



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 33**

**FIFTH SESSION, THIRTY-NINTH LEGISLATURE**

**PRAYER**

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

On motion of Hon. Ms. HOWARD, Bill (No. 23) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, was read a First Time and had its purposes outlined.

The following petitions were presented and read:

Mr. BRIESE – Legislative Assembly of Manitoba to request the appropriate ministers of the Provincial Government to consider outlining to Parks Canada the importance that a viable recreational facility in the Mount Agassiz area would play in the local and provincial economies and to consider working with all stakeholders, including Parks Canada, to help develop a plan for a viable, multi-season recreation facility in the Mount Agassiz area. (P. Robert, K. Durston, S. Asham and others)

Mr. GOERTZEN – Legislative Assembly of Manitoba to request the Minister of Justice to consider ensuring that all court orders for car thieves are vigorously monitored and enforced and to consider ensuring all breaches of court orders on car thieves are reported to police and vigorously prosecuted. (R. Taraschuk, M. Fedon, W. Fedon and others)

Mr. PEDERSEN – Legislative Assembly of Manitoba to request that the Minister of Justice deny all MPI benefits to a person for injuries received in an accident if he or she is convicted of stealing a motor vehicle involved in the accident. (M. Tkachyk, T. Vanassen, G. Smith and others)

Mr. DYCK – Legislative Assembly of Manitoba to urge the Provincial Government to build the Bipole III transmission line on the shorter and more reliable east side of Lake Winnipeg, in order to save each Manitoba family of four \$11,748. (N. Penner, L. Wiebe, E. Krahn and others)

Hon. Ms. HOWARD presented:

Annual Report of The Workers Compensation Board for the year ending December 31, 2010.  
(Sessional Paper No. 33)

Annual Report of the Five Year Plan for The Workers Compensation Board for the years 2011 to 2015.  
(Sessional Paper No. 34)

Annual Report of the Appeal Commission and Medical Review Panel of The Workers Compensation Board for the year ending December 31, 2010.

(Sessional Paper No. 35)

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Hon. Mr. ASHTON, the Minister responsible for Emergency Measures, made a statement regarding the status of flooding in Manitoba.

Mr. BRIESE and, by leave, Hon. Mr. GERRARD commented on the statement.

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

Following the daily Prayer on April 15, 2011, the Honourable Official Opposition House Leader rose on a matter of privilege to contend that comments made by the Honourable Minister of Finance and the Honourable First Minister concerning the projected costs for building Bipole III were at odds with information from Manitoba Hydro and were deliberately misleading. At the conclusion of her remarks, the Honourable Official Opposition House Leader moved “ THAT this House find the Government in contempt and that the Minister of Finance and the Minister responsible for Manitoba Hydro and the Premier of Manitoba be censured for first withholding information, then providing contradictory information, and deliberately attempting to mislead this House by maintaining the cost of Bipole III was \$2.2 billion for at least 18 months even though they were aware of contradictory evidence about the true and escalating costs of Bipole III, and as recently as yesterday continued to bring conflicting information to this House.” The Honourable Government House Leader and the Honourable Member for River Heights offered contributions to the Chair. I took the matter under advisement in order to consult the procedural authorities.

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

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

The Honourable Official Opposition House Leader asserted that she was raising the issue at the earliest available opportunity, and I accept the word of the Honourable Official Opposition House Leader.

Regarding the second condition, Manitoba precedents and the procedural authorities provide guidance on the issue of deliberately misleading the House, as this type of issue has been raised many times in this House. The rulings of previous Manitoba Speakers have been very clear and consistent. Speakers Walding, Phillips, Rocan and Dacquay have all ruled that in order to find allegations of deliberate misleading the House as prima facie means proving that the Member purposely intended to mislead the House by making statements with the knowledge that these statements would mislead. Therefore a burden of proof exists that goes beyond speculation or conjecture but involves providing absolute proof, including a statement of intent by the Member involved that the stated goal is to intentionally mislead the House, as it is possible Members may inadvertently mislead the House by unknowingly putting incorrect information on the record.

As I advised the House on April 16, 2007, providing information that may show the facts are at variance is not the same as providing proof of intent to mislead. Speaker Dacquay also ruled that without a Member admitting in the House that he or she had the stated goal of misleading the House when putting remarks on the record, it is virtually impossible to prove that a Member had deliberately intended to mislead the House.

Joseph Maingot advises on page 223 of the second edition of *Parliamentary Privilege in Canada* that a dispute between two Members about questions of fact said in debate does not constitute a valid question of privilege because it is a matter of debate. He goes on to state on page 241 of the same edition that to allege that a Member has misled the House is a matter of order rather than privilege and to allege that a Member has deliberately misled the House is also a matter of order, however deliberately misleading statements may be treated as contempt.

In raising the matter of privilege, the Honourable Official Opposition House Leader made reference to a February 1, 2002 ruling by House of Commons Speaker Milliken where it was referenced that the House was left with two versions of events and in order to clear the air, the Speaker allowed a motion to refer the matter to committee to be brought forward.

