

Fourth Session - Thirty-Eighth Legislature
of the
Legislative Assembly of Manitoba
DEBATES
and
PROCEEDINGS
Official Report
(Hansard)

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The Honourable George Hickes
Speaker*

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Eighth Legislature

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SWAN, Andrew	Minto	N.D.P.
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WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

Wednesday, March 15, 2006

The House met at 1:30 p.m.

PRAYER

ROUTINE PROCEEDINGS

PETITIONS

Mr. Kevin Lamoureux (Inkster): Wait for the government to arrive maybe, Mr. Speaker, before we start—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Crocus Investment Fund

Mr. Lamoureux: Mr. Speaker, I wish to present the following petition to the Legislative Assembly of Manitoba.

The background to this petition is as follows:

The Manitoba government was made aware of serious problems involving the Crocus Fund back in 2001.

Manitoba's provincial auditor stated "We believe the department was aware of red flags at Crocus and failed to follow up on those in a timely way."

As a direct result of the government not acting on what it knew, over 33,000 Crocus investors have lost tens of millions of dollars.

The relationship between some union leaders, the Premier (Mr. Doer) and the NDP seems to be the primary reason as for why the government ignored the red flags.

We petition the Legislative Assembly of Manitoba as follows:

To request the Legislative Assembly of Manitoba to consider the need to seek clarification on why the government did not act on fixing the Crocus Fund back in 2001.

To urge the Premier and his government to cooperate in making public what really happened.

Signed by H. Hartley, G. Hartley and R. Hartley and many, many others.

Mr. Speaker: In accordance with our Rule 132(6), when a petition is read it is deemed to be received by the House.

Highway 10

Mrs. Leanne Rowat (Minnedosa): I wish to present the following petition.

These are the reasons for this petition:

A number of head-on collisions, as well as fatal accidents, have occurred on Highway 10.

Manitobans have expressed increasing concern about the safety of Highway 10, particularly near the two schools in Forrest where there are no road crossing safety devices to ensure student safety.

Manitobans have indicated that the deplorable road condition and road width is a factor in driver and vehicle safety.

It is anticipated that there will be an increased flow of traffic on this highway in the future.

We petition the Manitoba Legislative Assembly as follows:

To request the Minister of Transportation and Government Services (Mr. Lemieux) to consider providing sufficient resources to enhance driver and vehicle safety on Highway 10.

To request the Minister of Transportation and Government Services to consider upgrading Highway 10.

This petition is signed by S. McMurachy, R. Bilcowski and D. Illerbrun and many, many others.

Funding for New Cancer Drugs

Mrs. Heather Stefanson (Tuxedo): Mr. Speaker, I wish to present the following petition.

These are the reasons for this petition:

Cancer is one of the leading causes of death of Manitobans.

Families are often forced to watch their loved ones suffer the devastating consequences of the disease for long periods of time.

New drugs such as Erbitux, Avastin, Zevalin, Rituxan, Herceptin and Eloxatin have been found to work well and offer new hope to those suffering from various forms of cancer.

Unfortunately, these innovative new treatments are often costly and remain unfunded under Manitoba's provincial health care system.

Consequently, patients and their families are often forced to make the difficult choice between paying for the treatment themselves or going without.

CancerCare Manitoba has asked for an additional \$12 million for its budget to help provide these leading-edge treatments and drugs for Manitobans.

Several other provinces have already approved these drugs and are providing them to their residents at present time.

We petition the Legislative Assembly of Manitoba as follows:

To request the Premier (Mr. Doer) of Manitoba and the Minister of Health (Mr. Sale) to consider providing CancerCare Manitoba with the appropriate funding necessary so that they may provide leading-edge care for patients in the same manner as other provinces.

To request the Premier of Manitoba and the Minister of Health to consider accelerating the process by which new cancer treatment drugs are approved so that more Manitobans are able to be treated in the most effective manner possible.

This petition is signed by Steve Jackson, Paul Ramm, Carly Bergstrom and many others.

* (13:35)

ORAL QUESTIONS

Children in Care Monitoring Process

Mr. Stuart Murray (Leader of the Official Opposition): Mr. Speaker, as more facts become known surrounding the tragic life of five-year-old Phoenix Victoria Sinclair, the more concerned we are that this NDP government is failing to discharge its legal, moral and ethical duty to protect children at risk in our province. Internal reviews will be done. The Chief Medical Examiner's office will investigate as required under The Fatality Inquiries Act and the RCMP will conduct a criminal investigation.

Mr. Speaker, The Child and Family Services Act program standards, policies and procedures are in place to protect children. That is the responsibility of this Premier and this government. Clearly, this Premier and this government failed Phoenix.

My question is to the Premier: What steps has he taken? What directive has he given his minister to ensure that they discharge their duty to protect children and ensure that no other Manitoba child will fall through the cracks?

Hon. Gary Doer (Premier): Mr. Speaker, there is no question that the 6,000 children that are under the care and custody of the provincial child welfare system are the responsibility of the government, and we accept that responsibility. There is also no question that the other children that may not be under care but have been under care before, certainly there are a lot of legitimate questions about that situation. There are also issues before the justice system which, of course, there are very serious allegations dealing with the horrific circumstances of this case. I know all of us will want to see that pursued in the most effective way possible.

We know that there will be investigations. We have not yet received answers to all the questions we have. We know that those questions will also be asked by an independent person, the Chief Medical Examiner. We certainly are accountable for not only the questions that are asked but the answers that are given, and the systems that produce those answers. If there are answers that are wanting, we are also responsible for making the improvement to our child protection system.

Mr. Murray: Again, my question is to the Premier about processes that are in place now. The Premier and this NDP government are responsible for ensuring that during the process of devolution of Child and Family Services, no child is placed at risk due to the transfer of files. Program standards, policies and procedures are in place that set out the process for transferring files from one agency to another.

My question is to the Premier: What was the established process for transferring files of children in care during devolution?

* (13:40)

Mr. Doer: Mr. Speaker, I want to point out that files being transferred from one agency to another, and I want to point out also that years ago I also did a review under the juvenile justice committee for

former Justice Minister Mercier about a lot of issues of child protection, child custody, lockups, the unnecessary lockups, the lack of legal rights. I would point out that the issue of protocols that are in place are ones that have existed almost from the beginning of Child and Family Services or the child welfare agency of Winnipeg.

There were three agencies in Winnipeg alone based on primarily religious criteria for children, and, then, of course, many children moved from one part of Manitoba to another part. There was a lot of movement of children in and out of the urban areas to either rural or northern areas that require supervision transfers from one agency to another. There is established criteria for that.

The issue here that raises questions, Mr. Speaker, is the issue of the preliminary information that the person involved and the supervisor involved on the case and in the case made a certain determination. I know they will be using and had used their best professional judgment. The questions therefore become for all of us: What was the follow-up? Was that adequate? Was it inadequate? What are the gaps in the system and the accountability for which we accept as our responsibility?

Mr. Murray: Manitobans are gravely concerned that children in need of protection are not being kept safe and secure by this NDP government. Manitobans are concerned that this Premier and his government are failing to discharge their legal, their moral and their ethical responsibility, Mr. Speaker, to ensure that children in care are not being placed at risk with tragic consequences.

This Premier must accept this responsibility and tell Manitobans what he has done and what he is going to do to ensure that no other Manitoba child in need of protection falls through the cracks.

Mr. Doer: The member mentions government preventing any children at risk, Mr. Speaker. The kids, unfortunately, who are brought into custody are very vulnerable and are at risk to begin with. The 6,000 children that are in direct custody of the minister and the Department of Family Services and all their agencies are at risk to begin with. That is why intervention has either been required by the courts or by the social worker system because the children are at risk.

This is a horrific incident that requires major follow-up and accountability for all of us and we accept that responsibility. I believe, in terms of child

protection, we have increased our budget. If I can recall the numbers for child protection, from \$107 million to, I believe over 100 or close to \$80 million. I think there is even a 16 percent increase in the child protection budget contained within the budget before the Legislature.

