



PRAYERS

1:30 O'CLOCK P.M.

The following petitions were presented and read:

Mrs. TAILLIEU – Legislative Assembly of Manitoba to request that the Minister of Transportation and Government Services consider paving Highway 200 between Highways 205 and 305 to ensure a smooth, safe and uninterrupted use of Highway 200. (J. Lemoine, R. Edwards, J. Simundson and others)

Mrs. ROWAT – Legislative Assembly of Manitoba to request the Minister of Transportation and Government Services to consider upgrading PR #355 from the western edge of the RM of Minto to PR #270 (including the hill out of the Minnedosa valley) and to request the Premier of Manitoba to consider supporting the said initiative to ensure the safety of our Manitobans and all Canadians who travel along Manitoba Highways. (M. Northam, D. Northam, J. Raupers and others)

Mr. SCHULER – Legislative Assembly of Manitoba to request the Provincial Government to consider providing East St. Paul with local ambulance service which would service both East and West St. Paul and to consider improving the way that ambulance service is supplied to all Manitoba's by utilizing technologies such as GPS in conjunction with a Medical Transportation Co-ordination Center (MTCC) which will ensure that patients receive the nearest ambulance in the least amount of time and to consider ensuring that appropriate funding is provided to maintain superior response times and sustainable services. (M. Toews, C. Toews, N. Toews and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to request the Legislative Assembly of Manitoba to consider recognizing the need to sit for a minimum of 80 days in any given calendar year. (R. Navarete, A. Gacutan, R. Bantugan and others)

Mr. GOERTZEN – Legislative Assembly of Manitoba to request that the Minister of Family Services and Housing 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 dependants 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 dependants at home versus paying to institutionalize them. (D. Gerbrandt, M. Waldner, T. Friesen and others)

By leave, Mr. REID, Chairperson of the Standing Committee on Legislative Affairs, presented its Third Report, which was read as follows:

Meetings:

Your Main Committee met on the following occasions:

- Thursday, December 2, 2004 at 10:00 a.m. in Room 254 of the Legislative Building
- Tuesday, December 21, 2004 at 1:00 p.m. in Room 255 of the Legislative Building
- Tuesday, March 22, 2005 at 3:00 p.m. in Room 255 of the Legislative Building (in camera)

Your Sub-Committee met on the following occasions. All meetings took place in Room 1023 – 405 Broadway:

- Thursday, January 6, 2005 at 10:00 a.m.
- Monday, January 31, 2005 at 1:00 p.m.
- Tuesday, March 1, 2005 at 1:00 p.m.
- Thursday, March 3, 2005 at 9:51 a.m.
- Friday, March 4, 2005 at 9:00 a.m.
- Monday, March 7, 2005 at 9:30 a.m.
- Tuesday, March 8, 2005 at 9:30 a.m.
- Friday, March 11, 2005 at 1:30 p.m.

Matters Under Consideration:

- Recruitment and Selection of the Children’s Advocate

Motions Adopted and Reported:

Motion adopted at the December 21, 2004 meeting (motion was reported in the 2nd Report of this Standing Committee)

THAT a Sub-Committee of the Standing Committee on Legislative Affairs consisting of:

Kerri Irvin-Ross
Greg Dewar
Kevin Lamoureux
Kelvin Goertzen
Daryl Reid, as Chairperson

be struck to establish the selection criteria, the advertisement, conduct the screening and interviews and provide to this Committee their recommendation of the appointment of the individuals to fill the positions of the Ombudsman and of the Children’s Advocate.

Sub-Committee Report

At the March 22, 2005 meeting, the Sub-Committee reported that it had met in camera on Thursday, January 6, 2005 at 10:00 a.m., Monday, January 31, 2005 at 1:00 p.m., Tuesday, March 1, 2005 at 1:00 p.m., Thursday, March 3, 2005 at 9:51 a.m., Friday, March 4, 2005 at 9:00 a.m., Monday, March 7, 2005 at 9:30 a.m., Tuesday, March 8, 2005 at 9:30 a.m. and Friday, March 11, 2005 at 1:30 p.m.

