



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 23

THIRD SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYERS

1:30 O'CLOCK P.M.

The following petitions were presented and read:

Mrs. TAILLIEU – Legislative Assembly of Manitoba to request that the Minister of Transportation and Government Services consider paving Highway 200 between Highways 205 and 305 to ensure a smooth, safe and uninterrupted use of Highway 200. (R. Lehmann, J. Dorvault, J. Froese and others)

Mrs. ROWAT – Legislative Assembly of Manitoba to request the Minister of Transportation and Government Services to consider upgrading PR #355 from the western edge of the RM of Minto to PR #270 (including the hill out of the Minnedosa valley) and to request the Premier of Manitoba to consider supporting the said initiative to ensure the safety of our Manitobans and all Canadians who travel along Manitoba Highways. (T. Northam, V. Collins Northam, D. Northam and others)

Mr. CULLEN – Legislative Assembly of Manitoba to strongly urge the Minister of Health to consider taking charge and ensuring that he will improve long-term planning efforts to develop a lasting solution to the chronic problem of pediatrician and other specialist shortages in Brandon and to treat this as the crisis that it is and consider consulting with front-line workers, particularly doctors, to find solutions and to strongly urge the Minister of Health and the Premier of Manitoba to consider ending highway medicine now. (E. Johnson, L. Gillis, D. Davidson and others)

Mr. SCHULER – Legislative Assembly of Manitoba to request the Provincial Government to consider providing East St. Paul with local ambulance service which would service both East and West St. Paul and to consider improving the way that ambulance service is supplied to all Manitoba's by utilizing technologies such as GPS in conjunction with a Medical Transportation Co-ordination Center (MTCC) which will ensure that patients receive the nearest ambulance in the least amount of time and to consider ensuring that appropriate funding is provided to maintain superior response times and sustainable services. (V. Jaworski, W. Jaworski, M. Jaworski and others)

Mr. Speaker presented:

Annual Report of the Office of the Children's Advocate for the period ending February 25, 2005.
(Sessional Paper No. 38)

Hon. Ms. WOWCHUK presented:

Supplementary Information for Legislative Review 2005-2006 – Departmental Expenditure Estimates – Agriculture, Food and Rural Initiatives.

(Sessional Paper No. 39)

Hon. Mr. MACKINTOSH presented:

Supplementary Information for Legislative Review 2005-2006 – Departmental Expenditure Estimates – Justice.

(Sessional Paper No. 40)

Hon. Ms. ALLAN presented:

Supplementary Information for Legislative Review 2005-2006 – Departmental Expenditure Estimates – Labour and Immigration.

(Sessional Paper No. 41)

Hon. Ms. ALLAN, the Minister responsible for Multiculturalism made a statement regarding today, March 21, 2005 being International Day of Elimination of Racial Discrimination,

Mrs. TAILLIEU and, by leave, Mr. LAMOUREUX commented on the statement.

On motion of Hon. Ms. MCGIFFORD, Bill (No. 18) – Le Collège de Saint-Boniface Incorporation Amendment Act/Loi modifiant la Loi constituant en corporation le Collège de Saint-Boniface, was read a First Time and had its purposes outlined.

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

Following the daily Prayer on December 6, 2004, the Honourable Member for Springfield rose on a matter of privilege regarding the holding of an embargoed press conference that morning by the government on Bill 10 – The Pension Benefits Amendment Act. The Honourable Member for Springfield contended that the media had received a full briefing on the Bill, even though the Bill had yet to be introduced into the House, and that he, as the critic, had been contacted by the media for comments on the Bill, but could not comment, as he had not been present at the briefing, nor had he even been aware that the briefing had taken place. He concluded his remarks by moving "THAT this be referred to the Speaker, and that Mr. Speaker report back to the House on this matter." The Honourable Deputy Government House Leader, the Honourable Member for Steinbach, the Honourable Official Opposition House Leader and the Honourable Member for Inkster offered advice to the Chair on this matter. I took the matter under advisement in order to consult the procedural authorities.

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.

Regarding the first condition, the Honourable Member for Springfield asserted that he was raising the matter at the earliest opportunity, and I accept the word of the Honourable Member.

Regarding the second condition, whether there is sufficient evidence that the privileges of the House have been breached, it is important to determine whether parliamentary privilege has been breached in the actions complained of.

This issue is a complex one, and there is commentary from procedural authorities as well as Manitoba precedents that must be taken into consideration.

In terms of Manitoba precedents, on June 2, 1983, a matter of privilege was raised respecting the distribution of a news release regarding a bill at the same time that the bill was distributed. Speaker Walding ruled that there was no matter of privilege. He stated "the matter of which he (the Member) complains of may be a matter of discourtesy, but it is not a matter of privilege."

On July 8, 1986, a matter of privilege was raised regarding a press conference held to announce amendments to a government bill prior to the bill being introduced for second reading. Speaker Phillips ruled on July 11, 1986 that there was no matter of privilege. In her ruling she quoted from the fifth edition of Beauchesne, citation 19(3): "statements made outside the House by a Member may not be used as the basis for a question of privilege. She also quoted from a November 23, 1976 ruling from Speaker Jerome of the House of Commons: "It is clear that parliamentary privilege does not extend and never has extended to compelling a Minister or Prime Minister to make a statement in the House under any circumstances, regardless of the importance of the subject."