There is no question that this is a horrific, horrific tragedy and we will be accountable. We will follow up on all the internal investigations and questions that we have not yet had answered, and the Chief Medical Examiner will follow up. If the Chief Medical Examiner feels there are systemic problems that go beyond this individual case, which, as I say, is horrific, we will be very, very prudent to implement their recommendations.

We are very saddened and I think every member of this Chamber is horrified by what happened. As I say, there is a justice system that will be very, very accountable for the follow-up of the allegations made, but there are answers to questions I have not yet had answered and I am sure the public feels the same way.

Children in Care Monitoring Process

Mrs. Mavis Taillieu (Morris): The Minister of Family Services has admitted she closed the file on Phoenix Sinclair in March of 2005, three months before the little girl died. Mr. Speaker, 2,600 case files were to be transferred from Winnipeg Child and Family Services to the authorities at that time.

Will the minister confirm that the process was for all files to be closed at Winnipeg Child and Family Services, transferred to the authorities and then all files reopened by the authorities?

* (13:45)

Hon. Christine Melnick (Minister of Family Services and Housing): Mr. Speaker, I cautioned yesterday about putting misinformation on the record. Unfortunately, this question is wrought with misinformation.

Let me describe the process of closing a case, first of all. The active social worker will do a risk assessment based on the current and past history of the case. He or she will make a recommendation to their supervisor. There will be a discussion. There will be a decision made by both professionals as to whether or not the case should be closed. So I think it is very important that we start looking at the real process here.

Mrs. Taillieu: Well, Mr. Speaker, we have been told by people in the system that all files at Winnipeg Child and Family Services were closed in preparation for the devolution of the child welfare system. They were to be closed, transferred and reopened. The minister is guilty of misleading by omission when she said Phoenix Sinclair's file was closed, suggesting it was closed because she was returned to the family. Phoenix Sinclair's file was closed because of her processes and not reopened.

I ask this minister: How many more children are at risk because their files are closed and not reopened?

Ms. Melnick: Again, we have the Member for Morris providing misinformation inside this House. The process was that there would be an authority determination process which took place from the spring of '03 to the spring of '04. It was only—

Mr. Speaker: Order.

Point of Order

Mr. Speaker: The honourable Official Opposition House Leader, on a point of order.

Mr. Leonard Derkach (Official Opposition House Leader): Yes, Mr. Speaker, on a point of order. This is a very serious and a very important matter.

I have to say that I appreciate the Premier's (Mr. Doer) answers to the questions that were posed by the Leader of the Opposition (Mr. Murray). But, the critic for Family Services is asking a question to the minister. She has asked a question. The information that she is seeking is up to the minister to answer. The statements that were made by the Member for Morris were with regard to information she has received. It is up to the minister to answer the question, not to allege that this is all misinformation. If, in fact, the minister has better information then it is up to her to answer the question, not partially answer the question but completely answer the question.

This is a very serious matter, Mr. Speaker. Manitobans, the Aboriginal people of this province, are watching what the answers and the questions are to this matter. This is a very serious matter and I expect that the Minister of Family Services, instead of putting innuendo on the record, is going to answer the questions that are posed to her.

Mr. Speaker: The honourable minister, on the same point of order?

Ms. Melnick: No, sorry.

Mr. Speaker: On the point of order raised by the honourable Official Opposition House Leader, the only point of order I could rule, in the book, that I could determine from his point of order, is 417. There has been an agreement struck by all House leaders that points of order regarding *Beauchesne* Citations 492, 410, 417, 408(2) are not to be raised during Question Period because we have allowed 45 seconds for questions and answers for the individuals. If they are not satisfied with the response, they have the chance for a rebuttal. That is why we even allow preambles to supplement your questions that we have never allowed in the past.

So, I have to rule that there is no point of order, because unless there is a new arrangement that is agreed to by the House, I am directed by the agreement that is in place that was negotiated by all the House leaders.

* * *

Mr. Speaker: The honourable minister, to continue.

Ms. Melnick: Thank you, Mr. Speaker. The authority determination process in which each case was reviewed, and there was a determination as to which authority each case would go, took place between the spring of 2003 and the spring of 2004. The transfer of cases in Winnipeg took place in the spring of 2005. Cases were not closed and then reopened, cases were transferred. The transferring of cases is not a new procedure in child welfare services. The transferring of cases takes place on a regular basis depending on the needs of the child and within the best interests of the child. This is the process that was set forward and that was gone through for some 6,000 children in care in Manitoba.

* (13:50)

Mrs. Taillieu: Mr. Speaker, again the understanding that I have is that there may have been a transfer of files from Winnipeg Child and Family Services to the general authority, but the other authorities the directive was that those were to be closed, transferred and reopened.

Phoenix Sinclair's file was closed along with 2,600 other files and that file was not reopened and she is now dead. How many other children are at risk because files were closed and not reopened? How many more children will fall through the cracks because this minister has not bothered to ensure that these files were reopened?

Ms. Melnick: Again, as was established yesterday, the closing of the file of the five-year-old was not part of the devolution process and that has been recognized, Mr. Speaker, by most people at this point. The process of preparing a file to move from one agency to another, which could be a new authority, was a process of determining which was the best authority for the file to reside under and then preparing a transfer, not a closure, a transfer of the file. Again this is not a new phenomenon. This has been part of the process of child welfare agencies since they began.

Aiyawin Corporation Auditor General's Report

Mr. Stuart Murray (Leader of the Official Opposition): Mr. Speaker, time after time Manitoba's Auditor General has initiated investigations into this NDP government. We have seen report after report outline how the government has mishandled, mismanaged, failed to be accountable, failed to do the special duty to oversee expenditures, failed to do due diligence. It is a history of bad bungling.

Yesterday's report on the Aiyawin Corporation indicated that red flags had been raised with this government in 2002, but, Mr. Speaker, what did they do? Well, it seems that there is a pattern with this Premier and this NDP government. They hear concerns about mismanagement and nepotism; they do nothing. They see red flags and they keep funding. Allegations come to their attention and they think it is better to close their eyes, cross their fingers and hope that it will be better.

Mr. Speaker, this is no way for a Premier to run a province. I ask the Premier: Why did it take them 18 months to call for an operational review?

Hon. Gary Doer (Premier): I would point out that the Auditor General's office has received a 38 percent funding increase, and it is in the—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: —a 38 percent increase in funding since we came into office, and the authority and power of the Auditor General's office has been dramatically increased and improved to deal with the issue of following money directly and indirectly to agencies and private grants to corporations. We felt that it was important to extend that power for the public protection.

There were two issues of housing that were referred to the Auditor General from this government. One dealt with the Lions Club housing project that was basically an issue that came to our attention from our transition in government with questions of financial impropriety, quite a bit actually, in dealing with the Lions Club. We then initiated an audit to deal with the accountability. As I say, it was an issue of housing that preceded us, and we referred that to the Auditor General.

There are some 400 agencies that are responsible for housing. In the case of this agency, it is 75 percent funded by the federal government, 25 percent funded by us. When the operational review did take place, the minister moved to deal with it, both the Auditor and taking over the management of the agency.

Mr. Murray: Frankly, hats off to the Auditor General because the only way the public is being protected is when they have to investigate the mismanagement of this government.

Mr. Speaker, I refer to the Auditor General's report, the title of it in itself, *The Consequences of Mismanagement in a Shared-Responsibility Framework*. We know that people came forward to the NDP government with concerns in 2002, yet, despite this information, the Premier continued to flow taxpayers' money. This Premier put public money at risk because his government turned a blind eye to the red flags.

My question is very simple to this Premier: Can he explain to all Manitobans his red-flag-more-funding policy?

* (13:55)

Mr. Doer: Mr. Speaker, we took over the management of the 75 percent funded federal agency in 2004, and I believe we took over the Lions housing project in 2000. We initiated, with the Auditor General, the Lions housing project which is one of 400 projects. We initiated that investigation. In the case of this housing project, it was initiated: a) through the media, I believe, and, b) through the Auditor General backed up with an operational report.

When the operational report hit the minister's desk, action was taken to change the management of the corporation without affecting the residents. We accept the fact that in 400 arm's-length housing agencies of government and another 200 arm's-length social service agencies of government, not all

of them are perfect. Here we have a case where the government initiated action on one and the Auditor and the media, to their credit, initiated action on another.

