



Third Session - Thirty-Sixth Legislature

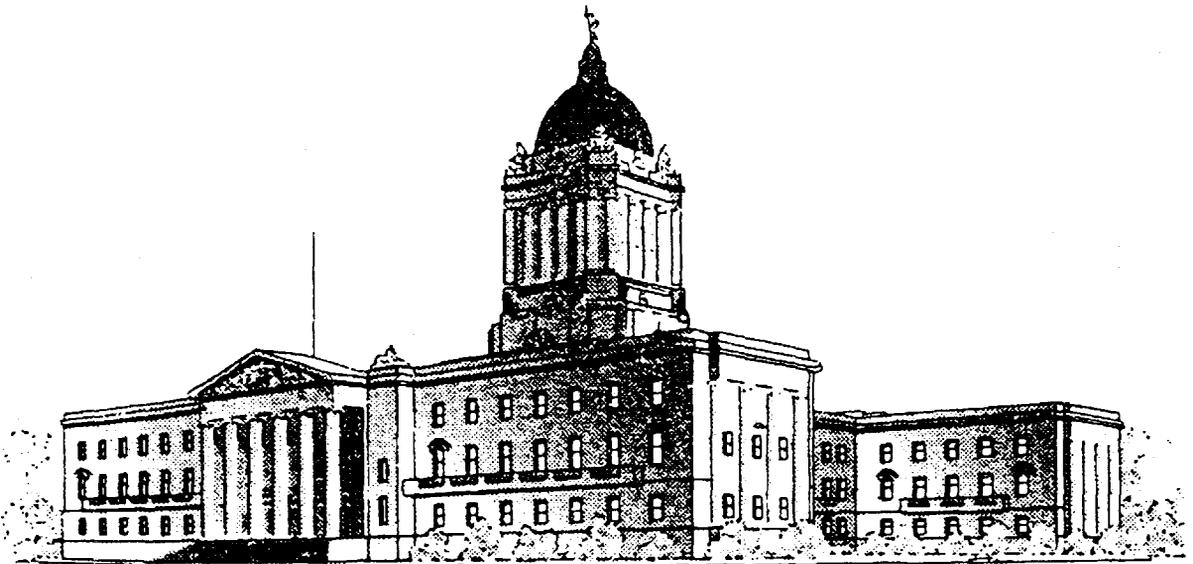
of the

**Legislative Assembly of Manitoba**

**DEBATES  
and  
PROCEEDINGS**

**Official Report  
(Hansard)**

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**MANITOBA LEGISLATIVE ASSEMBLY**  
**Thirty-Sixth Legislature**

<b>Member</b>	<b>Constituency</b>	<b>Political Affiliation</b>
ASHTON, Steve	Thompson	N.D.P.
BARRETT, Becky	Wellington	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave	Kildonan	N.D.P.
CUMMINGS, Glen, Hon.	Ste. Rose	P.C.
DACQUAY, Louise, Hon.	Seine River	P.C.
DERKACH, Leonard, Hon.	Roblin-Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
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DYCK, Peter	Pembina	P.C.
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EVANS, Clif	Interlake	N.D.P.
EVANS, Leonard S.	Brandon East	N.D.P.
FILMON, Gary, Hon.	Tuxedo	P.C.
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GILLESHAMMER, Harold, Hon.	Minnedosa	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KOWALSKI, Gary	The Maples	Lib.
LAMOUREUX, Kevin	Inkster	Lib.
LATHLIN, Oscar	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
MACKINTOSH, Gord	St. Johns	N.D.P.
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WOWCHUK, Rosann	Swan River	N.D.P.

## LEGISLATIVE ASSEMBLY OF MANITOBA

Friday, April 11, 1997

The House met at 10 a.m.

### PRAYERS

### ROUTINE PROCEEDINGS

### PRESENTING PETITIONS

#### Mobile Screening Unit for Mammograms

**Ms. Rosann Wowchuk (Swan River):** Madam Speaker, I beg to present the petition of Darlene Lyseyko, Pat Hrushka and Bonny Johanneson and others requesting that the Legislative Assembly of Manitoba request the Minister of Health (Mr. Praznik) to consider immediately establishing a mobile screening unit for mammograms to help women across the province detect breast cancer at the earliest possible opportunity.

### PRESENTING REPORTS BY STANDING AND SPECIAL COMMITTEES

#### Committee of Supply

**Mr. Marcel Laurendeau (Chairperson of the Committee of Supply):** Madam Speaker, the Committee of Supply has considered certain resolutions, directs me to report progress and asks leave to sit again.

I move, seconded by the honourable member for Turtle Mountain (Mr. Tweed), that the report of the committee be received.

Motion agreed to.

#### Standing Committee on Public Utilities and Natural Resources Third Report

**Mr. Jack Penner (Chairperson of the Standing Committee on Public Utilities and Natural Resources):** I beg to present the Third Report of the Committee of Public Utilities and Natural Resources.

I move, seconded by the honourable member for La Verendrye (Mr. Sveinson), that the report of the committee be received.

**Mr. Clerk (William Remnant):** Your Standing Committee on Public Utilities and Natural Resources presents the following as its Third Report.

**An Honourable Member:** Dispense.

**Madam Speaker:** Dispense.

*Your Committee met on Thursday, April 20, 1997, at 10 a.m. in Room 255 of the Legislative Building to consider the Annual Reports of the Workers Compensation Board for the years ended December 31, 1994, 1995 and 1996 and the 1995 Five-Year Operating Plan, the 1996 Five-Year Operating Plan and the 1997 Five-Year Operating Plan of the Workers Compensation Board.*

*At that meeting your committee elected Mr. Tweed as its Vice-Chairperson.*

*Mr. Wally Fox-Decent, chairperson, and chief executive officer, Mr. George Davis, chief appeal commissioner, Mr. Alan Scramstad, corporate counsel, Mr. Sid Rogers, senior director, claims services, vocational rehabilitation, and Mr. Don Paul, senior director, claims services, vocational rehabilitation and Mr. Don Paul, senior director, claims services, adjudication, provided such information as was requested with respect to the Annual Reports and business of the Workers Compensation Board.*

*Your Committee has considered the Annual Reports of the Workers Compensation Board for the years ended December 31, 1994, and 1995, and the 1995 Five-Year Operating Plan of the Workers Compensation Board and has adopted the same as presented.*

**Madam Speaker:** It has been moved by the honourable member for Emerson (Mr. Penner), seconded by the honourable member for La Verendrye

(Mr. Sveinson), that the report of the committee be received. Agreed?

**Some Honourable Members:** Agreed.

**Madam Speaker:** Agreed and so ordered.

### TABLING OF REPORTS

**Hon. James Downey (Minister of Industry, Trade and Tourism):** Madam Speaker, I am pleased to table Supplementary Information for Legislative Review from the Department of Industry, Trade and Tourism for 1997-98, something positive for the member for Crescentwood (Mr. Sale) to read over the weekend.

**Hon. Leonard Derkach (Minister of Rural Development):** Madam Speaker, I would like to table the Supplementary Information for Legislative Review for the 1997-98 Departmental Expenditure Estimates for the Department of Rural Development.

\* (1005)

### INTRODUCTION OF BILLS

#### Bill 17—The Retail Businesses Holiday Closing Amendment Act

**Hon. Harold Gilleshammer (Minister of Labour):** Madam Speaker, I move, seconded by the Minister of Rural Development (Mr. Derkach), that leave be given to introduce Bill 17, The Retail Businesses Holiday Closing Amendment Act (Loi modifiant la Loi sur les jours fériés dans le commerce de détail), and that the same be now received and read a first time.

**Motion agreed to.**

#### Bill 202—The Child and Family Services Amendment Act

**Mr. Neil Gaudry (St. Boniface):** Madam Speaker, I move, seconded by the member for Inkster (Mr. Lamoureux), that leave be given to introduce Bill 202, The Child and Family Services Amendment Act; Loi modifiant la Loi sur les services à l'enfant et à la famille, and that the same be now received and read a first time.

**Motion presented.**

**Mr. Gaudry:** Madam Speaker, the intent of this bill is to allow grandparents to apply to court for access to a child in a custody battle. Under current legislation, grandparents must meet a criterion of exceptional circumstance before allowed access to their grandchildren. To date, most grandparents have little access in meeting this criterion. Children benefit knowing their parents, and this legislation will allow grandparents to continue their family ties after parents' separation or divorce.

I would urge all members of this Legislature to support this bill.

**Motion agreed to.**

### Introduction of Guests

**Madam Speaker:** Prior to Oral Questions, I would like to draw the attention of all honourable members to the Speaker's Gallery where we have with us today 15 senior officials from the national and provincial governments of South Africa. This delegation is in Canada under the sponsorship of Canada's International Development Research Centre and has been undertaking a study of intergovernmental relations within the Canadian context. Ours is the only provincial capital which the delegation will be visiting prior to returning to South Africa.

Amongst the delegation is Mr. Raymond Motsepe, member of the Standing Committee on Local Government from the Northwest province, which is twinned with the province of Manitoba.

On behalf of all honourable members, I welcome you this morning.

Also seated in the public gallery this morning, we have eighty-one Grade 9 students from Garden City Collegiate under the direction of Ms. Donna Babick. This school is located in the constituency of the honourable member for Kildonan (Mr. Chomiak).

On behalf of all honourable members, I welcome you this morning.

I would like to also ask all honourable members to draw their attention to the table and assist me in welcoming JoAnn McKerlie-Korol, our Journals Clerk, to the table. JoAnn will be on duty at the table every second Friday to enhance her procedural knowledge and to provide the House with a backup in the event of illness or emergency.

On behalf of all honourable members, I welcome you.

\* (1010)

### ORAL QUESTION PERIOD

#### Poverty Rate Reduction Strategy

**Ms. Jean Friesen (Wolseley):** Madam Speaker, there are long-term consequences to the policies of this government, because what has happened over the period of this government is that we have created two Manitobans. There are those who have jobs and those increasingly who are in part-time and intermittent work and whose real wages are falling year by year. There are those who have been made poorer by the cuts to welfare and those who have been made richer by the sale of public property. There are those who can afford to purchase education and those who cannot afford the user fees, increasingly a part of public education as a result of his continuous cuts. There are in my riding people who can no longer feed themselves and whom I hear from on a monthly basis from St. Matthews Church.

I want to ask the Premier to recognize the long-term damage to the province and particularly to the city of Winnipeg that is being sustained by his policies and to ask him to tell the House when he is going to do that U-turn, when he is going to rebuild the increasingly deep pockets of poverty that report after report are describing across this province.

**Hon. Gary Filmon (Premier):** Madam Speaker, I am glad that the member for Wolseley has cited the long-term consequences of policy decisions that are made, because that, of course, is in essence what this government has had to deal with with respect to all of the things that have happened since we have been in

office. We came into office having to deal with the consequences of a government that had tripled the net provincial debt and more than quintupled the amount of money that was transferred away from programs and then was spent on interest, interest on the debt that they had run up, the New Democrats, for six and a half sorry years in this province.

So, in having to deal with that, Madam Speaker, what did happen—and, of course, I have cited Free Press articles in 1988, early '88, that talked about this transference of money away from programs, away from being spent on health, on education, on social services, and onto interest that was being paid to bondholders in Zurich, in New York, in Tokyo, in London and all over the world. Those are the kinds of consequences, long-term consequences, of the terrible decisions that were made by New Democrats when they had a chance to make decisions in this government and in this province. Those long-term consequences, of course, have resulted in the decisions that we have had to make, the difficult choices we have had to make. That, of course, is what that member for Wolseley stands for—stands for spending money on interest, stands for spending money that goes to the people in Zurich and Tokyo and all the financial capitals of the world and not on services to people. That, we think, is a terrible choice that they made. We are making better choices.

#### Education System Funding

**Madam Speaker:** The honourable member for Wolseley, with a supplementary question.

**Ms. Jean Friesen (Wolseley):** Madam Speaker, the tragedy is that we have a government who wants to live in the past and not deal with the poverty on its—

**Madam Speaker:** Order, please. The honourable member, to pose her question now.

**Ms. Friesen:** Thank you, Madam Speaker. Report after report on the government's desk tells us of the increasing burden that is falling on schools and teachers, the agencies which are in daily contact with the children who are facing the consequences of this government's policy. Yet the government is actually

reducing the proportion of government expenditures on public education year by year.

