



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 40

SECOND SESSION, THIRTY-NINTH LEGISLATURE

PRAYER

10:00 O'CLOCK A.M.

By leave, it was agreed for the House to deal with Second Reading of Bill (No. 223).

Mr. LAMOUREUX moved:

THAT Bill (No. 223) – The Non-Smokers Health Protection Amendment Act (Protecting Children From Second-Hand Smoke in Motor Vehicles)/Loi modifiant la Loi sur la protection de la santé des non-fumeurs (protection des enfants contre l'exposition à la fumée secondaire dans les véhicules automobiles), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Mr. LAMOUREUX, Hon. Messrs. RONDEAU and GERRARD, Ms. HOWARD, Hon. Ms. IRVIN-ROSS and Mr. NEVAKSHONOFF having spoken,

And Hon. Mr. ASHTON speaking at 11:00 a.m. The debate was allowed to remain in his name.

Mr. SARAN moved:

Resolution No. 9: Komagata Maru

WHEREAS the Komagata Maru set sail for Canada from Hong Kong on April 4, 1914 with 376 passengers from Punjab, India

WHEREAS the ship arrived in Burrard Inlet, near Vancouver, on May 23 of that year; and

WHEREAS the Federal Government enacted immigration regulations in 1908 that specified that immigrants had to travel to Canada with continuous ticketing arrangement from their country of origin; and

WHEREAS there were no such arrangements between India and Canada and, as was its intent, the continuous-journey provision consequently precluded further South Asian immigration to Canada; and

WHEREAS, upon the Komagata Maru's arrival in Canadian waters, the ship was not allowed to dock and the Premier of British Columbia stated that the passengers would not be permitted to disembark; and

WHEREAS the Komagata Maru remained anchored in Burrard Inlet for two months while its passengers attempted to be admitted into Canada; and

WHEREAS the passengers of the ship, in their attempt to gain permission to enter Canada, launched a legal battle in the name of one of the passengers; and

WHEREAS on July 7, 1914 the Supreme Court of Canada ruled unanimously that, under new Orders-In-Council, it had no authority to interfere with the decisions of the Department of Immigration and Colonization; and

WHEREAS on July 19, 1914 the Canadian government ordered the harbour tug, Sea Lion, to push the ship out of the harbour to begin its return journey to India; and

WHEREAS the passengers of the Komagata Maru rioted in response to the actions taken by the Federal and Provincial Governments to bar them from the country; and

WHEREAS only 24 passengers from the ship were admitted to Canada, since the ship had violated the exclusion laws, the passengers did not have the required funds, and they had not sailed directly from India to Canada; and

WHEREAS the Canadian government also mobilized the HMCS Rainbow, a former Royal Navy ship, with troops from the Irish Fusiliers, the 72nd Highlanders, and the 6th DCOR regiments on board, to force the Komagata Maru to leave Canadian waters; and

WHEREAS the ship was forced to sail back to India, departing on July 23, 1914; and

WHEREAS the Komagata Maru arrived in Calcutta, India on September 26, 1914 where protests from the passengers at their treatment by British troops resulted in the deaths of 20 passengers and the wounding of nine others in what became known as the Budge Budge Riot; and

WHEREAS the passengers of the Komagata Maru were members of the British Empire and as such, should have been allowed to enter Canada without difficulty; and

WHEREAS the ship's passengers were resolved to claim their right to equal treatment with white citizens of the British Empire and to compel the Canadian government to grant them admission to Canada; and

WHEREAS the immigration restrictions put in place by the Canadian government separated men from their families back home and made further growth of the South Asian community in Canada impossible; and

WHEREAS these immigration restrictions and wartime measures, which, although legal at the time, are considered to be inconsistent with the values that Canadians hold today.

Tuesday, May 13, 2008

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba call upon the Federal Government to apologize for the tragedy of the 1914 Komagata Maru incident; and

BE IT FURTHER RESOLVED that the Legislative Assembly of Manitoba mark the tragic event with a moment of silence.

And a debate arising,

And Mr. SARAN, Mrs. ROWAT, Messrs. JHA and SCHULER, Hon. Mr. ASHTON, Messrs. LAMOUREUX and MARTINDALE having spoken,

And the Question being put. It was agreed to.

1:30 O'CLOCK P.M.

Prior to Routine Proceedings, Mr. LAMOUREUX rose on a Matter of Privilege and moved:

THAT this matter be referred to a Committee of the Legislature.

And Mr. GOERTZEN and Hon. Mr. ASHTON having spoken.