Mr. Murray: Mr. Speaker, mismanagement, insufficient supervision by this NDP government led to a conflict of interest and a waste of taxpayers' dollars. Yesterday, in his report, the Auditor clearly laid out how this NDP government had failed to do their job again. In fact, one of the quotes from the Auditor General said that there has been a rapid growth of credible allegations of unethical behaviour. That is the Auditor General's assessment.

Mr. Speaker, let me remind this Premier that this is not the first time or report that has highlighted the NDP's mismanagement and bungling. They have mismanaged Hydra House. They have mismanaged Crocus. They have mismanaged, with red flags, WCB, and all those reports show a consistent pattern; poor judgment, lacking accountability and this failure for this Premier to recognize red flags and act accountable.

My question is: How many more red flags and how many more reports will it take for this Premier to do his job?

Mr. Doer: I would point out to members opposite that we have had two audits of the 400 agencies dealing with housing and one was at the Lions Club. In fact, I think we were even criticized for referring it to the Auditor General. We did not stand up and accuse the other side when they were in government of being irresponsible because we understand that, with 400 housing agencies, if the other side was in government and it came to their attention they would have acted the same way as the former minister of housing did with that project.

In this case, I would say that there have been, based on the Auditor General's report and our own operational review, actually before the Auditor General's report, based on our own operational review there are some other follow-up reviews going on in other housing projects.

I would say that the majority of the 400 arm's-length housing projects that are being run by church groups, by community groups, by service clubs and by other organizations, the majority of those 400 agencies and housing projects are being run by very good volunteers, being run by very good staff and provide a very good service to people who are very,

very vulnerable, often living in very, very serious poverty situations. We can accept the responsibility—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: I think it is very important to maintain responsibility for the report that was issued. We have maintained responsibility for the report issued on the Lions Club and point out the good work a lot of these people do at the grass-roots level of housing here in Manitoba, Mr. Speaker.

* (14:00)

Aiyawin Corporation Auditor General's Report

Mr. Kelvin Goertzen (Steinbach): Changing articles of incorporation improperly, missing minutes, inappropriate payment of bonuses, no documented tendering process, knowingly breaching the operating agreement, failure to keep policies and procedures up to date, no process to verify expenses, lack of required membership, these are just some of the findings of the Auditor General in another NDP scandal.

The minister knew about these mismanagements back in 2002, and for 18 months she did nothing. Why does she not just stand up and admit that she is incompetent, Mr. Speaker?

Hon. Christine Melnick (Minister of Family Services and Housing): Well, Mr. Speaker, if you read as far as page 9, you will see one of the first lines of many comments that the Auditor makes in regard to the continual refusal to provide information and disregard of budget and Replacement Reserve requirements breached the Aiyawin contract.

Now we were continuing to request information. We attempted to work in a co-operative way. We realized that we did not have the partners across the table we needed, and the decision was made to terminate the agreement with Aiyawin and transfer to DOTCHAI in October 2005.

Mr. Goertzen: Crocus, Hydra House, Workers Compensation Board; the Auditor General says there are 10 more years of work to do. Manitobans cannot afford one more year of this NDP government, Mr. Speaker. The NDP government operates in a culture of incompetence and it hurts children, it hurts taxpayers, it has hurt shareholders, it has hurt educators, it has hurt injured workers and on and on.

In every other organization somebody stands up and says, I am responsible for this mess. We have many suspects, but we want somebody to stand up and say, I am the incompetent person who is responsible for this, Mr. Speaker.

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Hon. Gary Doer (Premier): Mr. Speaker, the only difference between the two sides is when members opposite lost about \$1.5 million in the Lions housing project, they did not take responsibility. We have taken responsibility in this case and I would point out—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: I would point out, Mr. Speaker—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: Mr. Speaker, I would point out that the number of workers who are injured and killed in Manitoba since this government came into place has decreased by 20 percent. I would point out that the number of families that therefore have a loved one coming home to dinner, based on policies put in place by this government, is over 1,500 additional families a day, and do not have a family member who is hurt or injured at the workplace. We need no lectures from members opposite about injured workers and the ability to prevent injuries at the workplace around Manitoba.

Mr. Goertzen: The lectures that this government gets are coming from the Auditor General. They are coming almost on a weekly basis, lecture after lecture about incompetence, mismanagement and scandal. The Auditor General states, there has been a rapid growth of credible allegations of unethical behaviour in this NDP government.

The Auditor General is a man who chooses his words carefully. The culture of incompetence that permeates this government, that permeates the Premier's Office, has cost the shareholders of Crocus, has cost taxpayers through Crocus and it has cost children. We heard it today; it has cost injured workers. It has cost educators. We will clean up this NDP mess, but for today we want somebody to stand up and say they are incompetent and they are responsible, Mr. Speaker.

Mr. Doer: Mr. Speaker, I note today, besides the inaccuracies of the member opposite, that—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: Thank you, Mr. Speaker. I notice today that Stats Canada is reporting on an increase in manufacturing of \$103 million in Manitoba. Seven provinces had a decrease in January. Manitoba had a \$103-million increase over last year. That is why the people of Manitoba know who is on their side and who is not.

Aiyawin Corporation RCMP Investigation

Hon. Jon Gerrard (River Heights): Mr. Speaker, the Hydra House scandal, the Crocus scandal, the Workers Compensation Board scandal and now the Aiyawin Corporation scandal are all very similar in many ways. All show financial and administrative incompetence on the part of this NDP government. With respect to the Aiyawin Corporation, the Auditor General has exposed very serious mismanagement of funds.

My question to the Premier is this: Will the Premier (Mr. Doer) be referring the documented financial irregularities and misspent money to the RCMP and the Canada Revenue Agency for their review and investigation?

Hon. Christine Melnick (Minister of Family Services and Housing): Mr. Speaker, in the letter that I wrote to the OAG requesting that he look into this, I asked, as part of his investigation, if he would look into any concerns around theft and fraud. Now the report came back without a recommendation to move forward on any concerns around theft and fraud. I believe the Auditor General himself spoke of this yesterday saying he did not find reason to further any concerns around theft and fraud. We have accepted the report, we have accepted the recommendations and we accept what the Auditor has put in this report.

Mr. Gerrard: Mr. Speaker, as I read the report there is \$10,000 that was spent for nothing, given to the general manager from the contractor out of money that had been paid for no services at all. There were funds that were paid to the exclusive contractor for work that was done by the maintenance staff. There were clearly practices which would not stand up in any court.

I think that it is inappropriate that this government is not following up. There is reference here to things that were inappropriate from the point of view of the Canada Revenue Agency. If the government is going to let abuses of this kind occur without referring them to the RCMP and the Canada Revenue Agency, it is going to be a licence for others to do the same sort of thing.

Will this government stand up and refer these matters to the RCMP and the Canada Revenue Agency?

Ms. Melnick: Again, Mr. Speaker, we asked the Auditor to include in his investigation any concerns around theft and fraud. He did not come back with a recommendation to do so. The concerns that were raised by the member are concerns to us. Receiving this report, we can look at further actions ourselves.

I do want to share with the House that we have the same concerns that the member has outlined today, but we also reclaimed over \$200,000 from the former Aiyawin Corporation. We were very concerned about these issues, and we will be reviewing this report and taking actions we feel are appropriate.

*(14:10)

Crocus Investment Fund Public Inquiry

Hon. Jon Gerrard (River Heights): Mr. Speaker, when there is clearly money that was spent in areas where it never should have been spent, when the reserve accounts were depleted by more than \$700,000 and that money is now missing and gone, there are clearly problems if this government cannot even look at the report and do its own evaluation. You know, quite frankly, we would have expected a lot better. That is why we are calling from time to time for independent reviews and that is why we need, when it comes to things like the Crocus scandal, a public inquiry.

I would ask the Premier: When is he going to call the public inquiry into the Crocus Investment Fund?

Hon. Gary Doer (Premier): Mr. Speaker, I know the Auditor General has reported to the public. Normally these reports go to the Deputy Minister of Justice. It will, in terms of any questions the member will raise, and, obviously, these reports are available to the Canadian taxation collection agency. The minister is implementing the recommendations of the Auditor General, but we will double-check to make

sure that the Deputy Minister of Justice has received the report.

