



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 40

SECOND SESSION, FORTIETH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

On motion of Hon. Ms. SELBY, Bill (No. 44) – The International Education Act/Loi sur l'éducation internationale, was read a First Time and had its purposes outlined.

The following petitions were presented and read:

Mr. GOERTZEN – 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. (D. Wutzke, R. Maltaiz, D. Bergson and others)

Mrs. ROWAT – 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. (R. Goraluk, K. Goraluk, C. Koss and others)

Mr. PEDERSEN – Legislative Assembly of Manitoba to urge that the Minister responsible for Manitoba Hydro create a complete and transparent "Needs For And Alternatives To" review of Manitoba Hydro's total capital development plan to ensure the financial viability of Manitoba Hydro. (G. A. Rempel, B. Wiens, D. Ronceray and others)

Mr. GRAYDON – Legislative Assembly of Manitoba to urge the Minister of Infrastructure and Transportation to repair or replace the existing bridge as soon as possible to allow communities on both sides of the river to return to regular activities. (N. Sabourin, M. Lavallée, M. Sabourin and others)

Mr. BRIESE – Legislative Assembly of Manitoba to request the Minister of Infrastructure and Transportation to consider making the installation of traffic lights at the intersection of PTH 16 and PTH 5 North a priority project in order to help protect the safety of the motorists and pedestrians who use it. (B. Sumner, J. Fuglsang, N. Nicholson and others)

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

Mr. CULLEN – Legislative Assembly of Manitoba to urge that the Minister responsible for Manitoba Hydro create a complete and transparent "Needs For And Alternatives To" review of Manitoba Hydro's total capital development plan to ensure the financial viability of Manitoba Hydro. (S. Bjornson, S. Jarvis, C. Tanasichuk and others)

Mr. EICHLER – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (S. Warren, A. Hermann, L. Kuryk and others)

Mr. FRIESEN – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (G. McElroy, A. Steinebel, B. Hodgson and others)

Mr. SCHULER – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (T. Stilwell, C. Cameron, D. Conolly and others)

Mr. WISHART – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (M. Moffit, M. Vust, G. Tully and others)

Mr. EWASKO – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (D. Smeltz, F. Smeltz, E. Toms and others)

Mrs. MITCHELSON – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (R. Palmer, M. Wharton, J. Wharton and others)

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

Mrs. STEFANSON – Legislative Assembly of Manitoba to urge the Provincial Government to not raise the PST without holding a provincial referendum. (J. McDonald, M. Spier, L. Hidri and others)

Hon. Mr. ROBINSON, the Minister of Aboriginal and Northern Affairs, made a statement regarding May 12, being Manitoba Day, the 143rd Birthday of the Province of Manitoba.

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

Hon. Mr. ASHTON, the Minister responsible for Emergency Measures, made a statement to provide an update on the ice floe that took place in the community of Ochre River over the weekend.

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

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

Prior to Routine Proceedings on April 30, 2013, the Honourable Minister of Infrastructure and Transportation raised a matter of privilege regarding the actions of the Honourable Member for Portage la Prairie and the Honourable Leader of the Official Opposition in relation to a protest that had occurred the previous day at the site of the Portage Diversion water control structure on the Assiniboine River. The Minister claimed that these actions significantly interfered with his ability as a member of the Legislature and as a minister to provide clear direction to his staff. He concluded his remarks by moving: “That the House direct the Member for Portage la Prairie and the Leader of the Official Opposition to apologize for their role in this serious incident.”

The Honourable Official Opposition House Leader, the Honourable Government House Leader and the Honourable Member for River Heights also offered advice to the Chair. I took this matter under advisement in order to consult with the procedural authorities.

As Members know, 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? Second, has it been demonstrated that the Member’s privileges have been breached in order to warrant putting the matter to the House?

Regarding the issue of timeliness, I am unsure whether or not the Minister raised this matter in the House at the earliest opportunity. As I have stated in previous rulings – including one made on May 8, 2012 – when raising such matters I would encourage Members to clearly explain how they have met the requirement of timeliness, as this would greatly assist the Chair.

On the second issue of whether sufficient evidence has been provided, there are a number of considerations that must be taken into account. I would first like to remind the House that when dealing with privilege, the Speaker is only considering the procedural aspects of the situation raised.

