



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 5

FIFTH SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

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

(No. 4) – The Consumer Protection Amendment Act (Prepaid Purchase Cards)/Loi modifiant la Loi sur la protection du consommateur (cartes prépayées)

(Hon. Mr. SELINGER)

(No. 206) – The Phosphorus-Free Dishwashing Detergent Act/Loi sur les détergents à vaisselle sans phosphore

(Hon. Mr. GERRARD)

The following petitions were presented and read:

Mrs. TAILLIEU – Legislative Assembly of Manitoba to urge the Minister charged with the administration of The Liquor Control Act to consider allowing the owners of Headingley Foods to sell alcohol at their store, thereby supporting small business and the prosperity of rural communities in Manitoba. (A. Cattersen, J. Stefanson, H. Wilks 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. Buno, L. Dominguez, C. Gatdula and others)

Hon. Mr. SELINGER presented:

Manitoba Hydro-Electric Board, Quarterly Report, Six Months, April 1 to September 30, 2006.
(Sessional Paper No. 2)

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

Following the Prayer on November 16, 2006, the Honourable Member for River Heights rose on a Matter of Privilege contending that the Honourable Minister of Aboriginal and Northern Affairs was in a potential conflict of interest situation due to comments that the Minister made during committee consideration of Bill 32 – The Real Property Amendment Act/Loi modifiant la Loi sur les biens reels. The Honourable Member for River Heights concluded his comments by moving "THAT the Matter of Privilege raised today by myself regarding the possibility of a conflict of interest regarding The Real Property Amendment Act be referred to a Standing Committee of the Legislature." 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 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.

The Honourable Member for River Heights asserted that he was raising the issue at the earliest opportunity, and I accept the word of the Honourable Member.

Regarding the issue of whether or not a prima facie case exists, I would note for the House that Joseph Maingot advises on page 180 of the second edition of Parliamentary Privilege in Canada that "The Chair is in no position to interpret either the law or the constitution. Whether something takes place in this House is constitutional or legal is not for the Chair to decide. The Chair only decides whether we are following our own rules." The concept that Speakers do not decide questions of law is supported by a 1994 ruling by Speaker Rocan and by a 1996 ruling by Speaker Dacquay. Therefore, it is clear that the Speaker is not in the position to determine questions of law.

I would also note for the House that there is legislation in place, The Legislative Assembly and Executive Council Conflict of Interest Act, which deals with the issue of conflict of interest by describing actions that are prohibited, as well as steps that must be taken to avoid conflict of interest situations. The legislation also outlines penalties for Members found to be in conflict of interest situations. The remedies provided by this legislation include the ability to request either formal or informal advice from the Legislative Assembly Conflict of Interest Commissioner concerning Members' obligations under the Act. In addition, there is also the remedy of applying to a judge of the Court of Queen's Bench for authorization to have a hearing before another judge of the court to determine whether a Member or Minister has violated the Act.

In addition, Speaker Hanuschuk ruled on a matter of privilege raised in 1970 regarding an alleged conflict of interest by Members who were voting on The Automobile Insurance Act, that it was beyond the jurisdiction of the Speaker to decide if a conflict did exist. Given that there is legislation that deals with conflict of interest situations, and given that the Speaker does not determine questions of law, it would be inappropriate for me as Speaker to be making a decision about whether or not a conflict of interest has occurred.

Also, House of Commons Speaker Parent ruled in 1994 that a matter of privilege raised about a potential conflict of interest was not a prima facie case of privilege, as it was a disagreement as to the facts, which does not fulfill the conditions of parliamentary privilege.

I would therefore rule that the matter is not in order as a prima facie case of privilege and remind Members that there are other remedies that can be sought regarding conflict of interest situations rather than raising the issue as privilege in the House or asking for the intervention of the Speaker.