I want to ask the Premier to make a straightforward and simple commitment to the people of Manitoba that those schools which daily are dealing with the burdens of the poor can be supported and that the increase to public education will begin to rebuild public education across Manitoba. It is a simple commitment and it is small step, but it is an important one.

\* (1015)

**Hon. Gary Filmon (Premier):** Madam Speaker, I have always said that the public school system is a fundamental cornerstone to building a stronger future for this province. I am proud to say that I am a product of the public school system, that my children are products of the public school system, that the public school system does things for our society that are absolutely fundamental to our future goals to be achieved.

Madam Speaker, what we are doing is ensuring that we can build a sustainable future in every respect. The member opposite talks about reductions in spending, but we know from the figures that are available to us that, while the New Democrats were in office, the proportion of money that went to education in this province actually reduced between 1981 and 1988 when they were in office. We know that the proportion of our budget that goes to education has been increasing since we have been in office, because we are now starting to make that transference away from spending the money on interest and now into having the money invested in the future growth of our people and the development of our people.

Madam Speaker, we will continue that process. We will continue that process because, above all, we are working on building a healthier economy. That is why we, in the last month, had all-time record levels of employment in this province. That is why last year, for instance, our average weekly wage went up. That is why the disposable income keeps going up for people, because we are taking less away from them in taxes and having more money in their pockets to be spent. Those are the kinds of positive long-term changes that we are making.

### Unemployment Rate Aboriginal Statistics

**Ms. Jean Friesen (Wolseley):** Madam Speaker, I would like the Premier—who is prepared on the one hand to argue outside this House that the problems facing Winnipeg are as a result of the influx of, I think he said, poorly educated aboriginal people and on the other hand wants to boast about his low unemployment numbers—will the Premier begin to show some intellectual honesty and to include all Manitobans in his unemployment statistics and particularly aboriginal Manitobans?

**Hon. Gary Filmon (Premier):** Madam Speaker, we believe that the best social program is a job, and that is what we are working on. We are creating jobs and opportunities for people. Our efforts are being invested in growth and wealth creation that creates jobs and money in the pockets of individuals so that their family circumstances can be improved, so that they have access to the kinds of things and quality of life that we all want for all Manitobans.

That is why, as I say, last month we had all-time record levels of employment in this province. That is why our economic growth numbers for the past three years have remained in the upper echelon of Canadian provinces. That is why the capital investment in our province has grown for now this will be the sixth consecutive year, the only province in Canada that can say that, because those investments create jobs and opportunities, things that we know will answer many of the criticisms that members opposite are putting forward, because we know that, despite the fact that they may want to encourage people to continue to strive for welfare and social programs, we are continuing to encourage people to strive for jobs and long-term security and get off the dependency that New Democrats preach and get onto independence and self-sufficiency, because that is what they really want.

\* (1020)

### Holiday Haven Nursing Home Report Availability

**Mr. Dave Chomiak (Kildonan):** Madam Speaker, in October we raised major problems at Holiday Haven

Nursing Home. The former minister promised us at the end of November there would be a solution. In December a report was done on the deficiencies at Holiday Haven Nursing Home. Extraordinarily, in a letter to me the minister indicated he did not have a copy of the report done in December chronicling the difficulties at Holiday Haven Nursing Home. Someone is lying, or someone is covering up something at Holiday Haven.

My question to the minister is: Did the department have a copy of the report done in December and fail to act upon it, consequently resulting in a death, or did the department not have a copy of the report, which indicates gross negligence and incompetence on the part of the Department of Health in not having a copy of the report for an institution we pay \$4 million a year for?

**Hon. Darren Praznik (Minister of Health):** Madam Speaker, first of all, the member for Kildonan draws a host of conclusions without having put together, I think, all of the facts or considered other options. First of all, with respect to the report, the report, as I understand it, that was commissioned by Holiday Haven is the property of Holiday Haven. Only they have the legal ability to release that. Having said that, however, our department, the Department of Health, was aware of difficulties there, was working with the people there. When those were brought to my attention as the new Minister of Health, certainly when we had an incident—and the member makes a conclusion that the death of that particular individual was the result of issues involving care at Holiday Haven. That is yet to be determined by the Medical Examiner, and it is the subject of an inquest. But having said that, we acted, I acted on this very quickly to put a new management team in place. That management team has been in place for two years, and their goal is to work toward accrediting that facility.

**Mr. Chomiak:** Can the minister explain how it is that we pay this private facility \$4 million a year and have done so year after year, Madam Speaker? We supply the patients; we supply the regulations; we regulate it; we look after it. There are deficiencies raised and a report is done, and the Department of Health washes its hands and says they cannot get access to a copy of a report done on deficiencies at a home we pay \$4

million for. That is gross negligence or incompetence or a cover-up.

**Mr. Praznik:** It is none of the issues or none of the claims that the member for Kildonan makes. What it simply is is the proprietary right for the person who owns that report. But having said that, the Ministry of Health still has a responsibility as the licensing body to ensure that the facility is properly managed. They were aware of complaints, they have worked with that facility, Madam Speaker, the end result of which was the decision of myself as minister to ask them to voluntarily give up control of that facility to a new management team, which they did. If the questions of the member for Kildonan flag one problem in our existing system, it is the powers that the minister has and the department has in licensing facilities and the requirements for information. That is a difficulty and one I intend to address.

**Mr. Chomiak:** Is the minister, who is privatizing portions of home care, who is privatizing portions of lab service, who is privatizing home oxygen service, saying if there are problems in those functions under those private companies, then those private companies have the proprietary right to keep that information in their hands, and we who pay all the money for those services and the patients who are affected do not have rights to get at that information? Is that what the minister is saying in his privatization scheme, because that is in fact what he is saying?

**Mr. Praznik:** Yes, Madam Speaker, the member for Kildonan actually is quite right in terms of the limited power of the government and of a minister in conducting the operations. I do not intend to offer that as an excuse. It is a deficiency in the way we govern systems.

Just this week, I dealt with an issue at the Dauphin hospital. The Dauphin hospital at one point, because of decisions by its governors, could have been in a position of not being able to make payroll, and the power for me as minister to step into that to ensure the safe operation of the Dauphin hospital, as I discovered, was very, very limited. The reason is we are living with a situation that we as a Legislature fund these facilities, and yet the scheme which governs them in most cases provides us with extremely limited powers with respect

to those who provide the services. That is one of the deficiencies that we are attempting to correct as we move into regionalization. The member for Kildonan is quite right. It is a problem.

\* (1025)

### Personal Care Homes Public Inquiry

**Mr. Dave Chomiak (Kildonan):** Madam Speaker, I have a new question. How does the minister explain to the people of Manitoba that when questions are raised about proprietary private-run homes, of which there is a proliferation under this government, and people have concerns and there is no appeal mechanism and there is no response, how can Manitobans be assured that this government—now they have been in power for nine years. They have had report after report after report on personal care homes. The minister said trust me, trust me. We have trusted this government and three ministers for nine years, and still we have the same problems. How can we have any assurance that patients will be protected and will have the right to have that information, and does that not justify the reason for a provincial public inquiry into personal care homes?

**An Honourable Member:** Defend the patient, not the private owners.

**Hon. Darren Praznik (Minister of Health):** Madam Speaker, the member for Thompson (Mr. Ashton) from his seat says, "Defend the patient, not the private owners." I could not agree more, and that is why in a number of issues that have come to light, it is not just with proprietary homes.

The Dauphin General Hospital brought to my attention this week the limited powers in legislation for a minister who, responsible to this Legislature that votes almost \$2 billion a year for health care—the limited power and control we have over the institutions that provide it is really phenomenal. Part of the exercise of moving into regionalization and part of the powers—and I will be bringing shortly another piece of amendment legislation to Bill 49 which will correct some of those deficiencies. The members opposite

rightly flag an issue in terms of the limited powers of ministers and I intend to correct them.

**Mr. Chomiak:** Can the minister assure this House that he will bring forward legislation, which we are prepared to pass on Monday, that will grant those powers to the minister? We are prepared to pass that legislation, if he will guarantee that he will have a public inquiry into the goings-on at Holiday Haven and other nursing homes in the province of Manitoba.

**Mr. Praznik:** Madam Speaker, as we have said on this side of the House before, let us await the results of the inquest of the Medical Examiner. I think that is a very important piece of information we require with respect to Holiday Haven, which is the basis on which he makes his request for an inquiry. In the last while, I think a number of issues have been flagged in terms of deficiencies in the ability to ensure that patient safety is there, and it is not just in proprietary homes.

I discovered this week, because of issues in Dauphin where it was a possibility that the Dauphin General Hospital would not have been able to maintain their line of credit and their ability to financially function might have been in doubt, that my ability as a Minister of Health would have only been to deny their licence. We would have had no ability to move in to ensure patient safety, and that is a deficiency in our legislation. It might come as a surprise to the member for Kildonan, but that deficiency has been in our legislation for decades. It was not corrected by the Schreyer government in the '70s, the Lyon government, the Pawley government. Now we hope to correct it.

\* (1030)

**Mr. Chomiak:** Madam Speaker, if there is not a cover-up of information or lies going on about Holiday Haven Nursing Home, if that is not the case, how does the minister explain writing to me saying on February 3 he was going to be in receipt of information from Holiday Haven Nursing Home outlining recommendations that would be done, and in another subsequent letter to me dated April 1, said on February 3, we received recommendations from Holiday Haven talking about how those should be improved? Is that not justification for a complete provincial inquiry, not just a limited inquest that is covering up—

**Madam Speaker:** Order, please.

**Mr. Praznik:** Madam Speaker, much of the contents of that report, which the member for Kildonan in this House indicated some time ago that he was aware of recommendations, many of those recommendations in that report were made available orally to our staff. The fact of the matter, to my regret as well as to his, is that there is a proprietary right in the actual report. In attempting to obtain it to table, as members requested, my staff discovered that there is a proprietary right. Do I believe that is right or wrong? It does not matter. The fact of the matter is, at that time, that nursing home has a proprietary right in that particular document.

Members opposite raise issues about control of records and security of records. This is one where a legal right exists. Do I think that is appropriate? No, I do not. Are we going to take some steps to ensure that we have access to information for publicly funded facilities that are in the public interest? Of course, and that is really what the issue is about.

#### **SmartHealth Patient Records Confidentiality**

**Ms. Diane McGifford (Osborne):** Madam Speaker, clearly the SmartHealth contract of October 1996 gives SmartHealth the right to sell records and information to third parties, despite the Premier's (Mr. Filmon) statement yesterday naming the province as trustee of records and information. I would like to ask the Minister of Health: What are the protections afforded Manitobans? What is the range of records and information that can be sold?

**Hon. Darren Praznik (Minister of Health):** With respect to the specific provision, before I give the member a detailed answer she is obviously entitled to, I would like the opportunity to take it as notice and check specifically to see if that in fact is what is indicated and the context in which that is being provided. But I can tell her that it is clearly not the policy, intention or commitments of this government to make personal health information to be owned by SmartHealth, the Royal Bank or any other provider. The Premier has indicated that clearly in this House, as have I. I think the public of Manitoba, when they see our privacy legislation tabled shortly when the final

work is done on it, will be able to rest assured that that will be the case.

**Ms. McGifford:** Madam Speaker, in the absence of any privacy legislation, I want to ask the minister to define confidential information as outlined in Section 4.8 of the SmartHealth contract.

**Mr. Praznik:** Madam Speaker, the schedule for any part of the SmartHealth program coming on line, in which that information would be on it, will take place after and only after this Legislative Assembly has passed privacy legislation.

**Ms. McGifford:** Madam Speaker, is it not time for this minister to admit that proceeding as he has done with SmartHealth before privacy legislation is truly putting the cart before the horse and risking the confidentiality and privacy of Manitobans?

**Mr. Praznik:** Madam Speaker, absolutely not. If we followed the suggestion of the New Democratic Party, what we would have is probably a piece of legislation that enacted a host of principles that might not even be applicable in working terms for the kind of system that is being developed. The nature of an information system, whether it be a paper system as we now live with or an electronic system, by and large determines the kind of governance it needs to ensure privacy. There is a process here that has us developing the framework of SmartHealth, knowing what the nuances and the structure of that will be. The privacy piece and the privacy legislation that is absolutely critical to this project is being developed around it, so it will be applicable to the kind of technological system SmartHealth is building. If we had done it the other way, quite frankly, it might not have worked.