Crocus Investment Fund Public Inquiry

Mr. Stuart Murray (Leader of the Official Opposition): Mr. Speaker, with the latest report that the Auditor General has given to Manitobans, in that report he once again makes reference to something that we see a pattern with this NDP government, missed red flags. It is not the first red flag that this government has missed. We saw it with Crocus. We saw it with the WCB, Workers Compensation Board, which, by the way, they had somebody come forward with a red flag in the name of the CEO and president, Ms. Pat Jacobsen. What did they do? They fired her and ran her out of town.

Now we see the Auditor General coming forward with Aiyawin Corporation, with another report. What is in it? It is the same pattern, missed red flags. I would say to this Premier, Manitobans expect a Premier who is open and who is accountable to all taxpayers. The Auditor General is promoting red flags.

I would ask this Premier if he wants to be transparent and if he wants to be accountable. If he has nothing to hide, do the right thing and call for an independent public inquiry.

Hon. Gary Doer (Premier): I think in the committee on December 9, or 7 and 8, the question was asked about the so-called e-mail, and the Auditor General testified at the committee under questions from the Member for Lac du Bonnet (Mr. Hawranik) that the e-mail never went above the ADM and never went to a DM or a Cabinet minister.

Mr. Murray: Mr. Speaker, as I have said, as I have asked this Premier, if he wants to be transparent and accountable he knows the right thing to do. We always hear from this Premier, he uses the phrase, well, you cannot handle the truth.

I would ask this Premier, if he has nothing to hide, the media wants to know the truth; his former Minister of Industry wants to know the truth; his mentor, the former Premier of Manitoba, wants to know the truth. We, on this side of the House, want to know the truth. The CEO, Pat Jacobsen, of Workers Compensation wants to know the truth. The only person who does not want to know the truth in this Chamber is the Premier.

If he has nothing to hide, stand today and call for an independent public inquiry. We can handle the truth. Can you?

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: Mr. Speaker, last Friday the member in the Chamber, in his rant and rave, raised the question of the so-called e-mail. When we produced the testimony of the Auditor General in the committee they ignored it. Then they came back three Question Periods later and the Member for River Heights (Mr. Gerrard) says to justify the inquiry, the issue of the board answering. Well, on page 109, it is already in the Auditor General's report. I suggest members opposite read the report.

Mr. Murray: Mr. Speaker, this Premier knows full well that the Auditor General, in looking into Crocus, admitted he did not have a chance to do all of the examination that he would like to do. This Premier likes to say that the Manitoba Securities Commission will investigate this scandal into Crocus. We support that, but clearly what is required to deal with this report from the office of the Auditor General on Aiyawin, this report on Workers Compensation Board, and the granddaddy of them all, this report on Crocus, is for this Premier to do the right thing, to come in under oath, put his hand on the Bible and swear to tell the truth, the whole truth. The only way that is going to happen is if this Premier has nothing to hide and calls for an independent public inquiry. Do it today.

Some Honourable Members: Oh, oh.

Mr. Speaker: Order. The honourable First Minister has the floor.

Mr. Doer: Well, thank you, Mr. Speaker. The Auditor General's report and then Mr. Rosen, the forensic auditor for the Crocus Fund, for the lawsuit, made it very clear that the officers of the fund were responsible initially for the decisions made by the Crocus Investment Fund.

Mr. Speaker, Mr. Umlah was hired in 1992 and 1993. Some of the same people that were standing up cheering—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order.

Mr. Doer: Thank you, Mr. Speaker. The same people who went and visited the Leader of the Opposition's office were not hired under our watch. I would point out that David Filmon was never a friend of this government.

Some Honourable Members: Oh, oh.

Mr. Speaker: Order. The time for Oral Questions has expired.

Speaker's Ruling

Mr. Speaker: I have a ruling for the House.

Following Oral Questions on Friday, March 10, 2006, the honourable Member for River Heights (Mr. Gerrard) raised a matter of privilege regarding the dignity of the provincial floral emblem and the coat of arms. He went on to state that the government was not upholding the dignity of the crocus as a provincial symbol by failing to ensure that things were going properly at the Crocus Investment Fund. He concluded his remarks by moving that this matter of privilege be referred to a standing committee of the Legislature. The honourable Government House Leader and Official Opposition House Leader also offered comments to the Chair. I took the matter under advisement in order to consult the procedural authorities. I thank all members for their advice to the Chair in this matter.

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.

The honourable Member for River Heights asserted that he raised the matter as a result of events that came clear to him on Wednesday evening, March 8, at the Victoria Inn. However, if this is the case, then the issue could have been raised in the House on Thursday, March 9.

Regarding the second issue of whether a prima facie case was demonstrated, I would note for the House that Joseph Maingot advises on page 224 of the Second Edition of *Parliamentary Privilege in Canada* that allegations of misjudgement or mismanagement or maladministration on the part of a minister in the performance of his or her ministerial duties does not come within the purview of parliamentary privilege. This finding is supported by

one ruling from Speaker Rocan in 1994 and three rulings from Speaker Dacquay in 1996.

I would therefore rule that the matter raised is not in order as a prima facie case of privilege.

* * *

Mr. Kevin Lamoureux (Inkster): Mr. Speaker, with respect, I would challenge the ruling of the Chair.

Mr. Speaker: Does the honourable member have support?

Some Honourable Members: Agreed.

Mr. Speaker: Okay. The honourable member has support.

The ruling of the Chair has been challenged.

Voice Vote

Mr. Speaker: All those in favour of sustaining the ruling of the Speaker, say yea.

Some Honourable Members: Yea.

Mr. Speaker: All those opposed to sustaining the ruling of the Chair, say nay.

Some Honourable Members: Nay.

Mr. Speaker: In my opinion, the Yeas have it.

Formal Vote

Mr. Lamoureux: Mr. Speaker, I would request Yeas and Nays please.

Mr. Speaker: Does the honourable member have support?

Some Honourable Members: Yes.

Mr. Speaker: Okay, the honourable member has support. A recorded vote having been requested, call in the members.

* (15:20)

Order. Sixty minutes has expired. Please shut the bells down.

The question before the House is shall the ruling of the Chair be sustained.

Division

A RECORDED VOTE was taken, the result being as follows:

Yeas

Aglugub, Allan, Altemeyer, Ashton, Bjornson, Brick, Caldwell, Chomiak, Dewar, Doer, Irvin-Ross, Jennissen, Jha, Korzeniowski, Lemieux, Mackintosh, Maloway, Martindale, McGifford, Melnick, Nevakshonoff, Robinson, Rondeau, Sale, Santos, Schellenberg, Smith, Struthers, Swan, Wowchuk.

Nays

Cullen, Derkach, Driedger, Dyck, Faurshou, Gerrard, Goertzen, Hawranik, Lamoureux, Maguire, Mitchelson, Penner, Reimer, Rowat, Schuler, Taillieu.

Madam Clerk (Patricia Chaychuk): Yeas 30, Nays 16.

Mr. Speaker: The ruling of the Chair has been sustained.

Point of Order

Mr. Speaker: The honourable Member for Portage la Prairie, on a point of order?

Mr. David Faurshou (Portage la Prairie): Mr. Speaker, I just would like it, if possible, if you could remind all members of the Assembly that when the pages are calling roll for a vote we minimize our conversations as distraction just in respect to the pages and their duties to the House. Thank you.

Mr. Speaker: That is a very good idea because it is a very tough job and one of the responsibilities that pages have. Out of courtesy I would encourage all members to keep their comments down when the vote is being conducted. I think that is very good advice to all of us.

MEMBERS' STATEMENTS

Crocus Investment Fund

Mr. Jack Penner (Emerson): Mr. Speaker, the Crocus shareholders are demanding an inquiry into this Crocus scandal. The media is demanding an inquiry into the Crocus scandal, and the public is demanding an inquiry into the Crocus Investment Fund scandal. The only people who are not demanding an immediate inquiry into the Crocus scandal are the ones that have the power to do it, the NDP government and the Premier (Mr. Doer) of this province.

