



**LEGISLATIVE ASSEMBLY OF MANITOBA**

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**VOTES AND PROCEEDINGS No. 11**

**FIRST SESSION, THIRTY-EIGHTH LEGISLATURE**

**PRAYER**

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

The following petitions were presented and read:

Mrs. DRIEDGER – Legislative Assembly of Manitoba to request the Minister of Health to consider enhancing training programs for dialysis nurses in Manitoba, such that staffing shortages in this area are filled and to consider the importance of providing short-term dialysis services for out-of-province visitors to Manitoba. (G. Verrier, S. Cummings, B. Chadeffaud and others)

Mr. DYCK – Legislative Assembly of Manitoba to request the Minister of Family Services and Housing to consider changes to the departmental policy that pays family members a reduced amount of money for room and board when they care for their special needs dependents at home versus the amount paid to a non-parental care provider outside the family home and to consider examining on a case-by-case basis the merits of paying family members to care for special needs dependents at home versus paying to institutionalize them. (A. Dyck, J. Olfert, C. Wiens and others)

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Hon. Mr. SALE presented:

Annual Report of the Manitoba Education Research and Learning Information Networks (M.E.R.L.I.N.) for the year ending March 31, 2003.

(Sessional Paper No. 44)

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

Following the Prayer on September 15, 2003, the Honourable Member for River Heights rose on a matter of privilege and alleged that the Honourable Minister of Agriculture misled the House on four occasions regarding agricultural programming. At the conclusion of his remarks, he moved “THAT this matter of privilege I have raised be referred to the Standing Committee on Legislative Affairs.” The Honourable Government House Leader and the Honourable Official Opposition House Leader also offered advice to the Chair on this matter. 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 raise to be considered a prima facie case of privilege. First, was the matter raised at the earliest opportunity, and second, is there sufficient evidence of a prima facie case of privilege that would warrant putting the matter to the House.

Regarding the first condition, the Honourable Member for River Heights indicated that he raised the matter at the earliest opportunity. While raising the matter, he referred to comments that the Honourable Minister of Agriculture made in Question Period on Monday and Tuesday, and then also to comments made by the Minister during estimates on Thursday. If the Honourable Member for River Heights had been basing his arguments solely on comments made on Monday and Tuesday, the matter could have indeed been raised earlier, but given that he also referenced comments made by the Honourable Minister of Agriculture on Thursday, the Hansard of which was not available until the following day, I am satisfied that the matter was raised at the earliest opportunity.

Concerning the second condition of whether or not a prima facie case of privilege exists, there are a number of factors to consider. Joseph Maingot advises on page 241 of the second edition of Parliamentary Privilege in Canada, that “to allege that a Member has misled the House is a matter of order rather than privilege.”

Maingot also advises on page 224 of Parliamentary Privilege in Canada that an admission that a Member had intentionally misled the House would be required in order to establish a prima facie case of privilege. This concept is supported by Manitoba precedents by a ruling from Speaker Walding in 1985, a ruling from Speaker Phillips in 1987, by seven rulings from Speaker Rocan from the period 1988 to 1995, by nine rulings from Speaker Dacquay from the period 1995 to 1999, and by three rulings from the current Speaker during the period 1999 to 2003.

In her 1987 ruling, Speaker Phillips stated “A Member raising a matter of privilege with charges that another Member has misled the House must support his or her charge with proof of intent.” Speaker Dacquay ruled on April 20, 1999, that short of a Member acknowledging to the House that he or she deliberately and with intent set out to mislead, it is virtually impossible to prove that a Member deliberately misled the House.

In raising this matter on September 15, the Honourable Member for River Heights cited the February 1, 2002 ruling by House of Commons Speaker Milliken in the case of former Minister of Defence Art Eggleton as proof that a prima facie case of privilege exists. I believe it is important to advise the House, that in the February 1, 2002 ruling, Speaker Milliken did not find that a prima facie case of privilege existed. In his ruling, Speaker Milliken stated “On the basis of arguments presented by Members, and in view of the gravity of the matter, I have concluded that the situation before us where the House is left with two versions of events is one that merits further consideration by an appropriate committee, if only to clear the air.” He then proceeded to allow a motion to be brought forward, to refer the matter to committee, in order to clear the air.