#### **Betaseron Approval**

**Mr. Kevin Lamoureux (Inkster):** Madam Speaker, my question is also for the Minister of Health. The Provinces of Quebec, Ontario and B.C. have acknowledged the importance of Betaseron as a drug that has helped individuals suffering from the crippling disease of MS. I asked the minister a question a few weeks ago in terms of what the Department of Health was prepared to do with respect to it. I received a letter

that was dated back in December in which it says—from the department—your submission regarding Betaseron has been reviewed by the Manitoba Drug Standards and Therapeutics Committee and has not been recommended for inclusion in the Pharmacare benefits list.

Madam Speaker, my question to the Minister of Health is: Is the government seriously looking at overturning that recommendation, so individuals that are suffering from this crippling disease will have reason to have some hope?

**Hon. Darren Praznik (Minister of Health):** I know the member has raised this in the House before, and he is quite correct that the committee of experts, who give recommendation to myself as minister on these matters, has recommended it not be listed.

Madam Speaker, in the provinces that he has outlined, their listing is for only very limited strict-criteria cases. I, at this stage of the game, have not decided to either accept or reject that particular offer. I have asked to see if we can determine from those provinces, where they have approved it on a limited basis, if it is producing some result that overcomes the material that is available on the literature.

Madam Speaker, if this particular drug is one that does provide a benefit, more than just an extremely limited benefit for its cost, it is certainly one we are going to want to consider, so I have asked for that kind of analysis.

**Mr. Lamoureux:** Madam Speaker, I would then specifically ask the minister: Given that he has made reference to it, is the government prepared then to accept individuals on a case-by-case basis, given that there have been other provinces that have done just that? Will he make that commitment this morning?

**Mr. Praznik:** Madam Speaker, let us understand that the recommendation and the review of this particular drug, this new drug, is that it does not arrest the progress of the disease, of MS. It does not cure it. It does not extend a life. It may, from what I understand, reduce one incident in three years, which is some distress obviously to the people involved. Its estimated cost for treatment, and I understand it requires injection

every second day, is in the neighbourhood of about \$50,000 for that particular time. We want to ensure that it is a drug that has some value to the people being involved, and I think it is very important.

As I said, three provinces are providing it on a very limited basis. We want to see what result is there. If we were to agree to do that, we would have to have criteria, and that is one thing I want to establish. I want to make sure that it is a drug that actually has some benefit to the people who are receiving it.

### **Collège de St. Boniface Funding**

**Mr. Neil Gaudry (St. Boniface):** Madam Speaker, my question is to the Minister of Education. Given that we are in the same situation this year at the Collège de St. Boniface for the funding and cutbacks, will the minister advise this House today: What is the status of a long-term plan in the funding for the collège this year and on the long-term plan?

**Hon. Linda McIntosh (Minister of Education and Training):** The question is timely, because we have received notice from Ottawa that after long and arduous debate and lobbying—and I indicate to the member for St. Boniface that I appreciate his ardent lobbying, because I have heard of the fairly aggressive stand that he took recently. I appreciate that, as I appreciate the Premier's (Mr. Filmon) intervention with the Prime Minister. We do now have the federal commitment to honour its obligation in fighting for St. Boniface and commitment both provincially and federally to put in place long-term funding arrangements, so my thanks to all of those who assisted in that lobbying effort: the member for St. Boniface, the Premier and others who worked so hard.

\* (1040)

### **Repap Manitoba Sale Agreement Enforcement**

**Mr. Tim Sale (Crescentwood):** Madam Speaker, in March of 1989 and again in 1995, this government signed agreements with Repap, virtually giving away the company finally for \$20 million, agreements the province has never made Repap live up to, and yet

Repap Manitoba is the one consistently profitable part of that troubled company's operations.

Madam Speaker, why has the Premier allowed a profitable company to evade its responsibilities to the point where its future is now threatened by the unprofitable elements elsewhere in that chain?

**Hon. Gary Filmon (Premier):** Madam Speaker, the member opposite, of course, with his limited knowledge of finance and business, chooses some very, very narrow points on which to base his question. He totally ignores the fact that Repap took over a chronically unprofitable Crown corporation that had in fact under New Democratic management lost as much as \$32 million a year.

**Some Honourable Members:** Oh, oh.

**Madam Speaker:** Order, please. The honourable First Minister, to complete his response.

**Mr. Filmon:** Thank you, Madam Speaker. That company had lost under public ownership, under New Democratic management, as much as \$32 million a year. Repap, in taking over the corporation, has invested hundreds of millions of dollars in upgrades of all sorts of areas, certainly significant upgrade to the environmental side. Under the New Democrats, they had engaged in just virtually an unlicensed ability to pollute over decades, and all of that was cleaned up. Investments were made by Repap and in the consequence of that Repap did create, firstly, long-term stability for the jobs. Again, under previous public ownership of all political stripes, the employment levels kept going up and down and, in many cases, there were layoffs of hundreds of people. This has become stabilized. There has been major investment made and, yes, we believe that it has resulted in them being a profitable part of the Repap operation.

Those things are all to the benefit of the community of The Pas and, indeed, to the communities of Manitoba, because the jobs are in the wood supply, the jobs are in the town, the jobs are throughout the economy. Those are positive things and, in that respect, we believe it is important for us to continue to work with the ownership of that company to try and ensure that those jobs remain secure and that the

economic opportunities for Manitoba remain secure both for the workers and indeed for all Manitobans.

**Mr. Sale:** Madam Speaker, the fact remains that his government has not enforced any of the agreements that they made with this company.

My question for the Premier: What steps, specifically, has this government taken to protect the current jobs and operations of Repap in The Pas during the last critical six months when this company has clearly been in serious difficulty? What specific things have been done to protect this operation?

**Mr. Filmon:** Madam Speaker, I think that I should caution—you know, when the cat's away, the mice will play. The member opposite, his Leader is not here today. We had an extensive discussion—[interjection]

Madam Speaker, I withdraw any reference to the presence or absence of any member in the House.

**Madam Speaker:** I thank the honourable First Minister.

### Point of Order

**Mr. Steve Ashton (Opposition House Leader):** On a point of order, even though the Premier may have withdrawn that reference—and I want to assure the Premier, by the way, that our Leader is not in Davos, Switzerland, or in any international location. But, Madam Speaker, you are allowing the First Minister a great deal of latitude in, should I suggest, not answering questions.

I would like to ask, Madam Speaker, if you would enforce Beauchesne Citation 417 that says: "Answers to questions should be as brief as possible, deal with the matter raised and should not provoke debate." The Premier was asked a very serious question about Repap. I would appreciate if you would enforce the rules of this House to ensure that all members follow the rules, particularly members on the government side and the Premier in particular.

**Madam Speaker:** The honourable government House leader, on the same point of order.

**Hon. James McCrae (Government House Leader):** Madam Speaker, I think the First Minister, without any prompting or being requested to do so, withdrew a remark which inadvertently was a breach of the rules. That gesture, I think, demonstrates the efforts of the First Minister not to promote the kind of disorder that the honourable member for Thompson is speaking of.

**Madam Speaker:** I thank all honourable members for their advice. I will take the point of order under advisement and report back to the House.

\* \* \*

**Madam Speaker:** The honourable First Minister, to respond to the question.

**Mr. Filmon:** Thank you, Madam Speaker, and I appreciate—[interjection]

**Madam Speaker:** The honourable First Minister, to quickly complete his response.

**Mr. Filmon:** Madam Speaker, the point that I make is that we did have this discussion in Estimates the other evening, and the member's Leader is well aware that we are involved in ongoing discussions with Repap as well as with others, who are vitally interested, from the community in perhaps looking at ways in which they can secure that company as a Manitoba company for the long-term future for the benefit of the employees and those people in The Pas and surrounding area. We are very much involved in the process, and if the member just wants to make cheap political points, he can carry on with his discussion. If he wants to be of assistance, he might talk to his Leader to find out what his attitude is to this.

**Mr. Sale:** What we want to do, Madam Speaker, is preserve the jobs.

#### **Liaison Committee**

**Mr. Tim Sale (Crescentwood):** Will the government today commit to establishing a liaison group representing the workers, the aboriginal and nonaboriginal community, the company and elected representatives to maximize the chances of protecting the jobs and the investment in northern Manitoba and

to ensure that all options are canvassed to make a positive future for this company?

**Hon. Gary Filmon (Premier):** Madam Speaker, there already is in existence a group of people from the company with whom we are dealing with respect to attempting to secure the long-term future. They have the support of the community, and they have the support of the people in the area who are informed of the issue, unlike the member for Crescentwood.

#### **Railway Industry Grain Freight Rate**

**Mr. Gerard Jennissen (Flin Flon):** My questions are for the Minister of Transportation.

Prairie farmers have lost millions of dollars this year from backlogs of grain due to the failure of the rail companies to haul grain on time to the West Coast. The federal government, however, has decided to award these same railways an additional \$15 million in freight rates.

Has the minister appealed this decision, and if so, can he table any response he received from the federal minister over this decision?

**Hon. Glen Findlay (Minister of Highways and Transportation):** Well, Madam Speaker, the member relates to two particular issues that have happened in the transportation industry. One certainly was—serious problems that happened over the winter of '96-97 that have seriously affected the rural and farm economy of western Canada and particularly Manitoba. In that respect, the four western ministers have written the federal Minister of Transport asking for a significant inquiry into all the events that took place and to try and find solutions to prevent it in the future.

I have also had conversations with the SEO group, which is senior executive officers of all the people in the grain transportation and handling system, and they are prepared to come back together with the committee they had in place about two years ago. I have supported that initiative and asked the federal minister to be supportive of allowing that to happen to find solutions to the problems of the past year.

With regard to the specific application the member talks about to the Canadian transportation agency, again, the four western provinces together hired a consultant to present our case in front of that committee, that agency. That presentation was made during the process of the hearings.

### **CP Rail Rail Line Abandonment**

**Mr. Gerard Jennissen (Flin Flon):** What action has the minister taken on the announcement by CPR that it wants to dump the Arborg subdivision?

**Hon. Glen Findlay (Minister of Highways and Transportation):** Madam Speaker, the member must be aware that the Canadian Transportation Act was changed rather significantly a year ago—

**An Honourable Member:** The Liberals.

**Mr. Findlay:** A Liberal government, yes. The four provinces in western Canada certainly again made representation that there were serious consequences of this, but the federal government in their wisdom saw fit to pass the legislation. Now the outcome of that legislation is taking place. Clearly, there are options for communities to buy those rail lines. There are opportunities for short lines to be set up to operate those lines. Those analyses are happening by the players, and they are making the decisions as they see fit.

**Mr. Jennissen:** Can the minister give us an update on the status of the Steep Rock, Cowan, Irwood Subdivision that CN is trying to dump?

**Mr. Findlay:** We have made presentation to CN that they package together all the rail lines that they want to abandon, with the idea of forming one unique unit of opportunity for a short line operator. Unfortunately, CN has declined that request.

\* (1050)

### **A.E. McKenzie Co. Ltd. Management Vacancies**

**Mr. Leonard Evans (Brandon East):** Madam Speaker, I have a question for the Minister of Labour.

The government of Manitoba is holding preferred shares in McKenzie Seeds for up to seven years in order to ensure that operation remains in Brandon during that period. Since the agreement with Regal Greetings and Gifts has been signed in December of 1994, the president and two vice-presidents who were resident in Brandon have left the company.

I would simply like to ask the minister, and I hope I get a straightforward answer, can the minister tell us if and when these three senior positions will be filled?

**Hon. Harold Gilleshammer (Minister of Labour):** I would suggest to the member that he could contact that corporation and they would probably advance that information to him.

### **Marketing/Sales Office Location**

**Mr. Leonard Evans (Brandon East):** I have a supplementary question of the minister who I understand is protecting the taxpayers' interests in this matter, holding preferred shares on behalf of the people of Manitoba to protect those jobs. I would therefore think he would have this information.

Will the minister confirm that the major customers of McKenzie Seeds are in Toronto and that this is the reason why the marketing and sales office has been moved from Brandon to Toronto?

**Hon. Harold Gilleshammer (Minister of Labour):** The McKenzie company does business right across Canada. When we last discussed this in the House in 1994, the information provided to me at that time was that they had equal amounts of business in eastern Canada and western Canada.

### **New Product Manager**

**Mr. Leonard Evans (Brandon East):** Can the minister advise whether it is correct that a new position called new product manager is now being established in Toronto?

