



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 9**

**FIFTH SESSION, THIRTY-EIGHTH LEGISLATURE**

**PRAYER**

**1:30 O'CLOCK P.M.**

On motion of Hon. Mr. MACKINTOSH, Bill (No. 9) – The Grandparent Access and Other Amendments Act (Child and Family Services Act Amended)/Loi sur le droit de visite des grands-parents et apportant d'autres modifications (modification de la Loi sur les services à l'enfant et à la famille), was read a First Time and had its purposes outlined.

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. (S. Koksar, T. Major, D. Williams and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to consider supporting the slogan "Friendly Manitoba" over "Spirited Energy" and to urge the Premier and his NDP caucus to make public the total cost in creating and promoting the new slogan "Spirited Energy". (G. Oleas, S. Maglain, M. Reyes and others)

Pursuant to Rule 26(1), Ms. KORZENIOWSKI, Mrs. ROWAT, Hon. Mr. SMITH, Messrs. DYCK and JHA made Members' Statements.

Pursuant to Rule 45(2), the debate on the Address in Reply to the Speech from the Throne was interrupted by the Government House Leader in order to call Government Business.

The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 25) – The Consumer Protection Amendment Act (Payday Loans)/Loi modifiant la Loi sur la protection du consommateur (prêts de dépannage), as amended and reported from the Standing Committee on Social and Economic Development:

Hon. Mr. GERRARD moved:

*THAT Bill 25 be amended in Clause 3 in the proposed definition "payday loan"*

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(a) in clause (a), by striking out "\$1,500." and substituting "\$3,000."; and

(b) in clause (b), by striking out "62 days" and substituting "100 days".

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER and Mr. LAMOUREUX having spoken,

And the Question being put on the amendment. It was negatived.

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The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 34) – The Public Interest Disclosure (Whistleblower Protection) Act/Loi sur les divulgations faites dans l'intérêt public (protection des divulgateurs d'actes répréhensibles), as amended and reported from the Standing Committee on Social and Economic Development:

Hon. Mr. GERRARD moved:

*THAT Bill 34 be amended in the definition "government body" in Clause 2 by adding the following after clause (a):*

*(a.1) a public school, school district or school division within the meaning of The Public Schools Act, or a college, university or other educational institution;*

*(a.2) a crown corporation;*

*(a.3) a municipality;*

*(a.4) a non-profit organization that receives money from the government;*

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER and Mr. LAMOUREUX having spoken,

And the Question being put on the amendment. It was negatived.

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Hon. Mr. GERRARD then moved:

*THAT Bill 34 be amended by replacing Clause 14(1) with the following:*

**Public disclosure if situation is urgent**

**14(1)** A disclosure that an employee may make under section 10 or 11 may be made to the public if there is not sufficient time to make the disclosure under that section and

(a) the employee reasonably believes that the subject-matter of the disclosure is an act or omission that constitutes

(i) an imminent risk of a substantial and specific danger to the life, health and safety of persons, or to the environment, or

(ii) a serious offence under an Act of the Legislature or of Parliament; and

(b) the employee

(i) has first made the disclosure to an appropriate law enforcement agency or, in the case of a health-related matter, the chief medical officer of health, and

(ii) complies with any direction that the agency or officer considers necessary in the public interest.

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER having spoken,

And the Question being put on the amendment. It was negatived.

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Hon. Mr. GERRARD then moved:

*THAT Bill 34 be amended by adding the following after Clause 17:*

PUBLIC ACCESS TO INFORMATION  
ABOUT WRONGDOINGS

**When chief executive must give public access**

**17.1** If a wrongdoing is found as a result of a disclosure made under any provision of this Act, the chief executive of the department, government body or office in which the wrongdoing was committed must promptly provide public access to information that

(a) describes the wrongdoing, including information that could identify the person found to have committed it if that information is necessary to adequately describe the wrongdoing;

(b) includes the recommendations, if any, set out in any report made to the chief executive in relation to the wrongdoing; and

(c) describes the corrective action, if any, taken by the chief executive in relation to the wrongdoing or the reasons why no corrective action was taken.

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER and Mr. CUMMINGS having spoken,

And the Question being put on the amendment. It was negatived.

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Hon. Mr. GERRARD then moved:

*THAT Bill 34 be amended in Clause 22 by striking out "and 39 to 41" and substituting ", 40 and 41".*

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER having spoken,

And the Question being put on the amendment. It was negatived.

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Hon. Mr. GERRARD then moved:

*THAT Bill 34 be amended by adding the following after Clause 25:*

**Application to court re investigation or report**

**25.1(1)** An employee may apply to the Court of Queen's Bench for an order under subsection (5) if

(a) the Ombudsman decides not to investigate the employee's disclosure, or decides to cease investigating it, and the employee believes that the decision is not justified under subsection 21(1); or

(b) the employee believes that the investigation of the employee's disclosure is insufficient or that the findings or recommendations set out in the Ombudsman's report are unsatisfactory.

