decades have consistently found in similar circumstances that, as Speaker Walding ruled on June 2, 1983, such a complaint "may be a matter of discourtesy, but it is not a matter of privilege." Manitoba Speakers Phillips, Rocan, Hicke and Reid have all supported this sentiment in subsequent rulings.

I will also observe that the underlying principle here is the primacy and authority of the Assembly. As elected representatives it is our duty to carefully consider the business before us so that we may make informed decisions. Any matter destined for consideration by this body – including legislation – should be introduced and explained here first, before it is shared with the public or the media. This has been the practice of this place for almost 150 years.

In recent years though we have seen this practice evolve. It has become common for Members on all sides of the House to discuss, in general or conceptual terms, potential legislation outside of the House in advance of introduction. These discussions have occurred in the form of consultations with stakeholders, and also through interactions with the media. As long as such discussions do not reveal or relate any detailed provisions of upcoming legislation, the primacy and authority of the Assembly is not infringed upon.

In the current circumstance, I must note that no evidence was provided to the Chair to demonstrate that any specific details of the Bill in question were shared with the media, or anyone else, prior to introduction in the House. This is a crucial point. In the absence of such proof, as your Speaker I have no basis to rule that any privileges were breached.

Accordingly, after careful consideration of all that I have related to the House I must find that a *prima facie* case of privilege has not been established in this matter.

However, I would strongly urge all Members to reflect on the information I have presented today. I would echo Speaker Walding's sentiments and note that while this circumstance does not constitute a breach of privilege, it could be considered discourteous to the Assembly. Should a similar situation occur in the future, as your Speaker I would remain obligated to carefully consider all of the evidence presented and deliver a ruling.

I will leave you with the observation that we live in an era when human communications have experienced unprecedented growth and evolution. The modes of communication available to us, and the pace and manner of our interactions, move at a speed unimaginable to our predecessors. With that in mind I would offer a suggestion that the Standing Committee on the Rules of the House may want to meet to consider whether or not disclosure of Bill contents prior to the introduction and distribution of the Bill should be allowed. I am not stating a preference on this question, I am simply suggesting that the Committee could either confirm the traditional practice, or re-evaluate it in light of modern communication methods. This discussion could also be extended to consider other potential modernizations of our processes and practices.

I thank Members for their careful attention to this ruling.

The following petitions were presented and read:

Mr. KINEW – Présentation d’une demande à l’Assemblée législative du Manitoba afin d’exhorter le gouvernement provincial à effectuer une restauration rapide du poste du sous-ministre adjoint responsable du Bureau de l’éducation française (BEF) et à renforcer l’intégrité du BEF, en assurant le maintien de son personnel et des ressources nécessaires à son bon fonctionnement. (J. Moquin, C. Young, K. Tetrault and others)

Hon. Mr. FLETCHER – Legislative Assembly of Manitoba to urge the Provincial Government to take the necessary steps to ensure that the Vimy Arena site is not used for an addiction treatment facility and to take the necessary steps to ensure the preservation of public land along Sturgeon Creek for the purposes of park land and recreational activities for public use (including being an important component of the Sturgeon Creek Greenway Trail and the Sturgeon Creek ecosystem) under the current designation of PR2 for the 255 Hamilton Avenue location at the Vimy Arena site, and to maintain the land to continue to be designated for Parks and Recreation Active Neighbourhood/Community.

Mrs. SMITH (Point Douglas) – Legislative Assembly of Manitoba to urge the Premier of Manitoba and the Minister of Justice to immediately call a Public Inquiry into the systems that had a role in the life and death of Tina Fontaine as well as the function of the administration of justice after her death and that the terms of reference of a Public Inquiry be developed jointly with the caregivers of Tina Fontaine and/or the agent appointed by them. (R. Cochrane, A. Ingram, J. Mallette and others)

Ms. FONTAINE – Legislative Assembly of Manitoba to urge the Premier of Manitoba and the Minister of Justice to immediately call a Public Inquiry into the systems that had a role in the life and death of Tina Fontaine as well as the function of the administration of justice after her death and that the terms of reference of a Public Inquiry be developed jointly with the caregivers of Tina Fontaine and/or the agent appointed by them.