**Hon. Harold Gilleshammer (Minister of Labour):** I have indicated to the member that staffing decisions that the member would like to have information about can be obtained, I am sure, from the company.

McKenzie Seeds has always had sales staff across Canada in places like Toronto and Calgary, and I assume that they will continue to have staff in those regional offices.

### **Elk Ranching Registration**

**Ms. Rosann Wowchuk (Swan River):** Madam Speaker, indications are that the Department of Agriculture intends to distribute the elk which they captured over the last two years. When the regulations were made public, there was a loophole that allowed those people who were holding elk without permits to register them. The minister gave his word to the Manitoba Elk Growers Association that this loophole would be closed before they proceeded with the sales.

Can the minister indicate whether the changes to the regulations have been made and those people who were holding elk without permit will not be able to register them?

**Hon. Harry Enns (Minister of Agriculture):** I can assure the honourable member that all parties that have registered or indicated—reported, not registered but indicated—to the departments that they have elk in their possession will be dealt with in an equitable way. That will correspond to the formula that will be established for the sale of the elk that have been captured from the wild and be made available to those new entries into the program.

**Madam Speaker:** Time for Oral Questions has expired.

### **MATTER OF PRIVILEGE**

**Mr. Conrad Santos (Broadway):** I rise on a matter of privilege which will conclude with the appropriate motion as required by the rules of the House.

Madam Speaker, this matter of privilege did not arise in the course of any debate, and therefore this is the earliest opportunity that it could be raised in this House. It is therefore my choice whether to raise it immediately before Question Period or immediately after Question Period. I opted to raise it immediately after Question Period, because I was hoping that I could check

Hansard abundantia cautela as to what was said and what happened in this Chamber.

Since any matter of privilege is strictly concerned with the rights of this House as a body and also with the rights of the members of this House, strictly in our capacity in our parliamentary work, the onus is now upon this humble member to present sufficient evidence, to show the breach of privilege so as to make this a matter of precedence over the other affairs of this House.

Once I have given sufficient evidence of the breach of the privilege of this House or the privileges of the members of this House, it is strictly in our capacity as members in our legislative work, then the onus will shift from me to the presiding officer of this Chamber, the honourable Speaker, to make a ruling on the twin conditions of, first, whether or not this has been raised at the first opportunity; and secondly, whether there is sufficient evidence of what I consider a breach of privilege that warrants giving the matter precedence over all matters before this Chamber.

I must point out, Madam Speaker, that while the presiding officer of this Chamber may rule for or against proceeding to debate on the matter of privilege, it is only this House as an institution, as a collective institution, which has the authority to decide whether or not in equality there is such a breach of privilege.

Having raised this matter at the first and earliest opportunity, before and immediately after Question Period, I now proceed to show sufficient evidence which was the basis by which we can consider what happened to be a breach of the privilege of this House and the privileges of the members of this House, including my humble self, to warrant giving this matter the privileged precedence over all other business currently before this House.

On or before the opening date of the current session on March 3, as has been the practice of this House, members of this House, myself and 56 other members duly elected to represent their constituencies in this Chamber, submitted either two proposed resolutions or one proposed resolution and one public bill by private members or any combination thereof, to the office of the Clerk of this House, as has been the practice and the

usage, some or all of such resolutions. Any of them that do not conform as to form will not be placed in the Order Paper, according to the sequence as determined by random chance on a drawing lot to be held on the first day of session.

This member's proposed resolution relating to the issue of nonelected versus elected Speaker was included in the Order Paper, and therefore had passed the test of whether it is an appropriate form or in proper order. It has been duly designated as Resolution No. 5 and has been in the Order Paper since then. This vetting of submitted proposed resolution by random draw took place on the first day of this current session. As a matter of fact, resolution paper No. 5 had been in that Order Paper and Notices until it was duly called as a motion before this House about 5 p.m. on Thursday, the 10th of April, 1997. Applying one of the guiding rules of this House on the matter of contents of the speeches, to wit, Rule 31 of the Manitoba Rules, Orders and Forms of Proceeding of the Legislative Assembly of Manitoba, which states, and I quote: "No member shall revive a debate already concluded during the session or anticipate a matter appointed for consideration of which notice has been given."

The honourable Speaker ruled that proposed Resolution 5 is out of order. How could a guiding rule on the appropriate content of a speech be applied to a private member's proposed resolution, which having been declared already and had been published in due and appropriate form and has been prevented by the ruling from being presented to the House as to be the subject matter of any speech, be barred by this rule? How could the House rule, such as Rule 31, on a speech's contents be applied to a prospective speech on Resolution 5, which is aborted and was never made?

Mindful of a rule that the member may not speak or reflect upon any determination of the House unless such member intends to conclude such motion, I hereby give notice that I intend to present such a motion immediately after this matter of privilege.

The application of the rule deciding that matters already decided in the debate cannot be raised up in a debate cannot be applied when there is no debate, because the resolution was never the subject matter of

any speech or of any debate. That is simply impossible and that is simply illogical.

\* (1100)

Of course, Rule 31, associated with the comments of Beauchesne in Section 315: "It is a wholesome restraint upon Members that they cannot revive a debate already concluded."

This is comparable with the doctrine of *res judicata* in the judiciary, where a decision already rendered by a duly competent court can never be raised again, but this is a house of assembly of the representatives of the people. It is uncourteous of course to raise a matter that had already been discussed in debate but, as an elected member of this House, it is the duty of the honourable Madam Speaker to protect my right to speak.

I ask again: How could such a rule on contents of speech be applied where no speech was made, for the obvious reason that the resolution on which could be the subject matter of a speech was never presented and never allowed in this House? This is in violation of a hallowed principle of parliamentary law. No reference direct or indirect in any debate of the current session was ever made for the simple reason that such a speech on my part was never made, because I was prevented from doing so. There being no speech, there could be no contents of a speech. There being no contents of a speech, there can be no limitation of such content. It is impossible to happen. So this rule, in the long run, is prejudicial to the dignity and the privileges of this House as a whole.

But what is the privilege of this House and what is the privilege of the individual members of this House that has been breached? According to John Bourinot, among the hallowed principles that form the basis of English parliamentary law which, equally applied to Canada, is the principle to protect a minority and restrain the improvidence or the tyranny of a majority, to secure the transactions of public business in an orderly manner, to enable every member to express his or her opinion within the necessary limits to preserve decorum and prevent an unnecessary waste of time, to give consideration to every measure and to prevent any

legislative action from being taken upon sudden impulse.

Your humble member submits that any breach of such basic principle of parliamentary law and procedure is a breach of the privileges of this House, and the breach of the privileges of the elected members that constitute this House is strictly in their capacity as members doing their parliamentary work as participants in private members' hour, a category of business of this House already in the lowest priority in the listing of items in the Order Paper and Notices of this House.

I therefore conclude in saying that any violation of the hallowed and basic principle of parliamentary law with all the centuries of honour and dignity of usefulness have been preserved, so that highest interests and noble dignity of this Legislative Assembly may be preserved and this regrettable incident passed into oblivion, so that we may all accord due honour and dignity to the noble traditions of this House in the true spirit and reconciliation of mutual respect.

I therefore summarize, Madam Speaker, a basic parliamentary law states that the rights of the members, particularly the minority members of this House, shall be duly protected, because we cannot allow the tyranny of the majority to suppress the freedom of speech of the minority, although it is always the right of the majority to make the ultimate decision.

Never in the history of democracy and in the history of parliamentary traditions that begin with the matter of all Parliaments in England was any member prevented from expressing opinion on a matter of issue fundamental to the existence of this House and to the preservation of our traditions of democracy in this province.

Let us therefore consider and reconsider this matter at issue. While there may be difference of opinion—and also there are already differences of practice as to whether there will be a politically appointed member of the House as a Speaker or whether such a Speaker will be duly elected by the duly elected assembly of representatives of the people has already been divergence.

In England it has been the tradition since a long time ago to have an elected Speaker. This happened also in other members of the Commonwealth like Australia and New Zealand. Other provinces have already resorted to this practice. Therefore, this is a matter of controversy which is basic and fundamental to the institutions of Parliament and to the institution of all legislative bodies. No member of this House should be prevented from raising the issue and talking about this issue, so that in the long run in the marketplace of competing ideas, in the marketplace of ideas, the truth will arise and with the practice maybe reform accordingly.

I therefore move, seconded by the honourable member for Thompson (Mr. Ashton), that the Speaker's ruling of Thursday, April 10, 1997, during private members' hour be not viewed as a precedent of this House and, further, that this matter be referred to the Standing Committee on Rules.

#### **Motion presented.**

**Hon. James McCrae (Government House Leader):** Madam Speaker, I listened very, very carefully to the comments today made by the honourable member for Broadway (Mr. Santos), and I would suggest Your Honour take these matters under advisement and perhaps return to the House with some further comments or direction.

However, I am not persuaded on the issue of timeliness which the honourable member referred to first, and anything, I suggest, is subject to interpretation in parliamentary matters, and I may or may not be wrong about this, but I am certainly not persuaded by the honourable member's argument with respect to timeliness. Neither am I in full agreement with the honourable member on his interpretation of the practices of this or other parliaments around this world, certainly with respect to the issue of the draw that is done at the opening of a session and the thorough nature of the review of each and every resolution that is done prior to its becoming a part of the Order Paper. I have seen in my time here many resolutions coming from the Order Paper ruled upon in one way or another that may or may not reflect some cursory review of the resolutions prior to their going into the hopper, as it were.

Madam Speaker, what I think is happening here is that the honourable member simply wants to review something the House has done, and there needs to be a very clear differentiation between in some cases the ruling of a Speaker in a Legislature and the ruling of the Legislature itself. I recall for the honourable member proceedings yesterday where the Speaker made a ruling and the ruling was challenged. The ruling was sustained by a vote of the House, so it is no longer a matter of the ruling of the Speaker. It becomes the property of the House. That particular opinion or ruling becomes the property of the House. I doubt that our passing a resolution under a question of privilege or any other way that asked that something not be a precedent, I doubt that that carries very much weight with the likes of John Bourinot or Arthur Beauchesne.

\* (1110)

So that what the honourable member is asking for is a good subject for a lot of thought and perhaps for some private discussion, but we have discussed the matters that are the real subject matter of what he is raising today fairly significantly at this session of the Legislature, and I just ask Your Honour to have a look at all of the matters, maybe take these matters under advisement and return to the House with some further advice for us.

**Mr. Kevin Lamoureux (Inkster):** Madam Speaker, it is indeed a very serious matter whenever a matter of privilege is brought to the House. I think there is a lot of legitimacy to the motion that the member for Broadway (Mr. Santos) has brought forward, but I did want to comment in terms of some of the things that have occurred which I believe at least in part might have led to the decision that was ultimately made in the Speaker's ruling while at the same time try to be consistent with the manner in which I voted yesterday in terms of the motion, whether or not to sustain your ruling.

I believe that ultimately what has happened is that over time we have seen private members' hour change. At one point in time, no doubt, Madam Speaker, the orders or the sequence of events that took place in private members' hour were followed virtually to the "t" and the "i" being dotted and so forth where there was not very much discretion that was being used.

I think that what has happened, Madam Speaker, if you read through Beauchesne's—and I attempted to familiarize myself a little bit more while the member for Broadway (Mr. Santos) and the minister were speaking with respect to the motion. If you read the specifics of the ruling, you will find that there is a valid argument that any one of the Clerk's officers, or people around the table, would in all likelihood have recommended that, in fact, yes, the the motion was out of order. I think that is, in essence, what a table officer would have been inclined to recommend because if you follow the words as print, you will find that, yes, there was, in fact, a bill; yes, there was a subamendment that was made reference to and so forth.

But having said that, tradition also has to be brought in. Along with tradition, so does discretionary powers which the Speaker has, Madam Speaker. I look at changes to a certain degree in terms of subamendments to budgets, to throne speeches, in which there has been some discretion used, even amendments to other motions. Where I believe there has been the most discretion is in matters dealing within private members' hour.

Madam Speaker, I think you took a bold initiative upon yourself when you decided that, look, you were not going to entertain amendments to resolutions because what you had seen was those resolutions and the intent of those resolutions being completely turned around. When you did that, what you showed was that you do have the discretion, and when you use that discretion appropriately, you have the support of all members inside this Chamber, and I think that is what we had seen then.