**Application within 30 days**

**25.1(2)** The employee must file the application within 30 days after the employee

(a) learns of the Ombudsman's decision to cease investigating or not to investigate; or

(b) receives the Ombudsman's report;

or within any longer period that the court may allow in special circumstances.

**Ombudsman may intervene**

**25.1(3)** The Ombudsman has a right to intervene as a party to the application.

**Court to take precautions against disclosing**

**25.1(4)** The court must take every reasonable precaution, including receiving representations *ex parte*, conducting hearings in private and examining records in private, to avoid disclosing

(a) the identity of the employee or of the person who is alleged to have committed, or to be about to commit, the wrongdoing; or

(b) the alleged wrongdoing.

**Powers of court on application**

**25.1(5)** After hearing the application, the court

(a) may, if it determines that the Ombudsman's decision to cease investigating or not to investigate is not justified under subsection 21(1), or that the Ombudsman's investigation is insufficient or that the findings or recommendations set out in the report are unsatisfactory, make any order that it considers necessary to carry out the purposes of this Act, including, but not limited to, requiring the Ombudsman

(i) to investigate the employee's disclosure, to reinstate the investigation that he or she ceased or to reinvestigate or further investigate the disclosure or any aspect of it, or

(ii) to reconsider and revise his or her report, or to add to the report any finding or recommendation that the court considers appropriate; or

(b) must, if it determines that the employee's application is not warranted, dismiss the application.

**When disclosure is referred to the Auditor General**

**25.1(6)** Subsections (1) to (5) apply, with necessary changes, to a decision or action of the Auditor General when a disclosure is made to the Auditor General under section 11 or is referred to the Auditor General under subsection 21(2).

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER having spoken,

And the Question being put on the amendment. It was negatived.

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Hon. Mr. GERRARD then moved:

*THAT Bill 34 be amended by adding the following after Clause 33(5):*

**Extension of deadline for commencing prosecution**

**33(6)** When a prosecution takes place as the result of information obtained by a person under *The Freedom of Information and Protection of Privacy Act* or *The Personal Health Information Act*, the time period between the time the person made a formal request for access to a record or other information under either of those Acts and the time access was provided is to be excluded from the two-year period referred to in subsection (5).

And a debate arising,

And Hon. Messrs. GERRARD and SELINGER having spoken,

And the Question being put on the amendment. It was negatived.

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Hon. Mr. CHOMIAK moved:

THAT Bill (No. 25) – The Consumer Protection Amendment Act (Payday Loans)/Loi modifiant la Loi sur la protection du consommateur (prêts de dépannage), as amended and reported from the Standing Committee on Social and Economic Development, be concurred in and be now read for a Third Time and passed.

And a debate arising,

And Hon. Mr. CHOMIAK, Messrs. HAWRANIK and LAMOUREUX and Hon. Mr. GERRARD having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly concurred in, read a Third Time and passed.

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Hon. Mr. CHOMIAK moved:

THAT Bill (No. 34) – The Public Interest Disclosure (Whistleblower Protection) Act/Loi sur les divulgations faites dans l'intérêt public (protection des divulgateurs d'actes répréhensibles), as amended and reported from the Standing Committee on Social and Economic Development, be concurred in and be now read for a Third Time and passed.

And a debate arising,

And Hon. Mr. CHOMIAK and Mr. HAWRANIK having spoken,

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

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Hon. Ms. ALLAN moved:

THAT Bill (No. 2) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, 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 having spoken,

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

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Hon. Ms. ALLAN presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 2).

(Sessional Paper No. 3)

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Hon. Ms. IRVIN-ROSS moved:

THAT Bill (No. 3) – The Healthy Child Manitoba Act/Loi sur la stratégie « Enfants en santé Manitoba », 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. IRVIN-ROSS having spoken,

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

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Hon. Ms. IRVIN-ROSS presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 3).

(Sessional Paper No. 4)

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Hon. Mr. SELINGER moved:

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

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Hon. Mr. SELINGER moved:

THAT Bill (No. 5) – The Personal Investigations Amendment Act (Identity Protection)/Loi modifiant la Loi sur les enquêtes relatives aux particuliers (protection de l'identité), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

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And Hon. Mr. SELINGER having spoken,

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

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Hon. Mr. RONDEAU moved:

THAT Bill (No. 7) – The Real Property Amendment Act (Wind Turbines)/Loi modifiant la Loi sur les biens réels (éoliennes), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. RONDEAU having spoken,

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

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Hon. Mr. CHOMIAK moved:

THAT Bill (No. 8) – The Public Accounts Committee Meeting Dates Act (Legislative Assembly Act Amended)/Loi sur les dates de réunion du Comité des comptes publics (modification de la Loi sur l'Assemblée législative), 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,

And Mr. GOERTZEN speaking at 5:00 p.m. The debate was allowed to remain in his name.

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The House then adjourned at 5:00 p.m. until 1:30 p.m. Tuesday, November 28, 2006.

Hon. George HICKES,  
Speaker.