



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS

FOURTH SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYERS

1:30 O'CLOCK P.M.

The following petitions were presented and read:

Mr. EICHLER – Legislative Assembly of Manitoba to request the Premier of Manitoba and the Minister of Health 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 and 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. (T. Richard, D. Wishnowski, M. Coodin and others)

Mrs. STEFANSON – Legislative Assembly of Manitoba to request the Premier of Manitoba and the Minister of Health 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 and 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. (J. Mackenzie, B. Lynn, S. Deminiac and others)

Mr. CULLEN – Legislative Assembly of Manitoba to strongly urge the Premier to consider calling an independent public inquiry into the Crocus Investment Fund scandal. (S. Brennand, B. Brennand, G. Nordman and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to strongly urge the Premier to consider calling an independent public inquiry into the Crocus Investment Fund scandal. (P. Wintemute, H. Jaeger, G. Holmes and others)

Mr. CUMMINGS – Legislative Assembly of Manitoba to request the Provincial Government to consider stopping the removal of these positions from our community (Neepawa), and to consider utilizing current technology (ie: Land Management Services existing satellite sub-office in Dauphin, MB) in order to maintain these positions in their existing location. (R. Kulbacki, M. Kulbacki, M. Drayson and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba 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 and to urge the Premier and his Government to cooperate in making public what really happened. (M. Shead, G. Alleyn, L. Turgeon and others)

Hon. Mr. ASHTON, the Minister of Water Stewardship made a statement regarding the status of flooding in Manitoba.

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

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

Following the Daily Prayer on Wednesday, March 22, 2006, the Honourable Member for River Heights raised a Matter of Privilege regarding statements made by the Honourable Minister of Family Services and Housing on the subject of protection for persons bringing information forward, statements that the Honourable Member for River Heights asserted were misleading the House. At the conclusion of his remarks, the Honourable Member for River Heights moved "THAT a Standing Committee of this House investigate the matter I have raised and report back to this House." The Honourable Government House Leader and the Honourable Official Opposition House Leader also offered advice to the Speaker on the matter. I took the matter under advisement in order to consult the procedural authorities.

I thank all Members for their advice to the Chair on 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.

Regarding the first condition, the Honourable Member for River Heights asserted that he was raising the matter at the earliest opportunity, and I accept the word of the Honourable Member.

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

The issue of whether or not a Member has deliberately misled the House is not a new issue, and has been raised in the Manitoba Legislature numerous times. The first test that a Speaker must apply when such a claim comes up is whether or not the Member raising the matter of privilege has provided specific proof of intent to mislead on the part of the Member in question. Speakers Phillips, Rocan and Dacquay have, in previous rulings, cited the necessity for specific proof to be provided on the record that the Member purposefully and deliberately set out to mislead the House. Speaker Dacquay went as far as to advise the House that without a Member admitting in the House that he or she had the stated goal of misleading the House when putting remarks on the record, it is next to impossible to prove that indeed a Member had deliberately intended to mislead the House. In the words of the federal Standing Committee on Procedure and House Affairs in its fiftieth report, "Intent is always a difficult element to establish, in the absence of an admission or confession." In the case raised by the Honourable Member for River Heights, I have perused Hansard and found no admission by the Honourable Minister of Family Services and Housing that she had intended to mislead the House.

The procedural authorities also offer commentary on the issue of misleading the House. Joseph Maingot makes the point on page 241 of the second edition of *Parliamentary Privilege in Canada* that allegations that a Member has misled the House are in fact matters of order and not matters of privilege. In addition, when Manitoba Speakers have been asked to rule on whether matters of privilege involving the alleged misstatements by Members or the provision of misinformation or inaccurate facts by Ministers, Speakers Phillips, Rocan and Dacquay have ruled that such situations appeared to be disputes over facts, which according to Beauchesne citation 31(1) does not fulfil the criteria of a prima facie case of privilege.

Furthermore, it has been ruled in the Canadian House of Commons and also in this Legislature concerning cases of whether or not answers offered by Ministers are false in comparison with other information, it is not the role of the Speaker to adjudicate on matters of fact. Instead, this is something that is left up to the House to form an opinion on.

Therefore, with the greatest of respect, I must rule there is no prima facie case of privilege.

From his decision, Mr. LAMOUREUX appealed to the House,

And the Question being put, "Shall the ruling of the Chair be sustained?" It was agreed to, on the following division:

YEA

AGLUGUB	MALOWAY
ALTEMEYER	MARTINDALE
ASHTON	MCGIFFORD
BJORNSON	MELNICK
BRICK	NEVAKSHONOFF
CALDWELL	OSWALD
CHOMIAK	REID
DEWAR	ROBINSON
DOER	RONDEAU
IRVIN-ROSS	SALE
JENNISSON	SCHELLENBERG
JHA	SELINGER
KORZENIOWSKI	SMITH
LATHLIN	STRUTHERS
LEMIEUX	SWAN
MACKINTOSH	WOWCHUK.....32

NAY

CULLEN	MAGUIRE
CUMMINGS	MITCHELSON
DERKACH	MURRAY
DYCK	PENNER
EICHLER	REIMER
FAURSCHOU	ROWAT
GERRARD	SCHULER
GOERTZEN	STEFANSON
HAWRANIK	TAILLIEU..... 19
LAMOUREUX	

Pursuant to Rule 26(1), Mr. FAURSCHOU, Ms. BRICK, Mrs. TAILLIEU, Mr. JENNISSEN and Hon. Mr. GERRARD made Members' Statements.

Following Members' Statements, Mr. DERKACH rose on a point of order regarding the responses provided by the Ministers during Oral Questions.

WHEREUPON Mr. Speaker ruled that there was no point of order.

From his decision, Mr. DERKACH appealed to the House,

And the Question being put, "Shall the ruling of the Chair be sustained?" It was agreed to, on the following division:

YEA

AGLUGUB	MARTINDALE
ALLAN	MCGIFFORD
ALTEMEYER	MELNICK
ASHTON	NEVAKSHONOFF
BJORNSON	OSWALD
BRICK	REID
CALDWELL	ROBINSON
CHOMIAK	RONDEAU
DEWAR	SALE
DOER	SANTOS
IRVIN-ROSS	SCHELLENBERG
JENNISSEN	SELINGER
JHA	SMITH
KORZENIOWSKI	STRUTHERS
LEMIEUX	SWAN
MACKINTOSH	WOWCHUK..... 33
MALOWAY	

Tuesday, April 18, 2006

NAY

CULLEN	LAMOUREUX
CUMMINGS	MAGUIRE
DERKACH	MITCHELSON
DYCK	MURRAY
EICHLER	REIMER
FAURSCHOU	ROWAT
GERRARD	STEFANSON
GOERTZEN	TAILLIEU..... 17
HAWRANIK	

The House then adjourned at 5:04 p.m. until 1:30 p.m. Wednesday, April 19, 2006.

Hon. George HICKES,
Speaker.