According to *The Winnipeg Sun*, the number of allegations of unethical behaviour being reported to the Auditor General's office is skyrocketing. The Auditor General himself has said that these are,

quote, credible allegations. Despite the rising tide of these credible allegations of unethical behaviour, the Auditor General has neither the funding nor the resources to investigate all of these allegations. The fact that the Auditor General's office is so overburdened is just one more reason that the public inquiry must be called to respond to the Crocus Investment Fund scandal.

The problem, Mr. Speaker, is what we do not know. We do not know who is responsible for the loss of the over 330,000 individual investors. We do not know what role the NDP government played in those losses of these investments. We do not know why the NDP government chose to ignore repeated red flags and let hardworking Manitobans suffer from this scandal, and we do not know why the government that says it has nothing to hide will not call an inquiry.

What we do know, Mr. Speaker, is that a public inquiry and only a public inquiry will get to the bottom of this scandal. If the NDP government has done nothing wrong, then they have nothing to hide. It is time to call an inquiry to deal with the Crocus scandal. Manitobans are demanding it.

*(15:30)

Kikinaw Housing Inc.

Mr. Rob Altemeyer (Wolseley): And now for something completely different.

Mr. Speaker, I rise to share with members of the Legislature news of a successful low-income housing development that was recently completed in the Wolseley constituency. This winter, Kikinaw Housing Inc. completed the renovation of 27 safe, comfortable and affordable low-income housing units in West Broadway.

Kikinaw which means "home" in the Cree language is the result of a co-operative effort on the part of West Broadway Development Corporation and the West Broadway Land Trust Inc., A.S.H. Management Group Ltd. and Young United Church.

Kikinaw made several significant renovations to two apartment buildings in West Broadway, and I was pleased to visit these buildings and some of the new tenants in the Kikinaw buildings just last week. The roofs of the buildings were renovated and R40 insulation and high-efficiency water heaters were installed.

The partners also set out to provide low-income persons with as many additional supports as possible. These include the fact that individual suites are now equipped with ceiling fans, frost-free fridges and new stoves. In addition, the suites all have their own computers courtesy of the Thomas Sill Foundation, and all Kikinaw tenants will have access to free dental care through a program provided by the University of Manitoba Faculty of Dentistry and the Winnipeg Foundation. One of these suites is dedicated to short-term stays for persons seeking permanent shelter elsewhere.

Mr. Speaker, low-income citizens are often forced to live in cramped, run-down rooming houses with shared bathrooms, ungracious neighbours and landlords. Thanks to the hard work and creativity of Young United Church, which has provided community support in West Broadway for 114 years, and its partners, including the provincial government, low-income persons now benefit from practical and innovative housing assistance. A measure of the success of this project is that all 27 of these new units are already occupied, many of them at rents lower than \$360 per month.

Mr. Speaker, I congratulate Kikinaw on the successful completion of this innovative housing project. I thank, in particular, Brian Pannell of Young United Church, Brian Grant of West Broadway Development Corporation and Bob Shaer of A.S.H. Management for their hard work and dedication to community. Thank you.

Crocus Investment Fund

Mrs. Bonnie Mitchelson (River East): I would like to join my colleague, the Member for Emerson (Mr. Penner), today in speaking on the need for a public inquiry on the Crocus scandal.

The only excuse that the Premier (Mr. Doer) has for not calling an inquiry is that it costs too much money. Well, Mr. Speaker, just look at the money that this government has squandered. Look at the purchase of the sound stage when it was offered to the Province for a dollar and they paid \$3 million for it. Look at the millions of dollars that were spent buying the bricks and mortar at the Pan Am Clinic when all that government had to do was put that money into more service for patients. Look at the money they squandered, the millions of dollars they squandered on purchasing a sandwich factory that they criticized when they were in opposition and miraculously, once they got into government, they liked it so much they bought it.

Now, Mr. Speaker, Manitobans who live in absolutely every constituency that is represented here in this Legislature, every member of the New Democratic Party, has people that have lost money in Crocus as a result of the incompetence and the mismanagement of this government. I would hope that some of the members in the New Democratic Party would stand up with us, would join us and stand up for their constituents who have been bilked by this government and demand that their Premier call a public inquiry.

Mr. Speaker, Manitobans deserve to know who had their hands on this file within the Premier's Office and within other ministers' offices. The Premier needs to put his hand on the Bible and indicate what he knew when. We need Eugene Kostyra to stand up, put his hand on the Bible, too. They must call an inquiry.

Breakin' the Ice Community Forum

Ms. Kerri Irvin-Ross (Fort Garry): On January 24, I was pleased to participate in a community forum on safety and sharing at General Byng School. It was organized by residents of my constituency of Fort Garry. This forum, called Breakin' the Ice, was meant to bring people together to share their experiences, learn from one another and help improve the well-being of our community and our youth.

With information tables and exhibits provided by such diverse groups as Child Find Manitoba, the Fort Garry Library, the local cadets, the evening commenced with a strong display of community resources available to all residents of Fort Garry. Later, there were different break-out sessions focussing on such important topics as bullying, the effects and dangers of crystal meth and the importance of Internet safety. Sharing stories and receiving direction from such professionals as the Winnipeg Police Service, the RCMP, the Fort Garry community was able to come together in a forum that allowed everyone to articulate their concerns and offer collective support for our future.

Mr. Speaker, it was my pleasure to assist in organizing this community forum. But it must be said that this event would not have been possible without the participation of the students, parents and administrators from General Byng School, Vincent Massey Collegiate and Ralph Maybank School.

I would also like to thank the many volunteers, the professionals in attendance and those who set up the information tables, for they ensured the evening's

success. It is events such as this that make a community strong by showing to what extent residents can come together in support of a better future and a better tomorrow. Thank you, Mr. Speaker.

Children in Care

Hon. Jon Gerrard (River Heights): Mr. Speaker, it is astounding for all of us to learn that Phoenix, a five-year-old child under the care of Manitoba's Child and Family Services up to shortly before her death, died under such tragic and abusive circumstances as she did. It is an extraordinary tragedy that this had to happen to a child who had been fully within the care of Child and Family Services up to a very short period before she died.

In late 2003, Phoenix's family had asked that Phoenix be transferred from the Winnipeg Child and Family Services to an Aboriginal child and family services agency. This was not done in spite of the government having stated numerous times that it wanted to transfer children to Aboriginal child and family services agencies. The government just seems to be incompetent in getting things done and now we learn that Phoenix died in June of 2005, more than a year and a half after the transfer request was made.

Even more horrific, we learn that Winnipeg Child and Family Services apparently lost track of Phoenix Sinclair, indeed apparently closed the file on her in March of 2005, and to date we have heard no justification whatsoever for this closing of the file. Why was this file closed? Why was this file closed? Why was this file closed?

Day by day, sadly, I am hearing more and more about problems looking after children in care in Manitoba. This was a very sad and tragic—

Mr. Speaker: Order. Does the honourable member have leave?

Some Honourable Members: Leave.

Some Honourable Members: No.

Mr. Speaker: No, it has been denied.

ORDERS OF THE DAY

GOVERNMENT BUSINESS

Mr. Speaker: Order. I have three members standing up and I normally do in the order of—I normally recognize the government member first, then the official opposition, then the independent member.

I will ask the honourable Minister of Water Stewardship, are you up on a point of order or on a matter of privilege?

Hon. Steve Ashton (Minister of Water Stewardship): I am up to speak on the budget, Mr. Speaker.

Mr. Speaker: Okay, the honourable Member for—

Some Honourable Members: Oh, oh.

Mr. Speaker: Order. A matter of privilege or a point of order stops the procedure of the House because we must entertain those first. That is why I asked the honourable minister, so I cannot recognize the honourable member until I go through to see if there is no point of order or privilege.

So now I will go to the Official Opposition House Leader. Are you up on a point of order or a matter of privilege?

* (15:40)

Mr. Leonard Derkach (Official Opposition House Leader): Mr. Speaker, I am up under Rule 42 of—

Mr. Speaker: Are you up on a point of order or a matter of privilege?