The Sub-Committee reported that thirty-three applications were received for the position of the Children's Advocate, and from these applications, interviews were held with seven (7) candidates. Interviews were held on March 4, 7 and 8. Following from these interviews, on March 11, the Sub-Committee agreed to recommend to the Standing Committee of Legislative Affairs that Billie Schibler be the nominee for the position of the Children's Advocate in Manitoba.

Items agreed to at the March 22, 2005 Meeting

Your Committee has unanimously agreed to make its report to the Lieutenant Governor in Council with the recommendation that Billie Schibler be appointed as the Children's Advocate for the Province of Manitoba.

On motion of Mr. REID, the Report of the Committee was received.

On motion of Hon. Mr. SELINGER, Bill (No. 24) – The Consumer Protection Amendment Act (Cost of Credit Disclosure and Miscellaneous Amendments)/Loi modifiant la Loi sur la protection du consommateur (communication du coût du crédit et modifications diverses), was read a First Time and had its purposes outlined.

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

During Oral Questions on March 10, 2005, the Honourable Member for Fort Whyte rose on a matter of privilege concerning comments made by the Honourable Minister of Health in a newspaper article dated December 26, 2004, in which the Honourable Minister for Health was quoted as stating that the health budget had been purposely underfunded. The Honourable Member for Fort Whyte indicated that he had given the Honourable Minister of Health several opportunities during Oral Questions to indicate whether the newspaper quote was inaccurate, but the Honourable Minister had not done so. The Honourable Member for Fort Whyte asserted his rights and privileges as a Member has been breached; that obstruction and interference had occurred; and that an improper reflection on the House as a whole had occurred. He concluded his comments by moving "THAT as a result of the seriousness of this breach of privilege that this matter be referred to the Standing Committee on Legislative Affairs. Furthermore, I move that the Minister of Health be requested to apologize to Manitobans and to all Honourable Members of this Chamber for purposely and knowingly misleading Manitobans and the Honourable Members of this Chamber." The Honourable Deputy Government House Leader, the Honourable Member for Carmen, the Honourable Member for Charleswood, the Honourable Member for Inkster and the Honourable Official Opposition 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 first condition, the Honourable Member for Fort Whyte asserted that he was raising the matter at the earliest opportunity. The remarks in question were made outside of the House in December, 2004, during a period of time when the Assembly was not in session; however the matter was not raised until the fourth day that the House resumed sitting in March. Therefore, I have difficulty accepting that the issue was raised at the earliest opportunity.

Regarding the second condition, whether there is sufficient evidence that the privileges of the House have been breached, it is important to determine whether parliamentary privilege has been breached in the actions complained of.

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 the same volume 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 four rulings from the current Speaker, from the period 1999 to the present. In a ruling delivered on April 20, 1999, Speaker Dacquay ruled 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. I carefully read over the comments of the Honourable Minister of Health from March 10, and there was no such admission.

Also, citation 31(3) of the sixth edition of Beauchesne states that "Statements made outside the House by a Member may not be used as the basis for privilege." This is supported by a ruling from Speaker Walding in 1983, by two rulings from Speaker Philips in 1986 and 1987, by six rulings from Speaker Rocan from 1988 to 1995, by a ruling from Speaker Dacquay in 1995, and by a ruling that I made to the House in 2004.

I would also like to share with the House portions of the fiftieth report of the House of Commons Standing Committee on Procedure and House Affairs from 2002, which conducted an examination into the issue of allegations that the former Minister of Defence had misled the House. The Committee dealt extensively with the topics of intent to mislead and incorrect statements, and had the following to say: "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 based 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. 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 that the statement was made that it was incorrect, and that in making it, the Member intended to mislead the House.'"

