



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 64

THIRD SESSION, THIRTY-NINTH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

On motion of Hon. Mr. BJORNSON, Bill (No. 37) – The Public Schools Amendment Act (Limited At Large Elections of Trustees)/Loi modifiant la Loi sur les écoles publiques (modalités d'élection des commissaires dans des circonstances limitées), was read a First Time and had its purposes outlined.

The following petitions were presented and read:

Mr. LAMOUREUX – Legislative Assembly of Manitoba to urge the Provincial Government to consider establishing a 90 day guarantee for processing an application for a minimum of 90% of applicants that have family living in Manitoba. (J. Ledda, M. Caldo, A. de Leon and others)

Mr. BRIESE – Legislative Assembly of Manitoba to urge the Minister of Health to consider working with the Parkland Regional Health Authority to provide a centrally located ambulance and station in the area of Eddystone, Bacon Ridge and Ebb and Flow First Nation. (A. Breland, T. St. Germain, D. Frobisher and others)

Mr. DYCK – Legislative Assembly of Manitoba to urge the Minister of Health to ensure that patients who are awaiting placement in a personal care home are not moved to distant communities and to consider working with the RHA and the community to speed construction and expansion of long term care facilities in the region. (M. Reimer, H. Reimer, H. Hamm and others)

Mr. HAWRANIK – Legislative Assembly of Manitoba to urge the Minister of Health to ensure that patients who are awaiting placement in a personal care home are not moved to distant communities and to consider working with the RHA and the community to speed construction and expansion of long-term care facilities in Lac du Bonnet. (J. H. Sellers, N. Hrysio, C. Hiebert and others)

Mr. SCHULER – Legislative Assembly of Manitoba to request that the Minister of Transportation consider the immediate installation of traffic signals at the intersection of PTH #15 and Highway #206 in Dugald and to recognize the value of the lives and well-being of the students and citizens of Manitoba. (A. Wolfe, S. Mastaler, S. Cherweski and others)

Ms. HOWARD, Chairperson of the Standing Committee on Public Accounts, presented its Sixth Report, which was read as follows:

Meetings:

Your Committee met on the following occasions:

- December 5, 2003
- November 28, 2005
- February, 22, 2007
- September 9, 2009

Matters under Consideration

- Auditor General's Report – Dakota Tipi First Nation Gaming Commission and First Nation Gaming Accountability in Manitoba dated March 2003
- Auditor General's Report – Audit of the Workplace Safety and Health dated February 2007
- Auditor General's Report to the Legislative Assembly – Audits of Government Operations dated December 2008: Chapter 4, Compliance with Oil and Gas Legislation
- Auditor General's Report – Special Audit: Image Campaign for the Province of Manitoba dated October 2007

Committee Membership

Committee Membership for the December 5, 2003 meeting:

- Mr. AGLUGUB
- Hon. Mr. GERRARD
- Mr. LOEWEN
- Mr. MALOWAY (*Vice-Chairperson*)
- Mr. MARTINDALE
- Mrs. MITCHELSON
- Ms. OSWALD
- Mr. REIMER (*Chairperson*)
- Mr. SANTOS
- Hon. Mr. SELINGER
- Mrs. TAILLIEU

Committee Membership for the November 28, 2005 meeting:

- Mr. CALDWELL
- Mr. CUMMINGS
- Mr. HAWRANIK
- Mr. MAGUIRE
- Mr. MALOWAY (*Vice-Chairperson*)
- Mr. MARTINDALE
- Mr. NEVAKSHONOFF
- Mr. REIMER (*Chairperson*)
- Mr. SANTOS
- Hon. Mr. SELINGER

Committee Membership for the February 22, 2007 meeting:

- Mr. AGLUGUB
- Mr. DERKACH (*Chairperson*)
- Mr. FAURSCHOU
- Mr. HAWRANIK
- Mr. LAMOUREUX
- Mr. MAGUIRE
- Mr. MALOWAY (*Vice-Chairperson*)
- Mr. MARTINDALE
- Mr. SANTOS
- Hon. Mr. SELINGER
- Mr. SWAN

Committee Membership for the September 9, 2009 meeting:

- Mr. BOROTSIK
- Ms. BRAUN
- Ms. BRICK
- Mr. DERKACH (*Chairperson*)
- Mr. DEWAR
- Ms. HOWARD (*Vice-Chairperson*)
- Mr. LAMOUREUX
- Mr. MARTINDALE
- Mr. MAGUIRE
- Ms. SELBY
- Mrs. STEFANSON

Officials Speaking on Record

Officials speaking on the record at the December 5, 2003 meeting:

- Mr. Jon Singleton, Auditor General
- Ms. Bonnie Lysyk, Deputy Auditor General and Chief Operating Officer

Officials speaking on the record at the September 9, 2009 meeting:

- Ms. Carol Bellringer, Auditor General
- Hon. Mr. CHOMIAK
- Hon. Ms. ALLAN
- Mr. Jeff Parr, Deputy Minister of Labour and Immigration
- Hon. Mr. RONDEAU
- Mr. John Clarkson, Deputy Minister of Science, Technology, Energy and Mines
- Mr. Hugh Eliasson, Deputy Minister of Competitiveness, Training and Trade

Reports Considered and Passed

Your Committee considered and passed the following reports as presented:

- Auditor General's Report – Dakota Tipi First Nation Gaming Commission and First Nation Gaming Accountability in Manitoba dated March 2003
- Auditor General's Report – Special Audit: Image Campaign for the Province of Manitoba dated October 2007

Your Committee completed consideration of the following chapter as presented:

- Auditor General's Report to the Legislative Assembly – Audits of Government Operations dated December 2008: Chapter 4, Compliance with Oil and Gas Legislation

Reports Considered but not Passed

Your Committee considered the following reports but did not pass them:

- Auditor General's Report – Audit of the Workplace Safety and Health dated February 2007

On motion of Ms. HOWARD, the Report of the Committee was received.

Hon. Ms. ALLAN presented:

Annual Report of The Manitoba Trade and Investment Corporation for the fiscal year ending March 31, 2009.

(Sessional Paper No. 89)

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

During Oral Questions on September 14, 2009, the Honourable Member for River Heights rose on a matter of privilege contending that the Honourable First Minister was in a potential conflict of interest situation due to the announcement that the First Minister is the Canadian Ambassador designate to the United States while continuing to act as First Minister. The Honourable Member for River Heights concluded his comments by moving “ THAT this matter be sent for review to be seen and looked at by a legislative committee.” The Honourable Government House Leader and the Honourable Member for Inkster also offered contributions to the Chair. I took the matter under advisement in order to consult the procedural authorities.

I thank all Members for their advice to the Chair on this matter.

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

The Honourable Member for River Heights asserted that he was raising the issue at the earliest opportunity, and I accept the word of the Honourable Member. I should note though, that there is a difference between what the Honourable Member for River Heights moved as a motion and what the Honourable Member for River Heights submitted as a written motion. According to page 3000 of Hansard, the Honourable Member was referenced as saying “That this matter be sent for review to be seen and looked at by a legislative committee” while the motion submitted to the Speaker stated “That this matter be sent for review as to be performed by a legislative committee.” It is vitally essential that the motion submitted be the same as what the Member says on the record.

Regarding the issue of whether or not a prima facie case exists, I would note for the House that there is legislation in place, *The Legislative Assembly and Executive Council Conflict of Interest Act*, which deals with the issue of conflict of interest by describing actions that are prohibited, as well as steps that must be taken to avoid conflict of interest situations. The legislation also outlines penalties for Members found to be in conflict of interest situations. The remedies provided by this legislation include the ability to request either formal or informal advice from the Legislative Assembly Conflict of Interest Commissioner concerning Members’ obligations under the Act. In addition, there is also the remedy of applying to a judge of the Court of Queen’s Bench for authorization to have a hearing before another judge of the court to determine whether a Member or Minister has violated the Act.