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

The following petitions were presented and read:

Mr. BRIESE – Legislative Assembly of Manitoba to urge the Minister of Family Services and Housing to consider addressing the shortage of Early Childhood Educators by enabling child care centres to provide competitive wages and benefits; and to consider adequately planning for the future child care needs of growing communities, and to consider making the development of a sustainable and accessible child care system a priority; and to consider the development of a governance body that would provide direction and support to the volunteer boards of child care centres and to consider the development of regionalized central wait lists for child care; and to encourage all Members of the Legislative Assembly to consider becoming more closely involved with the operations of the licensed daycare facilities in their constituencies. (R. Woodrow, C. Acongi, T. McGinney and others)

Mr. DYCK – Legislative Assembly of Manitoba to request the Minister of Health to strongly consider giving priority for funding to develop and staff a new 100 bed long-term-care facility so that clients are not exposed to unsafe conditions and so that Boundary Trails Health Centre beds remain available for acute care patients instead of waiting placement clients. (P. Guenther, K. Harms, J. Lesprance and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to urge the Minister of Family Services and Housing to consider addressing the shortage of Early Childhood Educators by enabling child care centres to provide competitive wages and benefits; and to consider adequately planning for the future child care needs of growing communities, and to consider making the development of a sustainable and accessible child care system a priority; and to consider the development of a governance body that would provide direction and support to the volunteer boards of child care centres and to consider the development of regionalized central wait lists for child care; and to encourage all Members of the Legislative Assembly to consider becoming more closely involved with the operations of the licensed daycare facilities in their constituencies. (D. Reynolds, S. Fair, K. Babinsky and others)

During Oral Questions, Mr. Speaker interjected and requested that the words "steal public goods" spoken by the Honourable Minister of Finance be withdrawn.

WHEREUPON Hon. Mr. SELINGER withdrew his remarks.

Subsequently during Oral Questions, Mr. Speaker interjected and requested that the comments spoken by the Honourable Member for Brandon East be withdrawn.

WHEREUPON Mr. BOROTSIK withdrew his remarks.

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

Prior to Routine Proceedings on May 1, 2008, the Honourable Official Opposition House Leader raised a matter of privilege regarding the distribution of Bill 37. The Honourable Official Opposition House Leader contended that the Bill was not distributed to Members in a timely manner, and that the media were not provided with copies in the Chamber as per usual practices. The Honourable Government House Leader, the Honourable Member for Inkster, the Honourable Minister of Family Services and Housing and the Honourable Member for Steinbach also offered advice to the Chair. I took the matter under advisement in order to consult the procedural authorities.

There are two conditions that must be satisfied in order for the matter raised to be ruled in order as a prima facie case of privilege. First, was the issue raised at the earliest opportunity, and second, has sufficient evidence been provided to demonstrate that the privileges of the House have been breached, in order to warrant putting the matter to the House.

The Honourable Official Opposition House Leader indicated that he was raising the issue at the earliest opportunity; however the actions he complained of took place on the previous day, and it is possible that the Honourable Official Opposition House Leader could have raised the issue on April 30. I am not saying that the issue is out of order due to when it was raised, I am merely observing that the issue could have been raised earlier.

Regarding the second condition, of whether a prima facie breach of privilege has occurred, I would like to explain to the House what the process for distribution of a bill is. Once the first reading motion for a bill has been agreed to, the sponsoring Member or Minister is then provided with a letter authorizing distribution of the Bill within the Chamber, and until that distribution letter has been signed and returned to the Table, the Bill cannot be distributed. The sponsoring Member or Minister has the option of authorizing immediate distribution, or of authorizing distribution at a later time or on a later date by providing specific instructions. There is no requirement in the rules that the distribution must take place immediately, and this is a decision of the sponsoring Member or Minister.

In the case of Bill 37, the letter of distribution was provided to the sponsoring Minister; however the distribution letter was not returned immediately to the Table, therefore the Bill was not distributed right away. As soon as the letter of distribution was signed and provided to the Table, the Bill was then distributed, and the distribution was completed by 2:43 p.m.

As some Members have contended, the distribution in this instance was later than what is the usual case. Joseph Maingot points on page 223 of the second edition of *Parliamentary Privilege in Canada*, “a breach of the standing orders or a failure to follow an established practice would invoke a Point of Order rather than a question of privilege.” There have also been numerous rulings from Manitoba Speakers to indicate that a breach of the rules or the failure to follow the usual practices of the House is a matter of order, not privilege. In addition, as previously noted, the decision of when a Bill will be distributed is a decision that the sponsoring Member or Minister can make, and it is not a requirement that distribution take place immediately.

The Honourable Official Opposition House Leader also contended that the media did not receive copies of the bill in the Press Gallery. I should note for the House that Assembly staff does not provide copies to the media in the Press Gallery – copies are always provided to the media office. In addition, parliamentary privilege only extends to Members of the Legislative Assembly and cannot be claimed on behalf of the media, as the protection of parliamentary privilege does not extend to the media.