Wednesday, March 23, 2005

With the greatest of respect, I must rule that the matter is not in order as a prima facie case of privilege.

Pursuant to Rule 26(1), Messrs. CALDWELL and MAGUIRE, Hon. Mr. RONDEAU, Mr. LOEWEN and Hon. Mr. GERRARD made Members' Statements.

The House resolving into Committee of Supply.

Ms. KORZENIOWSKI, Deputy Chairperson of the Committee of Supply, presented the Report of the Proceedings of the Committee of March 21 to 23, 2005 as follows:

IN THE COMMITTEE

The following Resolutions were adopted:

RESOLVED that a sum not exceeding Two Billion, Seven Hundred Forty-Seven Million, One Hundred Twenty-Five Thousand, Ten Dollars (\$2,747,125,010.00), being Thirty-Five Percent (35%) of the total amount to be voted as set forth in Part A (Operating Expenditure) of the Estimates, be granted to Her Majesty for the Fiscal Year ending the 31st day of March, 2006.

RESOLVED that a sum not exceeding Seventy-Nine Million, One Hundred Forty-Six Thousand, Five Hundred Fifteen Dollars (\$79,146,515.00), being Thirty-Five Percent (35%) of the total amount to be voted as set out in Part B (Capital Investment) of the Estimates, be granted to Her Majesty for the Fiscal Year ending the 31st day of March, 2006.

Resolutions were reported and the Report was received.

Hon. Mr. SELINGER moved:

THAT there be granted to Her Majesty on account of Certain Expenditures of the Public Service for the Fiscal Year ending March 31, 2006 out of the Consolidated Fund, the sums of Two Billion, Seven Hundred Forty-Seven Million, One Hundred Twenty-Five Thousand, Ten Dollars (\$2,747,125,010.00), being Thirty-Five Percent (35%) of the total amount to be voted as set out in Part A (Operating Expenditure) and Seventy-Nine Million, One Hundred Forty-Six Thousand, Five Hundred Fifteen Dollars (\$79,146,515.00), being Thirty-Five Percent (35%) of the total amount to be voted as set out in Part B (Capital Investment) of the estimates, laid before the House at the present Session of the Legislature.

And the Question being put. It was agreed to.

On motion of Hon. Mr. SELINGER, Bill (No. 19) – The Interim Appropriation Act, 2005/Loi de 2005 portant affectation anticipée de crédits, was read a First Time and ordered for Second Reading immediately.

Wednesday, March 23, 2005

Hon. Mr. SELINGER moved:

THAT Bill (No. 19) – The Interim Appropriation Act, 2005/Loi de 2005 portant affectation anticipée de crédits, be now read a Second Time and be referred to Committee of the Whole.

And a debate arising,

And Hon. Mr. SELINGER, Messrs. HAWRANIK and GOERTZEN having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to Committee of the Whole.

The House resolving into Committee of the Whole.

Bill (No. 19) – The Interim Appropriation Act, 2005/Loi de 2005 portant affectation anticipée de crédits was considered in Committee of the Whole, reported without amendment, and was concurred in, read a Third Time and passed.

His Honour, John HARVARD, Lieutenant Governor of the Province of Manitoba, having entered the House at 5:10 p.m., and being seated on the Throne:

Mr. Speaker addressed His Honour in the following words:

Your Honour:

The Legislative Assembly of Manitoba asks Your Honour to accept the following Bill:

(No. 19) – The Interim Appropriation Act, 2005/Loi de 2005 portant affectation anticipée de crédits

To this Bill the Royal Assent was announced by the Clerk of the Legislative Assembly in the following words:

"In Her Majesty's name, the Lieutenant Governor thanks the Legislative Assembly, and assents to this Bill".

At 5:12 p.m., His Honour was then pleased to retire.

The House then adjourned at 5:13 p.m. until 10:00 a.m. Thursday, March 24, 2005.

Hon. George HICKES,
Speaker.