Additionally, I would like to advise the House that Joseph Maingot advises on page 180 of the second edition of *Parliamentary Privilege in Canada* that “The Chair is in no position to interpret either the law or the constitution. Whether something takes place in this House is constitutional or legal is not for the Chair to decide. The Chair only decides whether we are following our own rules.” The concept that Speakers do not decide questions of law is supported by a 1994 ruling by Speaker Rocan and by a 1996 ruling by Speaker Dacquay. Therefore, it is clear that the Speaker is not in the position to determine questions of law. As I just referenced, there is already legislation in place that deals with conflict of interest issues as well as providing remedies, and it is clearly not the job of the Speaker to be interpreting or enforcing questions of law.

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

Also, House of Commons Speaker Parent ruled in 1994 that a matter of privilege raised about a potential conflict of interest was not a prima facie case of privilege, as it was a disagreement as to the facts, which does not fulfill the conditions of parliamentary privilege. Similarly, I ruled in 2006 that allegations of a conflict of interest do not meet the criteria for a prima facie case of privilege.

I would also note for the House that Joseph Maingot advises on page 224 of the second edition of *Parliamentary Privilege in Canada* that parliamentary privilege is concerned with the special rights of Members, not in their capacity as ministers or party leaders, whips or parliamentary secretaries, but strictly in their capacity as Members in their parliamentary work. Therefore, allegations of misjudgment or mismanagement or maladministration on the part of a minister in the performance of his ministerial duties do not come within the purview of parliamentary privilege.

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

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

Pursuant to Rule 26(1), Mr. PEDERSEN, Ms. HOWARD, Mrs. ROWAT, Ms. BLADY, and Hon. Mr. GERRARD made Members' Statements.

Prior to Grievances, Hon. Mr. GERRARD rose on a Matter of Urgent Public Importance and moved:

THAT in accordance with Rule 36(1), the ordinary business of the House be set aside to discuss a Matter of Urgent Public Importance, namely, the very unusual wet weather in the Interlake region which has resulted in the municipalities of Bifrost, Armstrong and Fisher declaring their municipalities a disaster area as a result of the severe impact on farmers in the region.

And Hon. Mr. GERRARD, Mr. EICHLER and Hon. Mr. CHOMIAK having spoken to the urgency of the motion,

WHEREUPON Mr. Speaker ruled as follows:

I thank the Honourable Members for their advice to the Chair on whether the motion proposed by the Honourable Member for River Heights should be debated today. The notice required by Rule 36(1) was provided. Under our Rules and Practices, the subject matter requiring urgent consideration must be so pressing that the public interest will suffer if the matter is not given immediate attention. There must also be no other reasonable opportunities to raise the matter.

I have listened very carefully to the arguments put forward, however I was not persuaded that the ordinary business of the house should be set aside to deal with this issue today. Although this is an issue that some Members may have a concern about, I do not believe that the public interest will be harmed if the business of the house is not set aside to debate the motion today.

Additionally, I would like to note that other avenues exist for Members to raise this issue, including Question Period, Members' Statements and Grievances.

Therefore, with the greatest of respect, I must rule that this matter does not meet the criteria set by our Rules and Precedents and I rule the motion out of order as a Matter of Urgent Public Importance.

However, despite the procedural shortcomings, there does appear to be a willingness to debate the issue. I shall then put the Question to the House shall the debate proceed?

Mr. Speaker then put the Question, "Shall the debate proceed?" It was agreed to.

And a debate arising,

And Hon. Ms. WOWCHUK, Messrs. BRIESE, NEVAKSHONOFF and MAGUIRE and Hon. Mr. GERRARD having spoken.

The debate was terminated in accordance with Rule 36(6).

In accordance with Rule 27, Mr. GRAYDON rose on a Grievance.

The House resumed the Interrupted Debate on the Proposed Motion of Hon. Ms. WOWCHUK:

THAT Bill (No. 9) – The Social Work Profession Act/Loi sur la profession de travailleur social, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And leave having been denied to have the matter remain in the name of Hon. Mr. GERRARD,

Wednesday, September 16, 2009

And Mrs. MITCHELSON, Mrs. DRIEDGER, Messrs. LAMOUREUX, BRIESE and PEDERSEN having spoken,

And the Question being put. It was agreed to, on division.

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

The House then adjourned at 5:00 p.m. until 10:00 a.m., Thursday, September 17, 2009.

Hon. George HICKES,
Speaker.