I would also note for the House that issues of conflict of interest or potential conflicts of interest are issues that must be taken seriously, because not only can there be serious consequences as outlined in The Legislative Assembly and Executive Council Conflict of Interest Act, there is also the issue of public perception and public trust and confidence in elected officials that could be shaken if valid conflict of interest situations were found to exist. Similarly, caution should be exercised when raising alleged conflicts of interest, as this can have the action of perhaps unjustly tarring the reputation of those Members so accused if no conflict of interest situation is found to exist. I would urge Members to exercise caution when raising such matters.

Pursuant to Rule 26(1), Messrs. CULLEN and JHA, Mrs. ROWAT, Messrs. JENNISEN and LAMOUREUX made Members' Statements.

The House resumed the Adjourned Debate on the Proposed Motion of Ms. BRICK:

THAT the following address be presented to His Honour the Lieutenant Governor:

We, the Members of the Legislative Assembly of Manitoba thank your Honour for the gracious speech addressed to us at this Fifth Session of the Thirty-Eighth Legislature of Manitoba.

And the proposed amendment moved by Mr. MCFADYEN as follows:

THAT the Motion be amended by adding at the end of the sentence the following words:

But this House regrets

- (a) the government's failure to provide meaningful and competitive tax relief for Manitobans; and
- (b) the government's failure to provide foster placements for the unprecedented number of children in care housed in hotels; and
- (c) the government's failure to acknowledge that hallway medicine still exists in Manitoba, and that it has now progressed to a crisis in Winnipeg's emergency rooms due to a critical shortage of doctors; and
- (d) the government's failure to implement an effective strategy to reduce wait times for diagnostic testing, surgical procedures and appointments with specialists; and

- (e) the government's failure to address the critical shortage of health care professionals, which is crippling the ability of the system to provide timely access to care; and
- (f) the government's failure to keep rural emergency rooms open despite promising to do so, forcing Manitobans to travel crumbling highways to access emergency care; and
- (g) the government's failure to offer assurances to students and parents that educational outcomes and greater accountability in the education system are a high priority; and
- (h) the government's failure to call an independent public inquiry into the Crocus Investment Fund scandal, which resulted in 34,000 Manitobans losing more than \$60 million; and
- (i) the government's failure to ensure prudent expenditure of taxpayers' dollars, spending millions of dollars on rebranding campaigns and pre-election advertising; and
- (j) the government's failure to support the construction of a new transmission line for hydroelectricity on the east side of Lake Winnipeg, which will cost Hydro ratepayers over \$500 million; and
- (k) the government's failure to implement a long-term provincial strategy to recruit and retain police officers; and
- (l) the government's failure to crack down on auto thieves and gang activity; and
- (m) the government's failure to address court backlogs and the flourishing remand culture in Manitoba; and
- (n) the government's failure to focus on the competitiveness of our post-secondary institutions compared to others across the country; and
- (o) the government's failure to provide a strategy to promote growth in Manitoba's agricultural economy, focusing instead on issues under federal jurisdiction; and
- (p) the government's failure to implement a plan to market by-products of the biofuel production process; and
- (q) the government's failure to reduce greenhouse gas emissions; and
- (r) the government's failure to acknowledge that it was Manitoba Progressive Conservatives who announced ideas for rebates on hybrid vehicles, an external review of the regionalization of health care and grandparents' rights legislation; and
- (s) the government's failure to ensure the promised level of flood protection for the City of Winnipeg; and
- (t) the government's failure to provide better economic development opportunities for rural and northern Manitoba; and

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(u) the government's failure to create a competitive environment that encourages private sector businesses to come to Manitoba and spur job creation and economic growth; and

(v) the government's failure to address the out-migration of Manitobans, especially our youth.

AND HAS THEREBY lost the trust and confidence of the people of Manitoba and this House.

And the debate continuing on the amendment,

And Messrs. PENNER, SANTOS, CUMMINGS and JHA having spoken,

And Mrs. DRIEDGER speaking at 5:00 p.m. The debate was allowed to remain in her name.

The House then adjourned at 5:00 p.m. until 1:30 p.m. Wednesday, November 22, 2006.

Hon. George HICKES,
Speaker.