On page 224 of *Parliamentary Privilege in Canada* (second edition) Joseph Maingot advises that parliamentary privilege is concerned with the special rights of members not in their capacity as ministers, party leaders or whips, but strictly in their capacity as members in their parliamentary work. Claims that privilege has been violated relating to a Member’s role as a Minister of the Crown are therefore not the basis for a *prima facie* case of privilege. This perspective has been supported in numerous Speaker’s rulings in this House, including rulings from Speaker Rocan in 1988, 1992 and 1994, rulings from Speaker Hickes in 2000, 2003, 2004 and 2005, and also in rulings I have delivered to this House in 2012.

On page 222 of the same edition Maingot also advises that in order for the privileges of the House to have been breached, the activity in question must involve a proceeding of Parliament. This concept is supported by rulings from Speaker Rocan in 1988 and 1991, as well as by rulings from Speaker Hickes in 2003 and 2008. While debate in the Legislative Chamber does constitute a proceeding of Parliament, events such as a protest do not fall within that purview.

Additionally, *Beauchesne* Citation 31(3) advises that statements made outside the House by a member may not be used as the basis for a question of privilege. Along the same lines, O'Brien and Bosc, on page 614 of *House of Commons Procedure and Practice*, state that the Speaker has no authority to rule on statements made outside of the House by one member against another. Rulings from five previous Manitoba Speakers consistently support the authorities on this point, confirming that comments made outside the Chamber cannot form the basis for a *prima facie* case of privilege. Speaker Walding ruled this way in 1983, as did Speaker Phillips in 1986 and 1987. Speaker Rocan made similar rulings six times between 1988 and 1995, Speaker Dacquay once in 1995. Finally, Speaker Hickes delivered a dozen rulings affirming this principle during his time in the Chair.

I believe it is also worth quoting for the House comments, made by Speaker Parent in 1997 in ruling on a case of privilege in the Canadian House of Commons, as I concur with his sentiment. Speaker Parent stated: "the Chair is mindful of the multiple responsibilities, duties and constituency related activities of all Members and of the importance they play in the work of every Member of Parliament. However, my role as your Speaker is to consider only those matters that affect the parliamentary work of Members."

In consideration of these facts, I would respectfully rule that a *prima facie* case of privilege has not been demonstrated, and that the matter raised is not in order as a matter of privilege.

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During Oral Questions on April 30, 2013, the Honourable Member for Riding Mountain raised a point of order regarding floor comments she attributed to the Honourable Member for Brandon East. She stated the comments were saying a particular issue under discussion was politics and that it would win opportunities in South Winnipeg. The Honourable Government House Leader also spoke to the same point of order. I took the comments under advisement in order to peruse Hansard.

I thank both Honourable Members for their advice to the Chair.

I have reviewed Hansard for the words complained of on April 30, however they do not appear in Hansard.

I would note however, in speaking to the point of order, both the Honourable Member for Riding Mountain and the Honourable Government House Leader debated the substance of the issue in question rather than addressing procedure or a breach of the rules. I would remind the House that a point of order is to be used to draw to the Speaker's attention any departures from the rules or practices of the House or to raise concerns about unparliamentary language. A point of order should not be used to gain the floor to participate in debate as advised by O'Brien and Bosc in *House of Commons Procedure and Practice* on page 632; or to dispute the accuracy of facts according to our rule 40; or as our rule 58 advises, to clarify remarks which have been misquoted or misunderstood.

I would therefore respectfully rule that the remarks in question did not appear in Hansard and I am unable to rule on them.

Monday, May 13, 2013

Prior to Members' Statements, Mr. WISHART rose on a Matter of Privilege regarding the Portage Diversion protest and moved:

THAT the 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.

And Hon. Ms. HOWARD having spoken.

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

Pursuant to Rule 26(1), Mr. WHITEHEAD, Mrs. ROWAT and Messrs. GAUDREAU, GRAYDON and CALDWELL made Members' Statements.

The House resumed the Interrupted 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 proposed amendment moved by Mrs. DRIEDGER as follows:

THAT the motion be amended by deleting all the words after the word "THAT" and substituting the following:

This House declines to give Second Reading to 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), because this House has not received satisfactory evidence or assurances that an increase in the retail sales tax was either considered or recommended at the government's pre-budget consultation meetings.

And the debate continuing on the amendment,

And Messrs. BRIESE and EICHLER and Mrs. MITCHELSON having spoken,

And Mr. GRAYDON 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 10:00 a.m. Tuesday, May 14, 2013.

Hon. Daryl REID,
Speaker.