Mr. Derkach: Mr. Speaker, I am up on a motion as per Rule 42—

Mr. Speaker: I cannot entertain—

Mr. Derkach: —which is indeed a rule which allows for a motion to be made when, indeed, people are standing to speak on the budget, Mr. Speaker, or on anything.

Mr. Speaker: Order. "Precedence when two members rise to speak. When two or more Members rise to speak, the Speaker shall call upon the Member who first rose in his or her place; but a motion may be made that any Member who has risen 'be now heard' or 'do now speak,' and the motion shall forthwith be put without debate."

If the honourable member's side, if it was their turn to speak, then you would be in order to make that motion. But because it is the government side—this is only for clarification of the House—there are only two ways to interrupt any actions of the House and that is through a point of order or a matter of

privilege. You can move a motion when your turn comes to have the floor. Right now—[interjection] Just wait, I am not concluding. I still see one more member standing. So I cannot entertain the honourable member's motion and that is for clarification of the House.

An Honourable Member: No, I am standing on a point of order.

Mr. Speaker: I asked the honourable member earlier if he was standing up on a point or order or a matter of privilege.

An Honourable Member: I am on a point of order now.

Mr. Speaker: You are now on a point of order. Okay. [interjection] Order. I have to give the honourable member his opportunity because he cannot move a motion. So now what he wants to do is change that to a point of order which I have to recognize.

Point of Order

Mr. Speaker: The honourable Opposition House Leader, on a point of order.

Mr. Derkach: On a point of order, under Rule 42 of our *Rules, Orders and Forms of Proceedings of the Legislative Assembly of Manitoba*.

Mr. Speaker, my point of order has to do with Rule 42 because in this rule, and I want to read it, it says: "Members rising simultaneously. Precedence when two Members rise to speak. When two or more Members rise to speak, the Speaker shall call upon the Member who first rose in his or her place." I watched carefully today who rose first in his or her place and it was the Member for River Heights (Mr. Gerrard).

Secondly, there is a "but," "but a motion." It does not say by whom. It does not say that the member who rose has to make the motion. Anyone can make the motion, that "may be made that any Member who has risen 'be now heard' or 'do now speak,' and the motion shall forthwith be put without debate."

Now, this is what we might want to refer to as a dilatory motion because, indeed, when a dilatory motion is put that has to be voted on immediately. But I watched very carefully today. The Member for River Heights was on his feet first. If we want to play the tape back, if there is a visual tape, we will see that. I do not think there is one.

Mr. Speaker, my point of order is that the rules that are set down here are what we guide ourselves by. This does not say that it is the member who has risen to speak who has to move the motion. It says, "but a motion may be made." Now, when you say a motion may be put, that means that any member in this Chamber may put that motion. Somebody is interpreting these rules very narrowly when you say that it is the member who has risen who must move the motion. Where does it say that? It does not say that anywhere. When these rules were written, and as a matter of fact I checked with the author of the rules, any member can make that motion.

So, Mr. Speaker, my point of order is that if we want to follow the letter of the law, the letter of the law is that any member in the Chamber may make the motion that another member should now be heard. Now, it is true that precedence in this House is that two members from one side or from one party should not be and are not heard simultaneously or consecutively, I should say. So that means that the debate goes back and forth. Now, if you go back to the records, oftentimes the members from the independent party have spoken after members on this side have spoken. They have also spoken after members on the government side have spoken. So there is not any pattern as to when independent members or members of the Liberal Party have spoken.

Now, Mr. Speaker, there is nowhere in the records that shows also that there is a pattern, a fixed pattern that it is opposition and then government. No, that is not the case. That may be a practice that has gone back and forth, but we have seen where government has relinquished its time from time to time to allow an independent member, a Liberal member to speak. And also, if you check our records, you will find that members of the Liberal Party have indeed spoken after the opposition members, us, have spoken.

So, Mr. Speaker, it is quite within the rules to say that a member other than on the government side may speak after an opposition member has spoken, and Rule 42 of our rules and practices does, in fact, speak to that.

So, Mr. Speaker, my point of order is that if we are going to follow the rules of this House, the rules and practices of this House, let us follow them in their intent, and that means that any member can rise in his or her place when a member rises to speak and move a motion that says another member should be

now heard. That is what this is all about. It is not to confine the motion to be made only by the member who is speaking. That is ridiculous. Why would I rise in my place—

Mr. Speaker: Order.

On the same point of order? Pardon me?

An Honourable Member: Yes, Mr. Speaker.

Mr. Speaker: The honourable member—

An Honourable Member: Can I not conclude?

Mr. Speaker: Well, I thought you had concluded.

An Honourable Member: No.

Mr. Speaker: Okay. Well, I ask the honourable member to conclude his comment. I do not want it to turn into a debate. A point of order is to—*[interjection]* Order. A point of order is to point out to the Speaker a breach of a rule or a departure of practice. You have already pointed those out to me, which were very clear in my mind, but I do not want to turn this into a debate.

Mr. Derkach: Mr. Speaker, I thank you and I respect your caution, so I will just conclude.

So, Mr. Speaker, in conclusion, what I want to do is ensure that we do not set by a ruling of the Chair a precedent that was not intended when the rules were written. Now, I was part and parcel of the revision of these rules, and so therefore I know what the intent was here. It certainly was not an intent to have the member who had risen in his place to move the motion. The intent was for anyone to be able to stand in his or her place, move a motion, then another member be now heard, and then that motion then is voted upon by all members in the House. Thank you.

Mr. Speaker: The honourable Member for Inkster, on the same point of order, very briefly.

* (15:50)

Mr. Kevin Lamoureux (Inkster): Yes, Mr. Speaker, my interpretation of the rule that has been espoused by the Opposition House Leader, I must say that I am in complete agreement with. I say that, and I just want to make two quick points.

First and foremost, I was sitting here, and I had indicated very clearly to my leader that he was going to have to be quick to rise because I suspect there might be others that want to speak on the budget, and I had emphasized that point. As you can see, from

where I am sitting, that I have a wonderful view, or standing currently, Freudian slip, standing, or at the time I was sitting, I had a perfect view of the Member for River Heights (Mr. Gerrard) right in front of me and the Member for Thompson (Mr. Ashton). I was watching both of those individuals as I was saying to my leader to stand and make sure he gets up.

So I am standing here because, as our rules point out, all members are honourable members, and I believe that my comments should be taken as being credible because I was watching the two individuals in question. So that is the first point.

The other point is in regard to rotation, because I have heard rotation come up on several occasions. I can assure the House that I have witnessed, not only during budget but also during Throne Speech where you will see opposition followed by independent, by opposition or government followed by independent, going back to government, or, if you go beyond budget and Throne Speech, you will see where quite often it will be opposition twice and then an independent, and so forth.

So I do believe that the member from Roblin, and, very, very quickly, the Member for Russell, the Opposition House Leader (Mr. Derkach) does have a valid point in the sense that he should have been allowed to move the motion. That is the reason why I stand in support of the member, that he should have been entitled to be able to move it. Thank you.

Mr. Speaker: The honourable Government House Leader, on the same point of order.

Hon. Gord Mackintosh (Government House Leader): Mr. Speaker, it is hard to even take this seriously. This is just part, of course, of the wilful instruction of members that has been announced publicly. I think that what is unfortunate about it is that it is used with the intention, the very anti-democratic intention, not to allow members on this side of the House to exercise their right to speak in this Chamber on the budget debate. But I will deal with the issue raised just because I do not think that any member should allow the debasement of this institution by these regrettable arguments.

Mr. Speaker, clearly, it is such a fundamental rule of this House that members cannot move a motion on a point of order or under the guise of opposition House business.

Second, Mr. Speaker, when it comes to debates on questions in this House, particularly with regard

to the budget, it has just been a fundamental practice, a very fundamental rule of governing that there is a rotation of speakers, and you have ruled on that repeatedly.

Most importantly, Rule 70 is what guides the ability of members to move motions when there are questions on the floor of the House. Rule 70 clearly says that when a question is under debate, no motion shall be made, and then it lists the exceptions, and exceptions are certainly not what the member is trying to argue. It fits in there. So Rule 70 is the governing rule on when motions can be made, Mr. Speaker.