Now what has happened, I believe, is that to a certain degree there has been a great deal of pressure put on you, for whatever reasons, in terms of calling into question your biases. As a result of that, you might be somewhat hesitant to use some of that discretionary power when, in fact, you are being possibly advised that, look, according to the rules there is a violation here. I would not want to see that violation to prevent members of the Chamber, especially during private members' hour, from being able to do what we believe is necessary in order to facilitate good, positive debate inside the Chamber, especially, as I say, Madam

Speaker, where we have seen significant progress, I would ultimately argue, in allowing debate on a number of different issues.

A lot of people will talk about the question of relevance, but at times there is a bit of a blind eye that is turned. The chairs, whether it is you, Madam Speaker, or committee Chairs or the Deputy Speaker, at times will use discretion. If that discretion is not used, in essence we would be standing up on points of order virtually in every debate on every bill.

We have to appreciate the fact that in this particular instance there could have been and in all likelihood should have been discretion used and even though the t's in Beauchesne's, if you like, might have said or led to a recommendation that might have implied that we should not have debated it, we would argue based on tradition, based on the discretion that a Speaker has, that we should have allowed the debate to have occurred. That is the reason, when I look at the motion, and the wording was very important, as the member for The Maples (Mr. Kowalski) and I had talked, if this would have been a personal slight at you, I would then have ultimately argued that it is a continuation of maybe another agenda.

I think that it is a legitimate motion in the sense that what it is asking for is that this not be perceived as a precedent. I think that that is important and the second issue of going to a committee. Having it go to a committee, I think, would be a positive, but I would add more to it, the whole idea. There have been discussions. I know that you and I have had discussions. There have been discussions in the way in which a Speaker is treated in terms of the abilities to be able to challenge a Speaker.

I know it is an important issue to you and other members inside the Chamber. There are things that need to be dealt with. The only thing that I would have liked to have seen in this suggestion, and if in fact the motion passed, is that it be broadened, so that we take a look at updating our own current rules in terms of how points of orders are being used, how Speakers can be challenged, how discretionary powers can be enhanced in some areas.

With those few words, Madam Speaker, we are prepared to see what the ultimate ruling is and then base our decision accordingly.

\* (1120)

**Mr. Steve Ashton (Opposition House Leader):** I first want to deal with the technicalities of any matter of privilege. I want to suggest that this meets the requirements that a prima facie case be established.

The member is definitely arising at the first opportunity. I point out that we had not had the opportunity to receive Votes and Proceedings until today. The Votes and Proceedings includes a complete copy of your ruling, and it is common practice in this House to raise matters either prior to or after Question Period, so it is very clear that it is the first opportunity.

I also want to deal with the basic test of whether this is a matter of privilege, because your ruling yesterday, I would suggest, if it is allowed to remain on the books, will result in an absurdity in this House. I believe it is a ruling that cannot be allowed to stand as part of the records of this House as having any weight whatsoever as a precedent. I want to say that I regret two things. First of all, this is not the first time we have had to in this House seek the assurance by way of matters of privilege, that rulings that are made which would have the absurd conclusion in this case of denying members the opportunity to exercise their freedom of speech, that they remain as a precedent in this House.

I want to say, Madam Speaker, with regret, it is also not the first time that I believe you should have used some discretion and not have made a ruling on a matter that coincidentally, in this case, deals with a question of the Speaker. I believe that in many occasions discretion should be applied. I would have suggested it would have been far more appropriate if the Deputy Speaker would have been in the position of being in the Chair and dealing with this matter at the time, because it removes any particular sense of a conflict of interest. I want to stress what we stated at the beginning of this session, that we have lost confidence in your impartiality. That has not changed by the use of the government majority at the beginning of this session to defeat our plea through motion on a matter of privilege

that you resign from your position. That has never changed, and it will not change.

You do not have the confidence of this House, and this only reinforces why we took that unprecedented step. No Speaker in this Legislature has ever had the same number of challenges, the degree of challenges and the degree of distrust by members of the opposition. I urge you to reflect upon that fact, because what you did yesterday only reinforces what we believe and that is that you do not have the confidence of this House.

I want to go further, because I want to detail the absurdity of the ruling that was placed on the record of this House yesterday. Your ruling used Rule 31 and Beauchesne Citation 558, which is a standard part of any parliamentary rule. Certainly it is a standard part of Beauchesne, and 558 is something that has a long precedence and comes from Bourinot's Parliamentary Procedure and Practice in the Dominion of Canada. "An old rule of Parliament reads: 'That a question being once made and carried out in the affirmative or negative, cannot be questioned again but must stand as the judgment of the House.'"

Well, Madam Speaker, I want to stress what you have done by your ruling, because you have set a precedent that on a matter of privilege if a member, in this case, the member for The Maples (Mr. Kowalski), moves, in this case, an amendment to the matter of privilege, that if then there is a vote on that amendment—in this case, the amendment dealt with the election of the Speaker, following the rules of the province of British Columbia—the member should review the specific amendment. You are now then saying that any matter in private members' hour that deals with the same subject, any resolution as did this matter, could no longer be considered.

I want to demonstrate the absurdity of that because what I would suggest is, if you were to place this matter of privilege on the floor and this motion was to be debated, if I wanted to prevent every single member across the way from having the opportunity to debate their private members' resolution, you know what I would do? I would move an amendment to the motion. I would include the subject material of all their private members' resolutions. We would have a vote in this

House and that would be the end of the matter. That is the absurdity.

You have said by this ruling that if anybody moves an amendment, that takes precedence over the resolution in this House. I want to point out, Madam Speaker, that the member for Broadway (Mr. Santos), according to our rules, had filed that motion prior to the beginning of this session. We made sure to check it in terms of its admissibility. While that is not a formal process, I think it is important to note. What is most important is, a draw was taken, which is the draw that takes place at every session according to our rules, and this was picked for consideration, the fifth resolution. What you are now saying is that the member for The Maples, who brings in a very legitimate amendment, by bringing in that amendment forestalled this motion from being debated. That is an absurdity.

I want to stress again why this is important to us. In the last session, the last two days of that session, we were denied our rights in this House a minimum, by my count, of 18 times. Our freedom of speech was denied, Madam Speaker. I will never ever forget those final two days. It included matters of privilege which take precedence in this House. If there is one refuge of members of the opposition and indeed of all members who were not part of the Executive Council in this House, it is Private Members' Business. It is the one opportunity that we have in this House to debate matters of concern to private members, which includes all opposition members and indeed members of the government who were not part of Executive Council, one hour a day, four days a week. There are limitations on that. We do not have the procedures that are in place in the House of Commons outlined in Beauchesne to ensure that at least some of those matters come to a vote.

I would point out to the members opposite that we have already seen in Private Members' Business the willingness on the part of the opposition to pass two separate private members' resolutions, two of which were moved by the same member, a government member. I want to say, we did that out of courtesy and respect for the issues that were raised. I can say we could very easily have continued debate and those matters would not have been considered, but we showed a respect for the principle of Private Members'

Business, put aside some of the partisan differences we have in this House, and we dealt with and passed two matters raised by government members.

I suggest, Madam Speaker, the government, if it was to reflect on its actions, should reflect that spirit and could have yesterday when this matter arose. I say this to the government House leader, and I hope he will listen to this very carefully, because the government House leader could have stood in this House and, notwithstanding the ruling, accept that it was the will of the House to debate this resolution.

That, I think, could have avoided this problem, but, you know, Madam Speaker, I think you could have done the same thing. I have been in this House; I have seen several Speakers. I have seen Speakers on numerous occasions test the will of the House. It is most often done when it comes to matters of urgent public importance. There have been cases where Speakers have made rulings. I remember Speaker Rocan making a number of critical rulings where perhaps technically there might have been some suggestion that it was not a matter of public importance, but the Speaker at that time stated that if it was the will of the House, the House would prevail.

Madam Speaker, you could have done that and particularly respecting this case that this is private members' business—private members' business. I think you could have done us a substantial favour by even suggesting in your comments to the House, to the government, that if it was the will of the House this matter could be debated, because what happened yesterday is that once again you ruled against the rights of the opposition, and once again the government used its majority to enforce that. [interjection]

Well, it is interesting because the member for Osborne (Ms. McGifford) talks about tyranny, and I hope that members opposite will reflect on what tyranny involves because I find it rather interesting. I remember in the last session, I am sure the then government House leader did not perhaps mean to say what he said. He talked about the tyranny of the minority. Well, tyranny comes from the Greek root tyrannos which is that of the absolute ruler—the absolute ruler. Madam Speaker, tyranny is exactly what we see when a government rules absolutely, and what can

involve that more than a government that 18 times in the last two days of the last session prevented members of the opposition from exercising their rights under the rules?

Now, through their support of your ruling, who, incidentally, when the shoe was on the other foot—is it not interesting that once again we see in this particular case the government and you, Madam Speaker, that paid no notice to the rules of this House in the final two days of the last session now all of a sudden stands up, and you stand up and you quote Rule 31 which just coincidentally stops members from the opposition from debating a resolution on the elected Speaker.

\* (1130)

I say, Madam Speaker, shame on that ruling and shame on the fact that the government decided to support that ruling because what they have done is they have turned us back. They have returned us to the dark days, the last two days of the last session, because once again we are seeing in this House that members of the opposition have part-time rights of freedom of speech. We have part-time democracy.

We do not accept that; we will never accept that. So what choice are we faced with? What choice do we have as members of the opposition? Well, I suppose one choice would have been to sit back and merely accept your ruling, and then what would be the next ruling? This is not the first ruling that we have found unacceptable. Madam Speaker, I refer you to our challenge of your ruling on racism where we by motion in this House had to once again deal with a matter of absolute importance, a ruling that was unprecedented, which is in violation, in fact, of the precedents clearly outlined, and I refer you to Erskine May and Bourinot, but, you know, last session we ended up in the position in the final two days—many of the matters we wished to deal with died on the Order Paper because we were not able to bring them to a conclusion. We had motions on a matter of privilege which were not dealt with because you would not recognize us.

So, Madam Speaker, I want to say to you, what choice do we have in this House? What choice do we have, other than to stand as we do today and try and defend our rights? I want to go one step further

because I mentioned the absurdity of your ruling which would effectively destroy the integrity of private members' hour, but let us take it even further because the absurdity, I believe, is that you once again have not understood the primary role of the Chair of this House.

Indeed, Madam Speaker, the Speaker of this House has responsibility to follow our rules and practices, but what are the rules and practices of this House? They represent centuries of evolution, the British parliamentary system. They are reflected in Beauchesne within Canada, but we have differences in this House, our own practice, the reflected Speaker's rulings.

I want to refer you to the whole question of discretion because, once again, I believe you have failed to use the kind of discretion that is often the best way for a Speaker to, I believe, ensure the proper operation of this House.

Madam Speaker, I remember in the last two days of the last session when you stated in one of your rulings, the most critical ruling of that session, that since the question at the time involving Bill 67, the question of the vote under the provisional rules, had not been dealt with by House leaders, you would make a ruling that would bring in Speaker-imposed closure.

I want to reflect on that, Madam Speaker, because you never once asked the House leaders, well, at least not officially. You could have had no knowledge of that. But the other thing you did not do at the time is do what Speaker Rocan had done on numerous occasions, and that is, in the House when disputes arose, refer it back to the House leaders.

I remember raising matters of House business with the Speaker most specifically on the record referring matters to the House leaders. Yesterday you had the opportunity of using discretion and perhaps pointing to your concerns about Rule 31 but asking for the will of the House, because I wonder if government members, given the opportunity, might have given us the opportunity to speak on this matter.

I believe that discretion that is used is the best assurance at times of the positive operation of this House and, I would suggest, in a situation where we

have already expressed through a motion in this House our lack of confidence in the current occupant of the Speaker's Chair, I would suggest that discretion is even more important.

If we do not receive justice on this particular motion, this matter of privilege, I can say, Madam Speaker, to members of the government, they can expect more procedural debates, they can expect more matters of privilege where we will use every opportunity to keep raising these issues because, so long as we are in this position, the only thing we have left is our voice, 23 voices in this case and on many of these issues 26, the combined voices of the opposition.

But, Madam Speaker, I have never seen this House stoop to this level. What I find interesting is that the government House leader (Mr. McCrae) talked about matters being ruled out of order. I want to ask the government House leader, through you, when was the last time a matter from Private Members' Business, a private member's resolution was ever ruled out of order, an entire resolution? When was the last time that occurred? Perhaps on amendments we have seen that but, even for the last two years, you have not even been ruling amendments in or out of order. You have used some discretion. You have taken the matters under advisement. You have not ruled them out of order.

