



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 30

FIFTH SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

Immediately following the Prayer, Mr. Speaker made the following statement:

I wish to advise the House that I have received a letter from the Leader of the Official Opposition, on behalf of the Official Opposition caucus, advising that the Member for Carman will no longer serve as a Member of the Progressive Conservative caucus and will no longer be seated within the Progressive Conservative allotment of seats in the Legislative Chamber.

Accordingly, I have moved the seat of the Member for Carman to be relocated between the Member for Inkster and the Member for Rossmere, in the seat previously assigned to the Member for Point Douglas.

In addition, the Speaker will now be recognizing the Member for Carman as an Independent Member in this Legislative Assembly Chamber.

The following Bills were severally read a First Time and had their purposes outlined:

(No. 24) – The Fair Registration Practices in Regulated Professions Act/Loi sur les pratiques d'inscription équitables dans les professions réglementées

(Hon. Ms. ALLAN)

(No. 213) – The Labour Relations Amendment Act (Information in Employee's Language)/Loi modifiant la Loi sur les relations du travail (renseignements fournis dans la langue des employés)

(Mr. SCHULER)

(No. 219) – The Legislative Assembly Amendment Act (Set Date Elections)/Loi modifiant la Loi sur l'assemblée législative (tenue d'élections à date fixe)

(Mr. CUMMINGS)

The following petitions were presented and read:

Mrs. ROWAT – Legislative Assembly of Manitoba to request the Provincial Government to consider stopping the removal of these positions from our community (Minnedosa), and to consider utilizing current technology in order to maintain these positions in their existing location. (S. Huyghe, J. Girard, M. McKee and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to request the Minister of Health to consider developing a clear, immediate plan to address the ER doctor shortage and to consider taking all necessary steps to ensure the Grace Hospital emergency room does not close. (E. Keck, L. Desrosiers, B. Sarson and others)

Mrs. TAILLIEU – Legislative Assembly of Manitoba to request the Minister of Family Services and Housing to consider re-staffing the Social Worker position(s) in Lynn Lake in order to provide needed services to Northwestern Manitoba in a timely manner and to consider mediating outstanding accounts payable due to the Lynn Lake Friendship Centre by Cree Nation Child and Family Caring Agency in order to allow the Designated Safe House and Receiving Home to resume regular operations and services, and continued utilization of these operations and services. (A. Dalewich, T. Hunt, J. Grubb and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to urge the Premier and his NDP Government to cooperate in uncovering the truth in why the Government did not act on what it knew and to consider calling a public inquiry on the Crocus Fund Fiasco. (J. C. Moran, M. Moran, J. Moran and others)

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

After the Daily Prayer on April 5, 2007, the Honourable Member for Inkster raised an alleged matter of privilege regarding being served with notice of a potential lawsuit for comments made outside of the Chamber. He asserted that such an action was an attempt to intimidate him and was a violation of parliamentary privileges. At the conclusion of his remarks he moved “THAT the Premier shows respect for the role of Opposition Members and the duties they perform and apologize for the behaviour of his Chief of Staff.” The Honourable Government House Leader and the Honourable Official Opposition House Leader also offered contributions to the Chair. I took the matter under advisement in order to consult the procedural authorities.

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

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 Inkster asserted that he was raising the issue at the earliest opportunity; however the matter could have been raised in the Legislature on the previous sitting day, which was the first day that the Legislature was back in session.

Regarding the second issue, of whether a prima facie case of privilege has been established, the authorities have much to say about the limits of privilege and comments made by Members outside of the Chamber.

Joseph Maingot on page 7 of the second edition of *Parliamentary Privilege in Canada* states “while all necessary protection is afforded the Member in his parliamentary work, it is correct in law to say that the Member speaks or otherwise publishes outside the House at his peril.” Maingot also states on page 107 of the same work “While it is clear that the Member is afforded absolute privilege in law for acts done and words said during a parliamentary proceeding, he speaks outside the House at his peril without the protection of parliamentary privilege...the repetition outside of remarks made inside the House that were defamatory would imply a malicious intent that a Member would be hard-pressed to rebut.” In addition, on page 121, Maingot states “The Member is not protected by parliamentary privilege against criminal prosecution if he repeats outside the House remarks he made inside the Chamber in debate, whether he gives it at large or to a constituent.”

Citation 76(2) of the sixth edition of *Beauchesne* states in part “the court made it clear that freedom of speech was limited to the floor of the House. On this occasion, remarks made by a Minister to a journalist in the lobby were judged not to be covered by privilege. In the words of the judgment ‘It is not the precinct of Parliament that is sacred, but the function, and that function has never required that press conferences given by Members should be regarded as absolutely protected from legal liability.’”

Marleau and Montpetit also discuss in *House of Commons Procedure and Practice* the limits of parliamentary privilege in connection with freedom of speech. They advise on page 75 that although freedom of speech applies to a Member’s speech in the House and other proceedings of the House itself, it may not apply to reports of proceedings or debates published by newspapers or others outside Parliament. They state on page 76 “Members are therefore cautioned that utterances which are absolutely privileged when made within a parliamentary proceeding may not be when repeated in another context, such as in a press release, a householder mailing, a telegram, on an Internet site, a television or radio interview, at a public meeting or in the constituency office. Members also act at their peril when they transmit otherwise libelous material for purposes unconnected with a parliamentary proceeding.”