Rule 42, of course, has limited use in light of all of that because it really is speaking to matters that are rising in the House when there is not a question on the floor. For example, Members' Statements or perhaps in Question Period, something like that. For the member to suggest that there was some intention of 42 to allow what just happened is nothing but nonsense. Rule 42 has been sitting in the rules for a long time, and its use is not available when there is a question on the floor of the House.

Mr. Speaker, I think members opposite should screw up their courage and deal with the budget. I would like to see how they are going to vote on it.

Mr. Speaker: On the point of order raised by the honourable official opposition, I, too, have sat here for a few years in the Chair, and I have seen where members in the House, one side is the opposition, the other side is the government, I, too, have seen where maybe two opposition members spoke in a row or sometimes even three. I have always been told that it was negotiated between the House leaders, and the only two procedures that can stop an order that is under the House is a point of order or a matter of privilege, and the honourable member did rise on a point of order.

But I would like to draw the attention of all honourable members to our *Rules, Orders and Forms of Proceeding of the Legislative Assembly*, and please go to Rule 43(5). It was very clear. It says "When a Member speaks in debate, the Speaker must not recognize another Member from the same party to speak until an opportunity has been provided for a Member from another party who is standing in his or her place to speak."

In this House we have two official parties. The two members are independent members, so they are

part of the opposition. So we have two official parties. Rule 43 is very clear that we have a rotation from opposition to government to opposition to government. Unless there is something that is negotiated between the House leaders, I have to follow the direction of the rules of the House.

So the honourable member does not have a point of order.

Mr. Derkach: On some clarification from you, Mr. Speaker.

Mr. Speaker: For clarification?

Mr. Derkach: Yes.

Mr. Speaker: I will allow some clarification.

Mr. Derkach: Mr. Speaker, I am a little confused because I am looking at the Member for River Heights (Mr. Gerrard)—[*interjection*]

Mr. Speaker: Order. I do not normally allow clarification. You have two choices when I make a ruling: it is either to accept the ruling or to challenge it. But I am going to give the member a very short—in case there is a misunderstanding of the rule, for clarification. Normally, it would be to talk to the Clerk or come and see me in my office; that is the normal procedure. But I will entertain clarification for the member.

Mr. Derkach: Well, Mr. Speaker, this is maybe a little more serious than we are giving attention to in this matter because Rule 43(5), as you said, that "a Member speaks in debate, the Speaker must not recognize another member from the same party to speak until an opportunity has been provided for a Member from another party."

Now, Mr. Speaker, I know that the Member for River Heights is not a New Democrat. I know he is not a Conservative. I do know that he is a Liberal. That means that the Liberal Party in Manitoba is a recognized party. Now, it does not say official party, their official status in the House, it just says "another party." So I seek clarification with regard to who the Member for River Heights is representing, because the last time I checked he was representing the Liberal Party.

Mr. Speaker: In this Chamber, to have party status, there is another part where—[*interjection*]

Order. Under our *Rules, Orders and Forms of Proceeding*, I would like to draw the attention of the honourable Official Opposition Leader to 1(3)(h). I will give the opportunity to look it up. Okay, "a

Recognized Opposition Party" means a party, other than the Official Opposition, represented in the Legislative Assembly by four or more Members." So it is right in our rules.

An Honourable Member: No one is arguing against that.

Mr. Speaker: Order. I have not concluded yet.

So, when I am recognizing the rotation, I recognize by opposition and the government, and that has been my practice since I was elected on November 18 of 1999. So that has always been my practice. They are considered independent, not members of a party, in the eyes of the House because they do not hold four members. So I have always, in my rotation, opposition, government, opposition, government.

So the honourable member does not have a point of order.

* (16:00)

Mr. Derkach: Mr. Speaker, then I have to ask for a point of clarification again, and that is why it is that at times the Liberal Party, which is a party, they do not have official standing in the House, but they are a party, recognized by the Province of Manitoba and the people of Manitoba—

An Honourable Member: Elections Manitoba recognizes them.

Mr. Derkach: Elections Manitoba recognizes them, Mr. Speaker. Well, how is it that from time to time they are recognized to speak in their space in rotation and yet, in this instance, they are not? So I do not understand that.

Mr. Speaker: If you look at Question Period, when we negotiated questions, it was negotiated by the House leaders and the independent member, and that was negotiated. As soon as they walk out the door, of course, they are members of the Manitoba Liberals. In the House, because they do not have four or more members, they are independent members.

If you look at orders of questions, that was negotiated, if I recognized members as they stood up. In other words, what I am hearing is that the House is starting to lean towards if one of the independent members stood up first, questions No. 1 and 2, then I would be obligated to recognize that member. I do

not know how the House would react because the members know that we negotiated that with the House leaders and the independent member. When some things that are Manitoba practices or recognized as practices or negotiated, my job is to follow what has been negotiated or the rules that I am governed by.

The rotation is always worked out by the House leaders in the House. So, if you want, when we get into the debate, to have your opposition next speaker to be one of the independent members, and I am informed of that, I will honour that because that is something that you have worked out when it is the opposition's turn to speak.

So that is as far as I am going with clarification because it is now turning into debate. So the honourable member does not have a point of order as I rule.

* * *

Mr. Derkach: Mr. Speaker, with the greatest of respect, I challenge your ruling.

Mr. Speaker: The ruling of the Chair—*[interjection]*

Order. I had dealt with the point of order.

An Honourable Member: No.

Mr. Speaker: I had dealt with the point of order.

An Honourable Member: No.

Mr. Speaker: Yes, I had. The honourable member rose on clarification. I said I do not normally do it—*[interjection]*

Order. I do not normally entertain clarifications of my rulings and it is not going to set a precedent. It is not going to be a practice that I will pursue in the future because when you are not satisfied with the ruling you have two options: it is either challenge it or you accept it. In the future, if members wish for clarification, after I have made the ruling my office will be always open and I will be willing to discuss with any member. But in the future this is not going to set a precedent and in the future I will not be entertaining clarification of my rulings.

So the honourable member was up for clarification, but now I see he is up on something else. So I have to clarify if the honourable member is up on a point of order, a new point of order or up on a privilege. Are you up on a point of order or privilege?

Mr. Derkach: Well, I will be up on a point of order.

Point of Order

Mr. Speaker: Okay. The honourable Official Opposition House Leader, on a new point of order.

Mr. Derkach: Mr. Speaker, you know, my point of order is that we are getting into some confusing matters here because I thought we all spoke English. When I stood in my place, I did ask for clarification on the point of order that you were ruling on. I was asking for clarification on your words that said not that this was not a point of order, but indeed why it was not a point of order. So the clarification, in my mind, was still to do with the point of order. However, you have ruled that that is not the case, and I accept your ruling.

Now I am standing on a new point of order. Mr. Speaker, my point of order is that, when we have rules in this House that are written specifically to allow for flexibility in this House, for some reason we are interpreting these rules not to the benefit of the House, but it seems to the benefit of a part of the House.

So my point of order is that, indeed, when members of this Legislature sit down and develop rules for this House, we do it with a pure intention. I think the intention is stated when we develop the rule. In this particular case, I have to say that I was a part of the committee that developed the rule which would allow for a motion to be made when members of the House wanted to recognize someone other than the member who was speaking to take his place and speak.

This flows out of practices that are established in other jurisdictions, Mr. Speaker. This was not something that was unique to Manitoba. Indeed, it was something that, if you look at other rules in other jurisdictions, that is where it came from. Now, how we have managed to interpret it in another way is somewhat beyond me because I think we have done ourselves somewhat of a disservice if that in fact is how this rule has been interpreted to be implemented.

Now, today, the rule is not being ruled upon in my favour, but I know there will be other times when this same rule will want to be applied in favour of another party and that same frustration will exist, but it will exist on the other side of the House.

So, Mr. Speaker, when we sit down to make rules, my point of order is that the intent of the rule should be written clearly so that when we come back into the House with a rule book the intent of that rule

is followed rather than being misinterpreted by those who put it into legalese. I do not know who that is, but I say to you that we do ourselves a disservice as members of this Legislature when we have committees who, and this does not happen often, but from time to time, sit down and try to bring rules into the House to allow flexibility, to allow for a more open debate, to allow for more opportunity for people to be able to be recognized whether they have official status or not.