Hon. Mr. GERRARD – Legislative Assembly of Manitoba to urge the Provincial Government to request Dynacare to reopen the closed laboratories or allow Diagnostic Services of Manitoba to freely open labs in clinics which formerly housed labs that have been shut down by Dynacare and to ensure high quality lab services for patients, and a level playing field and competition in the provision of laboratory services to medical offices as well to address this matter immediately in the interest of better patient focused care and improved support for health professionals. (N. Jason, B. Kawick, M. Cooke and others)

In accordance with Rule 33(7), the Government House Leader announced that the Recognizing Lyme Disease Awareness and Prevention Resolution will be considered on the next Tuesday of Private Members' Business.

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 7) – The Sustainable Watersheds Act (Various Acts Amended)/Loi sur les bassins hydrographiques durables (modification de diverses dispositions législatives), as amended and reported from the Standing Committee on Legislative Affairs:

Mr. ALTEMEYER moved:

THAT Bill 7 be amended in Clause 33

(a) in the proposed clause 45(1)(f), by adding ", which must include an opportunity for public consultation regarding its proposed scheme" after "budgets"; and

(b) by adding the following after the proposed subsection 45(1):

Public consultation in regulation development

45(1.1) In the formation or substantive review of regulations made under subsection (1), the minister must provide an opportunity for public consultation regarding the proposed regulation or amendment.

And a debate arising,

And Mr. ALTEMEYER and Hon. Ms. SQUIRES having spoken,

And the Question being put. It was negatived, on the following division:

YEA

ALLUM
ALTEMEYER
FONTAINE
GERRARD
LAMOUREUX
LINDSEY
MALOWAY

MARCELINO (Logan)
MARCELINO (Tyndall Park)
SARAN
SMITH (Point Douglas)
SWAN
WIEBE 13

NAY

BINDLE	MAYER
CLARKE	MICHALESKI
CURRY	MICKLEFIELD
EWASKO	MORLEY-LECOMTE
FIELDING	NESBITT
FLETCHER	PEDERSEN
FRIESEN	PIWNIUK
GOERTZEN	REYES
GRAYDON	SCHULER
GUILLEMARD	SMITH (Southdale)
HELWER	SMOOK
ISLEIFSON	SQUIRES
JOHNSON	STEFANSON
JOHNSTON	TEITSMA
LAGASSÉ	WHARTON
LAGIMODIERE	WISHART
MARTIN	YAKIMOSKI..... 34

Mr. ALTEMEYER then moved:

THAT Bill 7 be amended

(a) in Clause 67, by adding the following definitions:

"class 1 wetland" means a wetland that usually holds surface water caused by melting snow in the spring for one week or less; (« terre humide de catégorie 1 »)

"class 2 wetland" means a wetland that usually holds surface water caused by melting snow in the spring for more than one week but not more than one month; (« terre humide de catégorie 2 »)

"class 3 wetland" means a wetland that usually holds surface water caused by melting snow in the spring for more than one month but not more than three months; (« terre humide de catégorie 3 »)

"class 4 wetland" means a wetland that usually holds surface water caused by melting snow in the spring for more than three months but not permanently; (« terre humide de catégorie 4 »)

class 5 wetland" means a wetland that holds surface water permanently; (« terre humide de catégorie 5»)

(b) in Clause 71,

(i) by replacing the proposed clause 4.1(2)(c) with the following:

(c) result in the loss or alteration of a class 3, 4 or 5 wetland; or

(ii) in the proposed subsection 4.2(3), by striking out "If the registrar" and substituting "Subject to subsection (5) and section 4.3, if the registrar"; and

(iii) by adding the following after the proposed subsection 4.2(4):

Works affecting class 3, 4 or 5 wetlands

4.2(5) The registrar must not register works or water control works if they are likely to result in the loss or alteration of a class 3, 4 or 5 wetland.