Is it just a coincidence that this matter deals with the election of the Speaker, Madam Speaker? I question that, because I believe that it is more than a matter of coincidence. But to rule this out of order when it was filed and to use the justification of the amendment moved on the matter of privilege by the member for The Maples (Mr. Kowalski)—in fact, I would encourage the member for The Maples to perhaps give you advice on whether his intent when he moved that amendment was to forestall any further discussion in Private Members' Business or at any time. I know it was not his intent.

I would point to the poor quality of this ruling again. I believe it is not a competent ruling of this House, because the member for The Maples' amendment referred specifically to the standing orders of British Columbia being used for the election of the Speaker here. That is not by the way included in the motion of

the member for Broadway (Mr. Santos). It is not included in the private member's bill that you included.

What is interesting is, I would suggest that not only did you make an incorrect ruling following the member for The Maples' amendment, I would suggest that the member for The Maples' amendment assured that the member for Broadway's proposed resolution was in order. I asked you to reflect on this. The government voted against an amendment moved by the member for The Maples bringing a specific mechanism to bring in an elected Speaker. We all know that right now everyone in this province, except perhaps some of the 30 members of the government side—well, 31 perhaps including the Speaker, as well—want an elected Speaker. It is clear. It has happened in the British House. It has happened in the Canadian House of Commons as well. It is happening across the country, most recently in Saskatchewan. What is interesting is the government voted that down. The government voted against the member for The Maples' amendment.

What does this resolution say? What did the resolution, Resolution 5, say? What it said—and I would refer you to this, Madam Speaker, because I wonder if somehow you missed this—the RESOLVED states “that the Legislative Assembly of Manitoba urge the Provincial Government to support legislation to elect the Speaker of the Legislative Assembly.” The government had voted against the concept brought in by the member for The Maples. The problem is the government. We know we can bring in bill after bill on the elected Speaker. We have done that in previous sessions. I ask if we will even get it to a vote. The answer is no. There is no mechanism. I am sure the government will avoid it going to a vote.

What we know, based on what happened on the member for The Maples' amendment, was that the problem is the government. Even though this matter was filed prior to the member for The Maples bringing in his amendment, in fact, it is even more relevant because it points, the specific wording of it points to the Legislative Assembly encouraging the government to bring in the elected Speaker. That is substantively different from the amendment brought in. It is also substantively different from the bill that is on the Order Paper, a bill that I might add by the way has not been even moved yet on second reading, has only been

brought in on first reading. So there is no specific content of the bill that is formally before this House. Once again, I find it a major stretch on your part to take Resolution 5 and also use the argument that there is a bill on the Order Paper dealing with the elected Speaker.

\* (1140)

It is like a lot of our rules in this House: Relevance. I have always suggested we have rules about relevance, but relevance is in the eye of the beholder. I do not think there have been too many speeches given in this House that were not considered relevant by somebody somewhere at some point in time, perhaps if only by the member, and perhaps if the relevance was stretched somewhat beyond the original rules of this House.

I remember Sterling Lyon standing in this House. I remember as a new member of the House getting up one time and talking about relevance, and I received a favourable ruling. The Honourable Sterling Lyon just continued where he left off because as far as he was concerned, he was relevant before, but if he was not relevant before according to whoever was chairing at the time, he was certainly relevant now; he was speaking again. I learned a lesson from that. It is all in the eye of the beholder.

Madam Speaker, what we debate in this House, enforcement of our rules, is also I believe in the eye of the beholders in this case. There is something that goes beyond a rigid set of guidelines that says, well, Rule 31 says Resolution 5 is not in order. We do not have a computer program that we plug our rules in which spits out the items that are not relevant. Maybe we will one day. Maybe we will all be replaced by computers. I do not think so. I think if there is one role in society that cannot be replaced by computers it is that of public servants, of elected officials. What works is when there is a recognition of that.

I want to stress as strongly as I can, because apart from everything else, I believe the role of the Speaker at times is best observed in the discretion that is used, in the application of the rules, and of the role of the Speaker rather than the actual use of those rules. I found in Question Period—and I submit this respectfully—that having seen different Speakers in

action that sometimes the best way of ensuring the spirit of our rules is enforced is often by allowing some leeway, by making sure that that leeway is balanced. Indeed major violations of the rules are certainly not accepted. By allowing some flow, Madam Speaker, it reflects that in some cases there is a will of the House, a balance that is not only I think more effective in terms of the conduct of business but allows a balance, allows everyone to feel that they have had a say. I think anybody who has ever chaired a meeting knows that, if you throw the rule book at people time and time again, you end up with a meeting that is dysfunctional.

I am not saying you do not respect the rules but I am saying that rules are often best enforced by walking softly but having the big stick, of having the rules available if there are major breaches, but not on each and every petty or insignificant breach of applying it. Not only that, of going even further, and in some cases where there may be even a prima facie suggestion that there is a breach of the rules, of recognizing that common sense prevails. I mean, in courts of law I believe the term is "natural justice." That is the closest equivalent, and not being a lawyer, I certainly welcome any correction.

There is a concept of justice that is legal, that is defined by statutes or even by common law, but there are other aspects of justice that are that of natural justice, and in a way natural justice is nothing more than fairness, common sense. I think many of the precedents that have been established, the major legal decisions that have been made over the hundreds of years, have been based often on that basic principle, common sense, natural justice.

Madam Speaker, yesterday I think common sense would have dictated a number of things. One is, I do not believe that you should have made that rule. I realize that you were within the official rights as Speaker, but sometimes when you are chairing a meeting, when you are a Speaker, something comes up that affects you directly. It is sometimes more advisable to step aside to allow someone to take over the Chair. I know within our caucus that is the way we operate, and without talking about the way our caucus operates internally, I know that it is certainly something our caucus chair would follow and does follow. It has been a tradition, and it is a tradition in many

organizations. What it does is that it ensures that whatever decision is made is removed one step from any potential conflict of interest or perceived conflict of interest. Let us not forget that perception of conflict of interest, I think, is as significant a concept as any real conflict of interest. That would have been, I think, what common sense would have said.

The second one, Madam Speaker, would have been recognizing the fragile nature of this House and the fact that we went through some horrific circumstances last session. While we may not have the same perspective in this House, I think even government members would reflect on that and whether they have a different view of what happened. I know I certainly remember the member for Riel's (Mr. Newman) contribution on this, a letter which I certainly perhaps did not agree with in terms of its conclusions, but I thought was an effort at putting it into some perspective.

I do not think anybody liked what happened. I can tell you I did not like on the first day of the session having to rise to speak on a matter of privilege brought in by the Leader of the Opposition (Mr. Doer). I believe that we work more effectively in this House with open debate and with, if not co-operation, because our role is not necessarily to co-operate—that is not the role of the opposition or the government—but some acceptance. We found some common ground during last week—I ask people to reflect on that; that was not part of our rules, normal standing procedure—and showed some common sense. Why sit on Easter Monday? Why sit on Brandon Winter Fair Tuesday? There were various common-sense reasons that went into that, and common sense, I believe, prevailed. I have not heard too much criticism of that collective will.

I would stress, common sense yesterday would have dictated two things. One is that your decision, your ruling, should have allowed for the will of the House. It should have stated—you could have quoted Rule 31, Beauchesne's Citation 558.

What you could have said—as often done in a matter of urgent public importance—but if it is the will of the House to debate this matter, so be it. Ultimately, Madam Speaker, the Speaker is the servant of the House.

You did not do that. I believe you did not follow common sense, and even in your ruling you did not follow the common sense of restricting your ruling to a more debatable context. We can debate the second part of your ruling, which talks about Bill 200, and I believe that it is an incorrect ruling on that score as well, but I will admit that it is debatable, whether Bill 200 could be a better mechanism to deal with the question of the elected Speaker. I believe it is substantively different because our motion is an appeal through the House to the government.

But, Madam Speaker, you did not have to bring in the first part of your ruling, and that leaves us now with this dilemma as a House. You had the opportunity to follow common sense. I do not believe you did. You had the ability to put it to the House. You did not allow for that. Well, we are now faced with a situation that not only did you make a ruling that impacted on Resolution 5, you have made a ruling that is now a precedent of this House that can be used at any time in the future. I want to put on record to members opposite that they should not be surprised to point to the absurdity of this ruling if we do at some point in time use the exact same mechanism. I just remind the private member whose resolution is dealt with, some other mechanism, an amendment on a matter of privilege, not to come crying to this House about their freedom of speech.

(Mr. Marcel Laurendeau, Deputy Speaker, in the Chair)

I would remind them, Mr. Deputy Speaker, that if this happens they should look only at the mirror. They should only consult themselves because there is only one way in which we can assure that this does not happen in the future. It is to have this matter of privilege accepted a prime facie case of privilege, debate it as a substantive motion and passed as a substantive motion.

I just want to finish on that end of the discussion because I want members opposite to reflect on what the ramifications would be of actually in this case allowing this matter to be debated which they can do at any time, I believe. In fact, we can do that after submissions are given to the Speaker or the Deputy Speaker. If there is a will of the House to debate it, it can be debated. But

I want to focus on what the consequences will be. I want people to reflect on what the motion states. It states that the ruling will not be viewed as a precedent and that this matter be referred to the Standing Committee on Rules.

\* (1150)

Mr. Deputy Speaker, we could have included in this resolution a condemnation of the Speaker. We did not. It is not because our view of the office of the Speakership in this House has changed. It has not and will not ever, but what we allow through this, and I want government members to reflect on this, is for everybody to take one step back once again from that precipice of the kind of destruction of the sense of this place as a form of democracy and freedom of speech that must be always respected. By simply supporting this resolution, what government members do is ensure the integrity of private members' hour; they ensure the ability of members, such as the member for Broadway, to bring to this House matters of concern. They ensure the ability of members of this House who are not the Premier or the Executive Council to have some say in the one time in our agenda, four hours a week, a small time that is set aside which is called Private Members' Business. All this does, if you want to rephrase this amendment, you might as well rephrase it as stating that it reflects the desire of this House to reassure the integrity of Private Members' Business and the ability of private members to bring matters before this House.

I appeal to members opposite, particularly to private members to consider this, because I regret in this House the degree—

**An Honourable Member:** We are all private members.

**Mr. Ashton:** The member opposite says, "We are all private members." We are all private members who are not in Executive Council. There are government members who are private members of which he is one. Opposition members are. I stress that what I find most disappointing in the time I have been in this House, and I do not blame any one government for this, and I certainly have some historical precedent to look back on and said this has perhaps evolved over time. We are in a position where increasingly we see this House

being seen by certainly government members as being an extension of the government.

I would ask members opposite who have any doubt about this to read the resolutions that they have submitted to this House. Most of the resolutions I will be interested to see if they will be ruled in order to be allowed to debate them. I mean most of them are absurd. I mean we used to have amendments urging the Assembly to pat people on the back, and we have a list here and I can read through it, but I want to read an example of just how low we have sunk on this. Resolution 16, which will be moved by the member for St. Vital (Mrs. Render), states in its RESOLVED that the provincial government continue to uphold and implement the tough standards of justice which have and will continue to make Manitoba a safer place to live. They do not even have the pretence anymore of did this resolution, you know, indicate that the Legislative Assembly urge the government. I mean this is the kind of resolution you might introduce within a caucus meeting. God knows why you would, I mean why you would waste time on this type of resolution. But does this have any role to play in Private Members' Business, let alone, is it in order? Because I am going to challenge this resolution and others of similar ilk that the provincial government continue.

When we have private members' resolutions, they are statements of this Legislative Assembly. We are not a one-party state. We are a body that reflects in this case three different perspectives in terms of parties and 57 members. That is how low we are sinking on a daily basis. If we allow this kind of, can I charitably call it—okay, I will call it junk because I think a resolution like 16 has no place in the House. But we do not allow the member for Broadway (Mr. Santos) to debate Resolution 5. I mean, Mr. Deputy Speaker, how low will we have sunk in terms of the democracy that we respect in this House? But I want to point out that if anybody thinks that I am being alarmist, I would remind people of the fact that we have already seen other precedents where the Speaker has coincidentally not ruled out of order matters that deal directly with other matters that have been dealt with in the House.