Nobody was thinking in those days, when we wrote this rule, that it only applied to members in the House who had official party status. I do not think any of us were thinking in those terms. I know what we were thinking. We were thinking that any member can rise in his place and move a motion that another member be now heard, and then that that motion would be voted on by the House, because there are times, and I have been in this House for a few years, when other members, perhaps it was the desire of the parties collectively, want to have somebody else speak. The only way that would happen is if a member rose in his place or her place and said, I move that another member now be heard.

So, Mr. Speaker, my point of order, regrettably, is that we have a rule before us today which is very confusing and which, in my mind, by the ruling is setting a very regrettable precedent in the Chamber.

Mr. Speaker: The honourable Deputy Government House Leader, on the same point of order.

*(16:10)

Hon. Steve Ashton (Deputy Government House Leader): Mr. Speaker, I am one of the few members in the House, there are a number of others, that has had the luxury, if you can call it a luxury, of being in government, being second party opposition and being third party opposition.

Mr. Speaker, I think it is important, in referencing the point of order, to reflect on the fact that the long-standing tradition in this House and the evolution in the Parliament of Canada has been towards a recognized rotation. Long gone are the days where it was the tradition in the House of Commons through colourful ties or colourful wear to attract the Speaker's attention, or in the U.K. where there is a very similar process. Those days have been long gone. One of the reasons, and I ask the independent members to consider this, is that if you go strictly in terms of the law of averages in any debate, if you have a majority government, anything

other than a rotation will benefit the government by sheer numbers and will certainly not benefit the opposition in the Assembly, but third parties are particularly vulnerable.

I point out, Mr. Speaker, that the independent members, certainly because of the rotation in Question Period for example, receive daily questions that have been negotiated through the various parties. That gives them more questions than they have relative to the number of MLAs in this House. I point out the rotation between government and opposition in debate ensures that in each and every debate, whether it be the budget or the Throne Speech, there are more government members that do not have the opportunity to speak than opposition members. That will be the case when we proceed to the budget debate. So the evolution of parliamentary practice that is codified in our rules is there to protect members of the Legislature, particularly members of the opposition.

I point out, Mr. Speaker, as well, I took some real offence to earlier arguments that were put forward by members opposite in terms of Question Period because, indeed, there were attempts to suggest that government members are not entitled to ask questions. I point out again that the tradition in this House that has become part of the parliamentary tradition generally is that indeed we do have recognized opportunities in the House. There is an opportunity for at least one question day for government members, far less than the proportion of private members who are government members as proportion other members, but it ensures some ability for government members in Question Period to participate. It certainly ensures the members of the third party, or in this case the independents, have the ability to proceed.

So I want to point out that what we have in our rules is part of parliamentary procedure both here in Manitoba and at our House of Commons in Ottawa and has become parliamentary practice throughout most jurisdictions of the Commonwealth.

I just want to make one final point, Mr. Speaker, and I realize that members opposite may be looking for tactical means to ring the bells to desperately prevent us from debating the budget, and dare I suggest that there are a thousand and one tactics available. Having been Opposition House Leader for some time in the 1990s, I probably used a few of them on occasion. I would say one has to be wary of the consequences of whatever one follows in the way

of a tactic because, in this particular case, if this line of argument were to be adopted, if we were then to proceed, and we have clear rules stating that there is a rotation in the recognition in debate between the government and the opposition and, of course, independent members in this case clearly being part of the opposition, what it would mean is a dramatic shift from what we have seen. I think it would be a denial of rights, particularly to third parties or independents. So that is why I caution members across the way.

But it would also I think establish a clear precedent if you were to take the so-called logic of the Opposition House Leader that pretty well anything in our rules really does not mean anything because if he said something at a meeting or did not say something at a meeting or recalled saying something at a meeting that is different from what it is in the rules that we should not practise that.

So this is, as any of these tactics should be considered, more than just an opportunity to ring the bells. It is about the protection of the rights of individual members of this House to participate in debate. It is fundamental and I would like to indicate certainly that we on this side of the House fully supported your initial ruling and we see no validity in the point of order. In fact, we see it as being dangerous to the kind of protection of the ability of members of the Legislature to participate in debate that has been brought in in these rules and reflects parliamentary practice throughout the Commonwealth.

Mr. Speaker: The honourable Member for Inkster, on the same point of order.

Mr. Lamoureux: Yes, Mr. Speaker, I will be brief. I can assure you I will not be as long as the Member for Thompson (Mr. Ashton) was. But I did want to pick up on a couple of points because the functions and the roles when the Minister of Water Stewardship made reference to evolution of Parliament and he cites other examples, I am all in favour of evolution and I understand the optics just as much, I like to think, maybe, as the Minister for Water Stewardship. It would be somewhat awkward, if you look at other jurisdictions, for example, in B.C. there were two New Democrats, and that was it. In one jurisdiction the opposition was completely blanked out. The political parties and the infrastructure still remain.

The government of the day gets what, 47, 48 percent of the vote? We get 13 percent of the vote.

From the government's perspective, we do not exist. Well, Mr. Speaker, that is a desire of this government to see us not exist. That is the attitude that we get because if the minister was true to form when he talks about the importance of evolution, we would be looking at changing some of those rules that cause the problem that we are in right now.

So I just wanted to make that point to the minister, and I would welcome further discussion and dialogue with the Deputy Government House Leader on this particular matter because I, too, recognize it is important. I support the point of order that the Member for Russell (Mr. Derkach) has raised. Thank you.

Mr. Speaker: On the point of order that the honourable Official Opposition Leader pointed out, I would just like to clarify to the House that Rule 42 that was mentioned has been on the books for many, many, many years. It was not part of the negotiations we had when we established, or updated, the rules in the House.

But members know in this House that the House leaders could easily get together and if there is a will of the House to deal with updating or changing any rules of the House, it would just take the House leaders to get together and they could call the Rules Committee anytime. So there are avenues to deal with updating rules if members feel that they are outdated. So that is one avenue of addressing it, is the House leaders get together, and if there is a package of rules they wish to look at, I am sure that their House leaders probably would agree. If warranted, the House leaders probably agree to calling the Rules Committee.

So, the honourable member, I have to rule, does not have a point of order.

Mr. Speaker: The honourable Official Opposition House Leader, on a new point of order?

Mr. Derkach: No, I would like to simply challenge your ruling.

Mr. Speaker: The ruling of the Chair has been challenged.

Voice Vote

Mr. Speaker: All those in support of sustaining the ruling of the Chair, say yea.

Some Honourable Members: Yea.

Mr. Speaker: All those opposed to sustaining the ruling of the Chair, say nay.

Some Honourable Members: Nay.

Mr. Speaker: In my opinion, the Yeas have it.

* * *

Mr. Derkach: Yeas and Nays, Mr. Speaker.

Mr. Speaker: A recorded vote having been requested, call in the members.

* (17:00)

The question before the House is shall the ruling of the Chair be sustained.

Division

A RECORDED VOTE was taken, the result being as follows:

Yeas

Aglugub, Allan, Altemeyer, Ashton, Bjornson, Brick, Chomiak, Dewar, Irvin-Ross, Jha, Korzeniowski, Lemieux, Mackintosh, Maloway, Martindale, McGifford, Melnick, Nevakshonoff, Rondeau, Sale, Santos, Schellenberg, Smith, Struthers, Swan, Wowchuk.

Nays

Cullen, Derkach, Driedger, Dyck, Eichler, Faurschou, Gerrard, Goertzen, Hawranik, Lamoureux, Maguire, Mitchelson, Penner, Reimer, Taillieu.

Madam Clerk (Patricia Chaychuk): Yeas 26, Nays 15.

Mr. Speaker: The ruling of the Chair has been sustained.

The hour being past 5 p.m., this House is adjourned and stands adjourned until 1:30 p.m. tomorrow (Thursday).

LEGISLATIVE ASSEMBLY OF MANITOBA

Wednesday, March 15, 2006

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