Restoring wetland as condition of issuing registration

4.3(1) Before the registrar registers works or water control works that would result in the loss or alteration of a class 1 or 2 wetland, the applicant must have taken one of the actions specified in subsection 5.1(2) to ensure that there is no net loss of wetland benefits. In that subsection, a reference to the minister is to be read as a reference to the registrar.

Proof of compliance

4.3(2) Subsection 5.1(3) applies to the applicant. In that subsection, a reference to a licence is to be read as a reference to a certificate of registration and a reference to the minister is to be read as a reference to the registrar.

(c) by replacing Clause 72 with the following:

72 Subsection 5(1) is replaced with the following:

Issue of licences

5(1) Subject to sections 5.1 and 7, the minister may issue a licence to an applicant authorizing

(a) the use or diversion of water for any purpose;

(b) the construction, establishment, operation or maintenance of works for any purpose; or

(c) the control of water and the construction, establishment, operation or maintenance of water control works;

if the activities authorized by the licence are not likely to result in the loss or alteration of a class 3, 4 or 5 wetland.

(d) in Clause 73,

(i) in the proposed subsection 5.1(1), by striking out "a prescribed class of wetland" and substituting "a class 1 or 2 wetland";

(ii) in the proposed subsection 5.2(1), by adding "by registration applicants under subsection 4.3(1) or " before "by licence applicants under clause 5.1(2)(a)" ; and

(iii) by replacing the proposed subsection 5.2(2) with the following:

Reporting

5.2(2) The agreement must include a requirement to provide the minister with an annual report no later than September 30 in each year that sets out for the previous year the total amounts received from licence and registration applicants and details of all wetland restoration or enhancement work performed.

Assembly

5.2(3) The minister must table a copy of the report in the Assembly within 15 days of receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

And a debate arising,

And Mr. ALTEMEYER, Hon. Ms. SQUIRES and Hon. Mr. GERRARD having spoken,

And the Question being put on the amendment. It was negated on the following division:

YEA

ALLUM	MARCELINO (Logan)
ALTEMEYER	MARCELINO (Tyndall Park)
FONTAINE	SARAN
GERRARD	SMITH (Point Douglas)
LAMOUREUX	SWAN
LINDSEY	WIEBE 13
MALOWAY	

NAY

BINDLE	MAYER
CLARKE	MICHALESKI
CULLEN	MICKLEFIELD
CURRY	MORLEY-LECOMTE
EWASKO	NESBITT
FIELDING	PEDERSEN
FLETCHER	PIWNIUK
FRIESEN	REYES
GOERTZEN	SCHULER
GRAYDON	SMITH (Southdale)
GUILLEMARD	SMOOK
HELWER	SQUIRES
ISLEIFSON	STEFANSON
JOHNSON	TEITSMA
JOHNSTON	WHARTON
LAGASSÉ	WISHART
LAGIMODIERE	WOWCHUK
MARTIN	YAKIMOSKI 36

Tuesday, May 22, 2018

Hon. Ms. SQUIRES moved:

THAT Bill (No. 7) – The Sustainable Watersheds Act (Various Acts Amended)/Loi sur les bassins hydrographiques durables (modification de diverses dispositions législatives), as amended and reported from the Standing Committee on Legislative Affairs, was concurred in, read a Third Time and passed.

And a debate arising,

And Hon. Ms. SQUIRES, Mr. ALTEMEYER and Hon. Mr. GERRARD having spoken,

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

The House then adjourned at 5:00 p.m. until 1:30 p.m. Wednesday, May 23, 2018.

Hon. Myrna DRIEDGER,
Speaker.