I want to thank the member for St. Johns (Mr. Mackintosh) who found a motion moved by the member for River Heights (Mr. Radcliffe) saying that

the Legislative Assembly—well, at least he included that—support the provincial government for taking steps in regard to maintenance and enforcement. This was during a session in which changes were made, legal changes, legislative changes, but it was interesting. A debate arose. I spoke on that, the member for Inkster (Mr. Lamoureux), the member for River Heights, the member for St. Johns, the member for La Verendrye (Mr. Sveinson). The Speaker allowed that motion to be debated. The bill had passed. This was not an amendment to a matter of privilege moved by the member for The Maples (Mr. Kowalski). It was a bill introduced by the Minister of Justice at the time. How can we have any sense of fairness when the member for River Heights, who then was a government backbencher, was allowed to bring in his resolution which dealt with a matter that was identical, Mr. Deputy Speaker?

Will we have any faith if we allow—and I want to mention some of the other ridiculous private members' resolutions on this, and I feel sorry for some of the members who have introduced these or will be introducing then. Resolution 10, this is about the balanced budget law. They are not even getting up now and reviving debates that have occurred in this session, they want to get up and pat themselves on the back for a bill that was dealt with a couple of sessions ago. Mr. Deputy Speaker, will the Speaker rule Resolution 10 out of order?

**Some Honourable Members:** No.

**Mr. Ashton:** Well, you see, we already hear. Is it not interesting? The shoe is on the other foot. The member for Gimli (Mr. Helwer) says no. Like, you cannot do that, I have to be able to get up and speak on this. I mean this is a bill that has already been passed. I realize that they are having a tough time coming out with private members' resolutions, but I would suggest that what they do is they perhaps talk to some of their staff people to be a little bit more creative. I believe the role of private members' hour is to put forward positive suggestions about things that can be done, to provide critical comment on matters that are being dealt with by provincial and federal governments, and I point to the member for Sturgeon Creek (Mr. McAlpine) because we passed two resolutions that dealt with positive items—[interjection] Well, the member for Inkster (Mr.

Lamoureux) points out that the content of one of his resolutions was in the throne speech.

I suppose, Mr. Deputy Speaker, we could have risen on a point of order and we could have said, on either one, well, the matter of the Pan Am Games was raised in the throne speech, with Winnport, but you know what harm was done to the functioning of this House by allowing the member for Sturgeon Creek on two successive days to bring in motions, to have them debated and passed in this House? I say this to the member for Sturgeon Creek because I think he of all members appreciates the good will that was shown by members on all sides of the House on both those resolutions, and I would ask for once that other members on the government side reflect on that as well, because this House is not a one-way street, it is a two-way street. This House is not run by one party; it is a multiparty House. This House is not the domain of the Executive Council; there are 57 members, and outside of the Speaker, 56 members, who all are elected to sit in this House and raise the concerns of their constituents.

I want to say in conclusion that I find it frustrating that we have to not only debate very important matters in this House dealing with our rules and procedures, but how many more times do we have to use the mechanism of the matter of privilege to debate the most fundamental characteristics of the parliamentary system in our Legislature, based on the parliamentary system? How many more times do members of the opposition have to stand and plead for their rights to speak out on behalf of their constituents? I mean, is it a healthy sign in this House when we have repeated debates for matters of privilege that deal with fundamental questions of freedom of speech?

(Madam Speaker in the Chair)

Madam Speaker, I remember a time in this House when it was very rare to have matters of privilege. I remember a time when we had Speakers that had the support of all members of this House. I remember the time when it was not necessary to have substantive resolutions either calling on the Speaker to resign or calling for precedents established by the Speaker to be overturned. I remember that time, and it was a far better time. It occurred as short a time ago as two years

ago. I have seen in the last two years in this House a decline that I have never seen before end the balance in this House.

I say to members opposite, they have an opportunity here to show some of the same kind of good faith that we have shown, not just in Private Members' Business, but in other matters. There are two roads ahead. One is the road that started with a fork the last two days of the last session and continued in the first two days of this session, where other matters of business are put aside to deal with fundamental questions of the operation of this House, the role of the Speaker, the question of democracy. That is the one fork.

\* (1200)

We are back on that road today, and we can be back on that road again, and we will be, if our rights are denied again. I want to say this on the record again, Madam Speaker, before you give a ruling on this, our position on this motion and your position in this House has not changed and never will change. We do not have the confidence not only in this ruling, but of the Speaker of this House, and I hate to have to say that because I believe there is another road ahead of us. The road is the one that was mapped out by the member for Broadway (Mr. Santos). It is a road that includes, I believe, the only positive suggestion that has been made, a suggestion that has been made by both opposition parties that we move to an elected Speaker by secret ballot. It is a road that is well travelled by other jurisdictions, and I suggest that it is a road, when all debate is said and done on this matter, far preferable because we will restore a sense of trust in this House. We will have lively debates, but very few of those debates will come to the roots of our democratic system in this House, our functioning in this House and, I want to say, the very real frustration of members opposite, about their place in this House.

I urge government members, I start with those on the opposite side who have been in opposition, and they know of what I speak. I say to the government House leader, he has been in opposition. In fact he has been a subject of Speaker's authority, having been ejected from the House on one occasion. He and I will remember that well. I do not mean that as a shot. He is not the only one that was ejected from the House on

that side, and there certainly will be others in the future. But he knows what it is like to sit in opposition.

I appeal to the member for Lakeside (Mr. Enns), who has had the ultimate luxury of being in government, then in opposition, then in government, then in opposition and then in government again. I think more remarkable than his length of service, which is remarkable enough, is the fact that the member for Lakeside has had the opportunity to sit in five different roles. The member for Lakeside has served as a backbencher in government, as a frontbencher in government. He has served in various roles, including House leader in this House. I appeal to him. I appeal to other members in this House, to the newly elected members particularly. I point to the member for Riel (Mr. Newman), who I thought gave a contribution to the debate that was worthy of discussion on this particular matter, and to others; the member for River Heights (Mr. Radcliffe), who benefited from the discretion showed by the Speaker in having his motion dealt with two years ago.

I appeal to them because this House is based on a system of hundreds of years that I believe is the best system in the world. To paraphrase Churchill who was talking about democracy, I think you could have said about parliamentary democracy, it is the worst system, but it is better than all the others. Despite all its faults, it allows us on a daily basis to question the practices of this government, of any government. It does not happen in the United States. The president is never questioned. We have a cabinet that consists of elected officials, elected MLAs who are responsible to this House. That does not happen under a presidential system.

We have a system that builds into place the role of members elected by their constituents to represent their constituents, as well as the evolving, increasingly dominant role that seems to be taking place in this House where members seem to be more accountable to their caucus, particularly on the government side than they are to their constituents, indeed, even accountable to this House in their role as MLAs. That is the root of the parliamentary system. The parliamentary system predates the development we have seen in recent years of the dominance of Executive Council.

When the member for Lakeside was first elected, which is prior certainly to the time in which I was elected in this House, I know that he will be able to reflect on the fact that at that time there was far less control of caucuses and particularly governing caucuses over members than is the case today. I would point on the record the member for Lakeside, as recently as the mid-1980s, voted in favour of the second reading of the bill that would have basically nationalized—and this may be some education for the member for Riel. He may not like those kind of words, but the member for Lakeside voted in favour on the second reading of the principle of taking over the natural gas company, Centra Gas at the time. Now he voted against the bill on the third reading. He voted in favour of the principle, against the specific provisions of the bill.

I ask you to reflect on that. I ask you to reflect on that because that was a time when there was some recognition in this House of the ability in this case, a member at the time who had 20 years seniority. I do not recall, I do not believe the member was the House leader at the time; this was at another point in time. Madam Speaker, there was at that time a balance that was reflected. It was routine in the 1960s for members of all parties to vote in differing ways, to vote without the Whip placed on bills of major significance.

I asked members to reflect on the last time in this House we have had any real free votes. We had a free vote, I believe, on a matter that was brought in involving a bible college, taxation of bible colleges in the mid-1980s by Mr. Driedger at the time. I cannot recall his constituency, but I believe he was a member for Emerson at the time. [interjection] Yes, at the time. But we have had cases of that take place. When was the last time that occurred in this House? [interjection] No, except for the Liberals. No, we are on the same side on this, but I do note that they have, in some cases, voted for, against and abstained, all three of them voting different ways. That takes some remarkable achievement.

I guess, Madam Speaker, there are some advantages of having at least three members in the House, because that way you can vote all three different ways. I had not thought of that. I am sure the members in the Liberal caucus do not see it as being much of an advantage, and I do not mean that as a shot either. I

would certainly like to see at least one and perhaps they are recruiting right now.

But a lot of these issues go beyond where we are at today, and to members opposite, I appeal to new members, would this House not operate more effectively if we, and I particularly appeal to members who are not part of the cabinet over there—I mean, I know that it is frustrating for members who are not part of the cabinet. I have been a government backbencher, and I can tell you, it was frustrating sometimes when you were part of decisions you did not like, but I ask people to reflect on whether they see our system working well when key decisions are not even taken to government caucuses or announced to them.

I am not going to get into the MTS debate again. [interjection] Well, and it is interesting, because you know, while the Minister responsible for The MTS Act, which he still is, by the way, talks about the last free vote being 1988 with Jim Walding, I note that there is no free vote on the sale of MTS. There was not even a vote in their caucus. I ask members opposite to reflect on that because I believe there are strengths to the parliamentary system and to the party system, which, by the way, is not the parliamentary system. The discipline applied in parties within the last 10, 20 years is not something that has precedence in the development of the parliamentary system, and in fact until recent years there have been loose alliances of people elected as parties. You know, even in Manitoba, it was not that long ago that we had nonpartisan governments. We had members routinely elected without opposition in this House, and I think we should reflect on that, because there is a unique Manitoba tradition.

But I ask members opposite: Is there not a balance? Are they so threatened by the opposition that, for example, yesterday they had to sustain a ruling that denied the member for Broadway (Mr. Santos), also, by the way, one of the longest serving members of this House, the opportunity to raise a matter he feels strongly about. By the way, the member for Broadway is a former Deputy Speaker, who, I believe, has a very distinct understanding of this particular issue. What are the members opposite threatened by when they prevent the member for Broadway from having spoken? You know, Madam Speaker, if he had spoken yesterday, he

would have spoken for 15 minutes. I would have spoken—I had already made very clear I wished to speak on the bill. I know a number of our other members wished to speak on the resolution yesterday. You know, under our rules, that would have been it—one hour of debate; it would have been dropped to the bottom of the Order Paper, and I believe we have 62 resolutions. We have four days, so we are dealing with—probably if we are still sitting in July and August, and we may very well be, the motion would have come up again, and we would debate it a second time. It probably would never have gone to a vote.

\* (1210)

What were they threatened by? What would have been the damage to this House if the member for Broadway's resolution had been debated? Would this have threatened the power and dominance of the government in this House? They would still have 31 members, and I say that advisedly, Madam Speaker. I read the Christmas ads. I notice who is considered a member of that caucus and who is not—31 members. What would have been the harm—I say this to the government House leader—if we had debated it yesterday? We would have spent one hour in debate yesterday in Private Members' Business, and we would not have had this debate today. That in itself probably might have been considered advantageous to the government, if they want to be just strictly Machiavellian about it.

But I ask members opposite—and I say this to members opposite, I heard the Premier (Mr. Filmon) yesterday, I believe it was, telling about how the members on this side are going to be in opposition for a long time. Whoa. I think the word for that, Madam Speaker, is "arrogance." You know, I will quote Sterling Lyon. God, I hate doing this. Actually, after this government, Sterling Lyon looks—well, I am not going to say he does not look that bad. I will rephrase that, less right-wing. Certainly I will tell you one thing about Sterling Lyon: He was somebody that believed in the parliamentary system, fundamentally in the parliamentary system.

I just want to reflect on that because it is interesting that the Premier (Mr. Filmon) says, oh, well, they are going to be in for a long time. Sterling Lyon said in this

House, and the member for Lakeside (Mr. Enns) will recall this; I know the member for Broadway (Mr. Santos) and others will, he used to talk about governments being temporary governments. Now, of course, at the time he was speaking about the NDP government, and he was right.