The matter was referred to the Standing Committee on Procedure and House Affairs, which heard from a number of witnesses on the issue. In its fiftieth report, the Committee reported its findings on this case to the House of Commons. The Committee provided the opinion that Mr. Eggleton had made a mistake but that it was done without any intent to confuse or mislead. In the report, the Committee reiterated that when it is alleged that a Member is in contempt for deliberately misleading the House, the statement must in fact have been misleading, and it must be established that the Member making the statement knew at the time that the statement was made that it was incorrect, and that in making it the Member intended to mislead the House. This principle expressed by the Committee is in keeping with Manitoba practices and precedents identified earlier in this ruling.

I would like to read for the House two of the final three paragraphs of the Committee's report, concerning the topics of intent and incorrect statements.

"Intent is always a difficult element to establish, in the absence of an admission or confession. It is necessary to carefully review the context surrounding the incident involved, and to attempt to draw inferences base on the nature of the circumstances. Any findings must, however, be grounded in facts and have an evidentiary basis. Parliamentary committees charged with examining questions of privilege must exercise caution and act responsibly in drawing conclusions. They must guard against allowing partisanship to colour their judgment. The power to punish for contempt must not be exercised lightly. It exists on those rare occasions when Parliaments ability to function is impeded or compromised.

Incorrect statements in the House of Commons cannot be condoned. It is essential that Members have accurate and timely information, and that the integrity of the information provided by the Government to the House is ensured. Mistakes are made from time to time, and they must be corrected promptly. It is only a deliberately incorrect statement that comes within the meaning of contempt. In the words of Parliamentary Practice in New Zealand: "it must be established that the Member making the statement knew at the time the statement was made that it was incorrect, and that in making it the Member intended to mislead the House."

Given that there was no statement provided which indicated that the Honourable Minister of Agriculture had purposely set out to mislead the House, or an admission by the Honourable Minister that this was indeed her intent, I would rule that there is no prima facie case of privilege. I would however, encourage Ministers, if they have inadvertently provided incorrect information, to advise the House accordingly and to correct the error as soon as possible.

From his decision, Hon. Mr. GERRARD 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	MIHYCHUK
BRICK	OSWALD
CALDWELL	REID
CHOMIAK	ROBINSON
DEWAR	ROCAN
DOER	SALE
IRVIN-ROSS	SANTOS
JHA	SCHELLENBERG
JENNISSEN	SELINGER
KORZENIOWSKI	SMITH
LATHLIN	STRUTHERS
LEMIEUX	WOWCHUK..... 33
MACKINTOSH	

**NAY**

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

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Pursuant to Rule 26(1), Mr. DYCK, Ms. BRICK, Mrs. DRIEDGER, Ms. MELNICK and Mr. MAGUIRE made Members' Statements.

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In accordance with Rule 27, Messrs. TWEED, FAURSCHOU, CUMMINGS and GOERTZEN rose on Grievances.

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**Tuesday, September 23, 2003**

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By unanimous consent, the sequence for consideration of estimates, as outlined in Sessional Paper No. 18 tabled on September 8, 2003, was further amended in order that the estimates of Legislative Assembly be considered in the Chamber following Education and Youth.

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Hon. Mr. SELINGER delivered to Mr. Speaker a message from His Honour, the Lieutenant Governor of the Province of Manitoba as follows:

PETER LIBA  
Lieutenant Governor

The Lieutenant Governor transmits to the Legislative Assembly of Manitoba, revised Estimates of sums required for the services of the Province for Capital Expenditures, and recommends these revised Estimates to the Legislative Assembly.

WINNIPEG, MANITOBA  
September 22, 2003

(Sessional Paper No. 45)

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The House resolving into Committee of Supply. The Proceedings, by leave, were temporarily interrupted to permit Mr. Speaker to resume the chair.

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By unanimous consent, the sequence for consideration of estimates, as outlined in Sessional Paper No. 18 tabled on September 8, 2003, was further amended in order that the estimates of Intergovernmental Affairs be considered in Room 255 prior to Labour and Immigration.

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And the House continuing in Committee.

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The House then adjourned at 5:31 p.m. until 1:30 p.m. Wednesday, September 24, 2003.

Hon. George HICKES,  
Speaker.