It is worth noting that when the Standing Committee on Procedure and House Affairs reported its findings in that case to the House in its fiftieth report, the Committee provided important commentary on the issue of misleading the House. The Committee noted that the Minister in question, Mr. Eggleton, had made a mistake but that it had been done without any intent to confuse or mislead. The Committee reiterated that when it is alleged that a Member is in contempt for deliberately misleading the House, the statement must in fact have been misleading and it must be established what the Member making the statement knew at the time the statement was made that it was incorrect and that in making the statement the Member intended to mislead the House.

The Committee went on to state “Intent is always a difficult element to establish in the absence of an admission or a confession. It is necessary to carefully review the context surrounding the incident involved and to attempt to draw inferences based on the nature of the circumstances. Any findings must, however be grounded in facts and have an evidentiary basis. Parliamentary committees charged with examining questions of privilege must exercise caution and act responsibly in drawing conclusions. They must guard against allowing partisanship to colour their judgment. The power to punish for contempt must not be exercised lightly ... in the words of *Parliamentary Practice in New Zealand*: ‘it must be established that the Member making the statement knew at the time the statement was made that it was incorrect and in making it the Member intended to mislead the House.’”

The Honourable Official Opposition House Leader also quoted from the recent March 9, 2011 ruling by Speaker Milliken regarding comments made by the Minister of International Cooperation by citing the words “Indeed these Members have argued that the material available shows that contradictory information has been provided. As a result they argue, this demonstrates that the Minister has deliberately misled the House and as such, a prima facie case of privilege exists. End quote.” Her quoting of the words of the ruling is technically correct, but I would like to advise the Honourable Official Opposition House Leader, that what she was citing was an earlier section of the ruling where Speaker Milliken was reiterating all of the various arguments put on the record by the Members offering contributions to the Chair, particularly the comments of the Member for Scarborough-Guildwood. She was not citing a portion of the ruling where Speaker Milliken was giving his finding to the House on the issue of whether a prima facie case exists. I would note for the record, that further on in his ruling, Speaker Milliken did state that he found there was sufficient doubt and confusion in that particular case to warrant a finding of prima facie privilege, however in that situation, Minister Oda did admit she gave incorrect information to Parliament.

I would note in the current case raised by the Honourable Official Opposition House Leader, there have been no statements provided or made by the Honourable Minister of Finance or by the Honourable First Minister to indicate a purposeful intent to mislead the House. Nor am I satisfied there is sufficient doubt and confusion to justify finding a prima facie case of privilege or that an action of contempt occurred. Therefore, I would rule there is no prima facie case of privilege. I would note that it is possible for incorrect information to be put on the record, and would therefore encourage all Members, if they inadvertently provide incorrect information, to advise the House accordingly and to correct the error as soon as possible, as it is important for Members and the House to be apprised of factually correct information.

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Pursuant to Rule 26(1), Messrs. DYCK and NEVAKSHONOFF, Mrs. TAILLIEU, Mr. DEWAR and Hon. Mr. GERRARD made Members' Statements.

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By leave, it was agreed that sponsorship of Bill (No. 210) – The Seniors' Rights Act/Loi sur les droits des aînés, currently standing in the name of Mr. HAWRANIK be transferred to Mrs. ROWAT.

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By leave, it was agreed that sponsorship of Bill (No. 204) – The Consumer Rights Day Act/Loi sur la journée des Droits du consommateur, currently standing in the name of Hon. Ms. SELBY be transferred to Ms. BRAUN.

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

THAT this House approves in general the budgetary policy of the government.

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

*That the Motion be amended by deleting all the words after "House" and substituting:*

therefore acknowledges that this budget contains some worthy promises for Manitobans, including:

- (a) Finally applying federal support toward an increased police presence in the province of Manitoba; and
- (b) Allowing universities and colleges more certainty in their provincial funding and more flexibility to pursue excellence; and
- (c) Providing capital support for needed improvements to our medical, educational and recreational facilities such as the Grace Hospital emergency room, expansion of the hospital at Ste. Anne and schools in locations such as Sage Creek; and
- (d) Providing some additional resources for the protection of Manitobans from excess moisture conditions in both the short-term and longer-term; and
- (e) Providing modest tax relief for Manitoba families; including school tax relief.

However, this House must also point out that the budget could do more to address the needs of future generations of Manitobans by doing more to reduce waste and mismanagement in the provincial budget, and reduce the reliance on increasing the deficit and dependence on debt and avoid tax increases in non-election years.

Therefore, this House resolves to support the positive promises referred to above, but amends the government's general budgetary policy as follows:

- (a) By calling on the Provincial Government to reduce waste and mismanagement, starting with allowing Manitoba Hydro to build BiPole III on the east side route, saving Manitoba families an extra \$11,748, protecting Manitoba Hydro's system reliability, reducing the impacts on the environment and lowering the long term summary deficit; and
- (b) By calling on the Provincial Government to implement efforts to lower the deficit and control debt through a spending review process that will reduce waste, protect frontline social services and bring a more balanced fiscal approach, therefore ensuring a prosperous future for Manitobans.

And the debate continuing on the amendment,

And Mrs. STEFANSON, Hon. Ms. OSWALD, Mr. JENNISSEN, Hon. Ms. IRVIN-ROSS, Mr. SARAN and Hon. Mr. SWAN having spoken.

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

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The House then adjourned at 5:00 p.m. until 1:30 p.m. Thursday, April 21, 2011.

Hon. George HICKES,  
Speaker.