Sterling Lyon had some experience of being a temporary government, four years, one of the most temporary short-term governments we have had in history. But he spoke not just in a way that was intended to give any kind of a shock at members in government at the time, it is true. I ask members to reflect on this, because having had the luxury of being in government and surviving when a government was defeated, and now being part of a caucus that is headed back for government—and by the way, that is a statement I believe, I really believe that, Madam Speaker. I believe, and to contradict the member, the Premier (Mr. Filmon), across the way, I believe because we are not arrogant, because we rebuilt, because we learned from our lessons, I think are a very real threat to this government in the next election. I think we can win the next election but, you know, I know that even if we do win, it is still temporary. That is the democratic system. If you have that perspective, I believe you understand the parliamentary system from beginning to end, because we are all public servants in this House, and any authority that we use has to be tempered by the knowledge that we are really temporary guardians, trustees of the public will. We have to apply it not just to our assets, to our departments, but to this House.

It is interesting because I had an exchange group here yesterday from Thompson. There was a visiting exchange student from Finland. When I explained that this building was built in 1922, it is interesting the perspective. Most people think that is a long time in Canadian perspective. She said, boy, it is a pretty new building, right? I guess in Finland things are somewhat more longer term of history. But when I explained to her and the other exchange students who were very interested in this—and by the way what is interesting is these young students from Thompson, Grade 11, Grade 12, you know what they recalled when they asked me about questions? They asked, Madam Speaker, about questions related to what happened last session, the MTS debate. They asked me specifically where the

debate took place, where the speeches took place, and it is interesting that the future voters of tomorrow, the future citizens of this province, actually remembered that and it was seared in their memory. What I explained to the student from Finland is that this here reflects hundreds of years of tradition. It is part of the British parliamentary tradition that has continued in Canada under the colonial parliaments under the establishment of Canada in 1867 as a Dominion of Canada, the British North America Act. Parliamentary law has been passed down from generation to generation, our parliamentary system.

Do you know what amazes me? Madam Speaker, we actually get to the point today where I believe one of the things that we are losing is our collective memory in this province about the importance of the parliamentary system. I suspect that it may be because many things are changing. Our demographics are changing, and I think for the better. Manitoba has always been a multicultural province, I believe it is increasingly a multicultural province. The diversity of backgrounds of people in this province, I think, is our strength.

What is interesting is I believe that the Conservative Party which for many years represented sort of the British, Conservative, transplanted, the United Empire Loyalists' type of traditions. I thought they stood for the parliamentary system. I admired John Diefenbaker for that. I thought John Diefenbaker was probably the last remaining vestige of it. [interjection] It is interesting that the member for Lakeside (Mr. Enns) is the only one applauding when I make that comment. Some of the others are saying, but what do you think John Diefenbaker would have said about what we have seen in this House the last few weeks and months? We know what John Diefenbaker said about the pipeline debate, the only other time in history that we have seen even anything close to what this Speaker has done in this House. Read what he said about Speaker Baden in 1956. Read what he said about the arrogance of governments that he dealt with as Leader of the Opposition that felt that the supremacy of the government overrode the vision of parliamentary democracy. What has happened to the Conservative Party that they do not respect that anymore? I mean, I do not see any self-respecting parliamentarian, particularly Conservatives of even 10 years ago, 20

years ago, when I first got interested in politics, going back to 1973 when I first got involved as a member of the New Democratic Party.

I ask members opposite to reflect on the debates that took place, the Sterling Lyon and Sid Green, tremendous parliamentary debates. I was inspired by those. These are people that were ferocious in debate but had a great deal of respect for both the system and for each other. I have talked to people who sat at them, and I often talk to the member for Brandon East (Mr. Leonard Evans), and there was that sense of the House, and it was a sense that was in place that there was something more important than the political exchanges of the day, Madam Speaker. It was that parliamentary system—[interjection] Well, indeed. The member for Burrows (Mr. Martindale) points out that Sterling Lyon argued against the repatriation of the Constitution and Charter of Rights as having precedence over the parliamentary system. I believe in retrospect—I do not necessarily agree with all of his analysis, but he was right in many ways. Sterling Lyon stood nationally to defend the parliamentary system. Where are the members of this current government when it comes to the defence of the parliamentary system?

I want to suggest, Madam Speaker, that what you have to do if you are to preserve the parliamentary system is to go back to Beauchesne Citation 1, Principles of Parliamentary Law. The member for Broadway (Mr. Santos) referenced this, and I referenced it at the beginning of my remarks: “To protect a minority and restrain the improvidence or tyranny of a majority.” Indeed, there are other citations, and this is cited from Bourinot, but the first statement of parliamentary law is to protect the minority, restrain the improvidence or tyranny of a majority. That is what the parliamentary system is all about. That is what democracy is all about.

We often tend to think incorrectly, and I say this because I hear this from people. People assume that democracy is about having elections. Well, if anybody believes that is a definition, I would remind people that in the Soviet Union they used to have elections. I think that in Iraq they have had elections. Of course, they only had one party running and one candidate. That is not a sufficient definition enough of democracy. People may say, well, if you have multiparty

democracy, then you eliminate that problem. Right, Madam Speaker? Wrong, what you have then, I believe, is you have a window of democracy of 35 or 36 days in the case of the federal House of Commons, and what you have is four years, and cases where governments extend their mandate as long as five years, where you can essentially have—I would not necessarily call it a dictatorship, but I would certainly call it an autocracy. I want you to reflect on that. Are we reflecting on this in this House right now today.

\* (1220)

This government was elected in 1995, and I can argue why it was elected. Let us not forget the role that save the Winnipeg Jets played. Can anybody forget that? Oh, we will not sell MTS, you know, sort of the top 10 Tory campaign broken promises. I mean, if you were to ask most people about the election in 1995, they will say fundamentally that they will remember that. Usually people remember about the Jets. By the way, if anybody has any doubt about that, oh, they should remember there are other ones: we are not going to cut back on health care. Oh, they sure got into detail, did they not, about Pharmacare and other issues, but I want to see anywhere in their mandate where they have the right in a short space, in this case two years, the life of this Legislature, to fundamentally change the character of the way in which we operate. What in their mandate, in that 35-day mandate—and, by the way, what was the percentage of the vote they received? Forty-two percent. It is interesting, 58 percent of Manitobans did not vote for this government. I suppose when they talk about tyranny of the minority, they are probably talking about their being the minority only having received 42 percent of the election. I understand now what they are talking about, tyranny in the sense they are absolute rulers who were elected with 42 percent, but that is the parliamentary system. You know what, I do not think the government was straightforward with the people of Manitoba in 1995. Actually, I could be somewhat more uncharitable and talk about their misleading people. I think people were misled.

I will accept one thing, as Sterling Lyon did, and I still remember his election speech in 1981, one of the most gracious speeches I have ever heard a party leader give and certainly I believe a speech that should be read by everyone who wishes to learn about the

parliamentary system, because that is the essence. They were elected in 1995 not to fundamentally change the character of this House.

Madam Speaker, I would submit to you that what you have done with your ruling yesterday is add one more chapter to that. In the short space of two years, with the support of this government—some would suggest the encouragement—certainly at the request of this government in the case of the last session, you have fundamentally changed the balance in this House.

First of all, I mentioned earlier about the “racist” precedent. The British House of Commons, if you read Erskine May, states very clearly that you are allowed to use the terms “racist” if they do not refer to a particular individual but to a policy. It was interesting. We had people from South Africa here. Under your ruling, your absurd ruling on racism, they would not, if they had been elected, which they could not have been in the case of those who were black or coloured, to the Parliament of South Africa, by the way, which was based on the parliamentary system, they could not have gotten up in the House, in their House, under our rules adopted by you, Madam Speaker, and said that apartheid is a racist policy. Apartheid was a policy brought in by legislation in South Africa by a government that was fundamentally racist, one of the most racist systems in the world, but they could not have said that because it was, to quote you, strong language. So you threw that out.

This is in a province which has a history of racism. We are not immune from that. I believe in Canada we perhaps have gone further than many, but the whole system of treatment of aboriginal people, for example, has been racist from the establishment Day One of the reserve system, the denial until the 1950s until John Diefenbaker brought in the ability of aboriginal people to vote without giving up their status. It was not until the 1950s that occurred. That was one absurd precedent, but what you started on last session was even worse than that, because we now have a new system in this House. First of all, we have a system that has no elected Speaker, no consultation with the opposition, but where a Speaker can unilaterally decide to bring in closure but, not only that, can decide to throw out centuries of tradition when it comes to privilege and state that members can not only be denied

their opportunity to speak on the matter of privilege but can be cut off in midsentence, can be denied their opportunity to debate. Eighteen times you broke the rules. Madam Speaker, yesterday you had the temerity to stand in this House and enforce the rules.

Notwithstanding all the comments I have put on the record this morning, I really believe that if you put it into some perspective here, do you not see the irony in the last session throwing the rule book out the window, this blue Rules book, our original rules, throwing Beauchesne out of the window. Eighteen times denying us the right to speak.

Yesterday in the House one of the first times that I have ever seen this happen, a private member's resolution that coincidentally deals with the role of the Speaker, the election of the Speaker and the need for the government to support that. You this time use the rules to once again deny the members of the opposition. You would not use the rules to give us our right to speak, but you will use the rules in this case, yesterday, to deny us the right to speak.

Madam Speaker, I have often wondered how anyone objectively looking at this cannot come to any other conclusion when you do not have the confidence of the House, when you are not applying the rules in a fair and evenhanded manner, that you cannot continue in that role.

I know we have set new precedents again. There was a time when people had a code of honour, conscience, a sense of responsibility. Ministers would resign even if they had no sense of what was happening, because they were ultimately responsible. I believe the same applies to Speakers. You know we cannot vote a Speaker out when we have no confidence in the Speaker. When you have the unprecedented situation in this House where both parties, including the Liberal Party—and I want to be fair to the Liberal Party too because they initially did not support the removal of the Speaker. That is important because we had a disagreement at the time. No one can accuse the Liberals of having the same view on this as us. They have come to that conclusion.

We are now finding ourselves on this matter, a bad precedent, on the same side. I believe there is a lot of

common ground between the Liberal members and the New Democratic members on the operation of this House. We do not always agree. But 26 members, two parties in this House, have clearly stated not only their lack of confidence in your position as Speaker, but once again with this matter of privilege, their lack of confidence in your rulings.

Madam Speaker, I believe Speakers have to be unbiased. I believe that Speakers have to be competent and respectful of parliamentary traditions. We dealt with the question of bias the first day of the session. We are now dealing, I believe, with another critical area and that deals with competence of rulings and sense of the parliamentary system. I say that if I were in your shoes, I would reflect on this—and I will certainly be adjourning my remarks in one minute—I would ask you to reflect on this over the weekend, because when we come back in this House, I truly believe that you should show some discretion. If you will not follow what we urged in your role as Speaker, I would suggest that you accept this matter of privilege, put it to the House. I believe in your ruling you might even wish to advise the House there may be some merit of having this matter discussed by the Rules committee.

Once again there are two roads ahead. You are taking us on the path towards where what little confidence we had in the operation of this House is fundamentally destroyed, because we no longer have any sense of the objectivity of the Chair, that is clear. Now we are questioning the competence of the rulings of the Chair. That is why we have only one way of making sure that we step back from the precipice. I know the member for Lakeside (Mr. Enns) reflects on

this as well. The only way is to have this matter dealt with by the House, supported by all members of the House, have this matter referred to the question of rules, and you know, Madam Speaker, I think in the end if we do that, we will all have one thing that I believe a lot of members on the opposite side cannot have right now, if they think about this, is a clear conscience.

I ask members opposite, do they want to live under these kind of rules? Do they want a Speaker that will treat them in the same way and make these kinds of rulings? Do they want to be denied their right of freedom of speech? I do not think any member in this House would want to do that. I say to members opposite that they better hope that we can change this course before we get to it, because I do not want to ever see them have to live with the same rules that we have to live with on this side.

**Madam Speaker:** Order, please. If there are no other members wishing to speak to this item, I will take it under advisement and will report back to the Chamber.

**Mr. Ashton:** I had sat down, Madam Speaker, because I had thought that you were interrupting the proceedings because it was 12:30, not because I had completed my remarks. There may be others who wish to speak as well, but it is 12:30, so I had taken your standing as that. I would indicate there may be others wishing to speak on this.

**Madam Speaker:** The hour being 12:30, this House is adjourned and stands adjourned until 1:30 p.m. Monday.

# LEGISLATIVE ASSEMBLY OF MANITOBA

Friday, April 11, 1997

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