On June 26, 1991, a point of order was raised concerning the release of a report by the government of the day at a press conference prior to the report being tabled in the House. On July 4, 1991, Speaker Rocan ruled that there was no point of order nor were there grounds for raising the issue as a matter of privilege. In his ruling, he stated that, and I quote: "the rules and customary modes of proceeding apply only to activities occurring within the House; however the action complained of occurred outside the House; therefore it does not qualify as a point of order. Further, there is not, in my understanding, any custom that reports must be tabled in the House before being released to the media.

Speaker Rocan also cited Beauchesne citations 352 and 31(10). Citation 352 states: "the option of a Minister to make a statement either in the House or outside it may be the subject of a comment, but it is not the subject of a question of privilege." Citation 31(10) reads: "the question has often been raised whether parliamentary privilege imposes on ministers an obligation to deliver ministerial statements and to make announcements and communications to the public through the House of Commons or to make these announcements or statements in the House rather than outside the Chamber. The question has been asked whether Honourable Members are entitled, as part of their parliamentary privilege, to receive such information ahead of the general public. I can find no precedent to justify this suggestion."

Joseph Maingot, in the second edition of *Parliamentary Privilege in Canada*, advises on page 224 that "a complaint that a Minister of the Crown has made a statement outside the House rather than in the House or that the government provides information only to its supporters in the House may well amount to a grievance against the government, but in the absence of an order in the House forbidding such activity, there is no personal or corporate privilege that has been breached in the doing, and neither does it constitute contempt of the House in the 'privilege' sense."

Maingot also goes on to advise on page 224 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, a complaint of a prima facie case of privilege could not be extended to a Member in his or her duties as a critic.

However, there have been some recent rulings from the Canadian House of Commons on the subject of press conferences and legislation that I would like to share with Members, as the findings by Speaker Milliken do have the potential to have an impact on the situation in Manitoba. I hope Members will bear with me, as this is a very serious subject matter that is before the Speaker.

On March 19, 2001, Speaker Milliken found that there was a prima facie case of privilege where the federal government held a briefing for the media on Bill C-15 – An Act to Amend the Criminal Code. In this instance, Speaker Milliken explained that he was making the decision based on the fact that information concerning legislation, although denied to Members, was being given to the media without any effective measures to secure the rights of the House.

On October 29, 2001, Speaker Milliken ruled that there was no prima facie case of privilege in the situation of the then Minister of Transport holding a press conference to announce a \$75 million dollar bailout for Canada 3000 without advising the House or the Opposition. In his ruling, Speaker Milliken stated that although the House of Commons Modernization Committee did release a report recommending that more ministerial statements and announcements be made in the House of Commons, he questioned whether the report has changed the situation such that failure to make a statement in the House has become a question of breach of privilege of the House."

On December 5, 2001, a question of privilege had been raised in the House of Commons regarding the alleged disclosure of information to the media on Bill C-42 – An Act to Amend Certain Acts of Canada, and to Enact Measures for Implementing the Biological and Toxin Weapons Convention before it was introduced in the House. In this ruling, Speaker Milliken stated that although there were articles in the media which included speculations and assertions about the content of the Bill, it was not evident to the Chair that any actual disclosure of Bill C-42 had taken place prior to its introduction in the House, therefore the Chair could find no basis for a question of privilege.

On May 13, 2003, Speaker Milliken delivered a ruling on a question of privilege raised in the House of Commons alleging that information on the Marijuana Bill was widely available to the media, and that the Minister responsible had gone to Washington to talk to the US Attorney General about the proposed bill, however the Bill had yet to be introduced in the House. In his ruling, Speaker Milliken stated that unless there is some considerable evidence that the Minister has made available copies of the Bill to someone else, it is hard for the Chair to find any breach of the privileges of the House. He did go on to state that "of course the Honourable Member I am sure will monitor the situation closely and watch and see if copies are being bandied about in advance, which I admit might be a breach of the privileges if that sort of thing were going on. We do not have evidence of that at the moment, so there is not a question of privilege here."

Monday, March 21, 2005

Taking these rulings into account, and given that there was no demonstrated proof that the media received copies of the bill at the briefing; I would find that there is no prima facie case of privilege. However, I would strongly urge the government to reflect on the information that I have presented to the House in this ruling, and to not take the finding of no prima facie case of privilege as an endorsement that this type of activity is acceptable. Should a similar situation occur in the future, I, as Speaker, would look at all of the evidence presented most carefully. In addition, the subject of the holding of press conferences of this type is one that could also be considered by the Standing Committee on the Rules of the House, given that the technology of communication has changed significantly over the past 20 years.

Pursuant to Rule 26(1), Ms. IRVIN-ROSS, Messrs. GOERTZEN, ALTEMEYER, DYCK, and SCHELLENBERG made Members' Statements.

The House resolving into Committee of Supply.

The House then adjourned at 5:31 p.m. until 1:30 p.m. Tuesday, March 22, 2005.

Hon. George HICKES,
Speaker.