Although Members may disagree over the timing of when the Bill was distributed and may find the timing to be discourteous, a breach of privilege did not occur, as the sponsoring Member or Minister does have the ability to decide whether distribution will be immediate or at a later time or date. I would therefore rule that there is no prima facie case of a breach of privilege.

I also wanted to give a reminder to all Members that in the raising of points of order or matters of privilege in the House, it is not appropriate to be bringing the non-partisan staff of the House into disputes between the various parties in the House. The staff of the Table, the Clerk’s Office, the Journals Branch, the Committees Branch, the Chamber Branch and Hansard are all non-political, non-partisan staff of the House, and as such serve all Members equally and provide excellent service. They also do not have the ability to defend themselves on the record, and as Speaker, I am sure I speak for Members on all side of the House when I say that it is not appropriate to be dragging non-political staff into disagreements, and I hope we do not see this happen again in the future.

From his decision, Mr. HAWRANIK 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

ALLAN	MALOWAY
ALTEMEYER	MARCELINO
ASHTON	MARTINDALE
BLADY	MCGIFFORD
BJORNSON	MELNICK
BRAUN	NEVAKSHONOFF
CALDWELL	REID
DEWAR	ROBINSON
DOER	RONDEAU
HOWARD	SARAN
IRVIN-ROSS	SELBY
JENNISSEN	SELINGER
JHA	STRUTHERS
LEMIEUX	SWAN
MACKINTOSH	WOWCHUK..... 30

NAY

BOROTSIK	HAWRANIK
BRIESE	LAMOUREUX
CULLEN	MAGUIRE
DERKACH	MCFADYEN
DRIEDGER	MITCHELSON
DYCK	PEDERSEN
EICHLER	ROWAT
FAURSCHOU	SCHULER
GOERTZEN	STEFANSON..... 19
GRAYDON	

Pursuant to Rule 26(1), Mrs. MITCHELSON, Messrs. JENNISSEN, GOERTZEN and DEWAR and Mrs. DRIEDGER made Members' Statements.

Hon. Mr. BJORNSON moved:

THAT Bill (No. 28) – The Strengthening Local Schools Act (Public Schools Act Amended)/Loi sur le renforcement des écoles locales (modification de la Loi sur les écoles publiques), 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. BJORNSON, Mr. SCHULER and Hon. Mr. GERRARD having spoken,

The debate was, on motion of Mr. HAWRANIK, adjourned.

Hon. Mr. BJORNSON presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 28).

(Sessional Paper No. 46)

In accordance with Rule 31(8), the Deputy Government House Leader announced that the Spanish Civil War Resolution will be considered next Tuesday, May 20, 2008.

Hon. Mr. MACKINTOSH for Hon. Mr. CHOMIAK moved:

THAT Bill (No. 14) – The Criminal Property Forfeiture Amendment Act/Loi modifiant la Loi sur la confiscation de biens obtenus ou utilisés criminellement, 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, Messrs. HAWRANIK and LAMOUREUX having spoken,

The debate was, on motion of Mr. DYCK, adjourned.

Hon. Mr. MACKINTOSH for Hon. Mr. CHOMIAK presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 14).

(Sessional Paper No. 47)

Hon. Mr. RONDEAU moved:

THAT Bill (No. 15) – The Climate Change and Emissions Reductions Act/Loi sur les changements climatiques et la réduction des émissions de gaz à effet de serre, be now read a Second Time and be referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

Tuesday, May 13, 2008

And a debate arising,

And Hon. Mr. RONDEAU, Mr. CULLEN and Hon. Mr. GERRARD having spoken,

The debate was, on motion of Mr. DYCK, 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. 48)

Hon. Mr. MACKINTOSH moved:

THAT Bill (No. 16) – The Child Care Safety Charter (Community Child Care Standards Act Amended)/Charte sur la sécurité des enfants en garderie (modification de la Loi sur la garde d'enfants), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. MACKINTOSH, Messrs. LAMOUREUX and BRIESE having spoken,

The debate was, on motion of Mr. DYCK, adjourned.

Hon. Mr. SWAN moved:

THAT Bill (No. 19) – The Liquor Control Amendment Act/Loi modifiant la Loi sur la réglementation des alcools, be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SWAN and Mr. GRAYDON having spoken,

The debate was, on motion of Mr. LAMOUREUX, adjourned.

The House then adjourned at 5:04 p.m. until 1:30 p.m. Wednesday, May 14, 2008.

Hon. George HICKES,
Speaker.