Therefore, it is quite clear that Members are not protected by parliamentary privilege for comments that they make outside of the legislative Chamber. I would therefore find that there is no prima facie case of privilege in this case, as the Honourable Member for Inkster cannot claim the protection of privilege for comments that were made outside the Chamber. It is clear from the document that he tabled, that the issuance from the law firm in question came as a result of remarks made outside the Chamber. Now, I as Speaker, am not offering any opinion on whether or not the remarks in question were indeed libelous, as that would be a matter for the courts to determine, should the proposed legal action proceed.

I would, however like to share with Members for their reflection some well regarded advice from House of Commons Speaker John Fraser from May 5, 1987. He stated:

“There are only two kinds of institutions in this land to which this awesome and far-reaching privilege [of freedom of speech] extends – Parliament and the Legislatures on the one hand, and the courts on the other. These institutions enjoy the projection of absolute privilege because of the overriding need to ensure that the truth can be told, that any questions can be asked, and that debate can be free and uninhibited. Absolute privilege ensures that those performing their legitimate functions in these vital institutions of government shall not be exposed to the possibility of legal action. This is necessary in the national interest and has been considered necessary under our democratic system for hundreds of years. It allows our judicial system and our parliamentary system to operate free of any hindrance.

Such a privilege confers grave responsibilities on those who are protected by it. By that I mean specifically the Honourable Members of this place ... all Honourable Members are conscious of the care they must exercise in availing themselves of their absolute privilege of freedom of speech. That is why there are long standing practices and traditions observed in this House to counter the potential for abuse.”

Pursuant to Rule 26(1), Messrs. MAGUIRE and MALOWAY, Mrs. ROWAT, Ms. BRICK and Hon. Mr. GERRARD made Members' Statements.

Hon. Ms. ALLAN moved:

THAT Bill (No. 17) – The Employment Standards Code Amendment Act (Leave for Reservists)/Loi modifiant le Code des normes d'emploi (congé à l'intention des réservistes), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Ms. ALLAN, Mrs. ROWAT, Messrs. LAMOUREUX, SCHULER and MARTINDALE and Ms. KORZENIOWSKI having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to a Committee of this House.

Hon. Ms. ALLAN moved:

THAT Bill (No. 21) – The Statutory Holidays Act (Various Acts Amended)/Loi sur les jours fériés (modification de diverses dispositions législatives), be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Ms. ALLAN, Messrs. GOERTZEN, FAURSCHOU, SCHULER and LAMOUREUX having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to a Committee of this House.

Hon. Ms. ALLAN presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 21).

(Sessional Paper No. 23)

Hon. Mr. STRUTHERS moved:

THAT Bill (No. 23) – The Forest Health Protection Act/Loi sur la protection de la santé des forêts, be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. STRUTHERS having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Mr. STRUTHERS presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 23).

(Sessional Paper No. 24)

Hon. Mr. RONDEAU moved:

THAT Bill (No. 15) – The Manitoba Hydro Amendment and Public Utilities Board Amendment Act (Electricity Reliability)/Loi modifiant la Loi sur l'Hydro-Manitoba et la Loi sur la Régie des services publics (fiabilité du réseau électrique), be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. RONDEAU having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Mr. RONDEAU presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 15).

(Sessional Paper No. 25)

Hon. Mr. MACKINTOSH moved:

THAT Bill (No. 16) – The Children's Advocate's Enhanced Mandate Act (Various Acts Amended)/Loi sur l'élargissement du mandat du protecteur des enfants (modification de diverses dispositions législatives), be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. MACKINTOSH having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Mr. MACKINTOSH presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 16).

(Sessional Paper No. 26)

Hon. Mr. CHOMIAK moved:

THAT Bill (No. 14) – The Family Maintenance Amendment and Inter-jurisdictional Support Orders Amendment Act/Loi modifiant la Loi sur l'obligation alimentaire et la Loi sur l'établissement et l'exécution réciproque des ordonnances alimentaires, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. CHOMIAK having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Ms. WOWCHUK moved:

THAT Bill (No. 18) – The Organic Agricultural Products Act/Loi sur les produits agricoles biologiques, be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Ms. WOWCHUK having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Ms. WOWCHUK presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 18).

(Sessional Paper No. 27)

Hon. Mr. SELINGER moved:

THAT Bill (No. 13) – The Securities Amendment Act/Loi modifiant la Loi sur les valeurs mobilières, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SELINGER having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Mr. LEMIEUX moved:

THAT Bill (No. 19) – The Government Purchases Amendment Act (Responsible Manufacturing)/Loi modifiant la Loi sur les achats du gouvernement (pratiques équitables des fabricants), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. LEMIEUX having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Hon. Mr. RONDEAU moved:

THAT Bill (No. 20) – The Biofuels Amendment Act/Loi modifiant la Loi sur les biocarburants, be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. RONDEAU having spoken,

The debate was, on motion of Mrs. STEFANSON, adjourned.

Wednesday, April 18, 2007

Hon. Mr. RONDEAU presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 20).

(Sessional Paper No. 28)

The House then adjourned at 5:00 p.m. until 10:00 a.m. Thursday, April 19, 2007.

Hon. George HICKES,
Speaker.