



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 47**

**THIRD SESSION, FORTIETH LEGISLATURE**

**PRAYER**

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

The following Bills were severally read a First Time and had their purposes outlined:

(No. 58) – The Manitoba Institute of Trades and Technology Act/Loi sur le Manitoba Institute of Trades and Technology

(Hon. Mr. ALLUM)

(No. 59) – The Adoption Amendment and Vital Statistics Amendment Act (Opening Birth and Adoption Records)/Loi modifiant la Loi sur l'adoption et la Loi sur les statistiques de l'état civil (accès aux documents de naissance et d'adoption)

(Hon. Ms. IRVIN-ROSS)

(No. 60) – The Restorative Justice Act/Loi sur la justice réparatrice

(Hon. Mr. SWAN)

The following petitions were presented and read:

Mr. PEDERSEN – Legislative Assembly of Manitoba to urge the Provincial Government and the Minister of Jobs and the Economy to increase the rental allowance for EIA recipients to 75% of median market rent so that EIA recipients can secure clean, safe and affordable housing without sacrificing other necessities such as food and medical expenses. (C. Catellier, V. Catellier, B. Catellier and others)

Mr. EICHLER – Legislative Assembly of Manitoba to urge the Provincial Government to reverse the PST increase and to restore the right of Manitobans to vote in a referendum on increases to the PST. (C. Ozirney, L. Peirpato, S. Swanson and others)

Mr. CULLEN – Legislative Assembly of Manitoba to urge the Provincial Government to reverse the PST increase and to restore the right of Manitobans to vote in a referendum on increases to the PST. (L. Doldyk, N. Berens, M. Lovelace and others)

Mr. EWASKO – Legislative Assembly of Manitoba to urge the Provincial Government and the Minister of Health to ensure that the Beausejour District Hospital and Primary Care Centre have a primary care physician available on weekends and holidays to better provide area residents with this essential service. (S. Young, M. Nowicki, R. Monte and others)

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

Immediately following the Prayer on April 9, 2014 the Honourable Member for Morden-Winkler raised a Matter of Privilege stating that the Honourable Minister of Finance had misled the House by knowingly putting false and erroneous information on the record on April 8, 2014 during Oral Questions when referencing a recent Manitoba Ombudsman's report. The Honourable Member for Morden-Winkler claimed that the Minister's actions made it impossible for him to perform his duties as an MLA.

The Honourable Member for Morden-Winkler concluded his remarks by moving: "That this issue of the Minister of Finance's inaccurate information placed on the record with respect to the findings of the Ombudsman's report be referred to a committee of this House."

The Honourable Minister of Finance and the Honourable Member for River Heights both spoke to the matter of privilege before I took the matter under advisement to consult with 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 or the Member have been breached in order to warrant putting the matter to the House.

In his remarks, the Honourable Member for Morden-Winkler carefully explained how he met the first condition of timeliness in this matter, and I accept his explanation.

Regarding the second condition, the issue of deliberately misleading the House has been raised many times and accordingly, Manitoba precedents and the procedural authorities provide useful guidance in this area.

Joseph Maingot, in the second edition of *Parliamentary Privilege in Canada*, advises on page 241 that to allege that a member has misled the House is a matter of order rather than privilege. In addition, it has been ruled by several Manitoba Speakers that a member raising such an allegation as a matter of privilege must provide proof of intent.

The rulings of previous Manitoba Speakers have been very clear and consistent. Speakers Walding, Phillips, Rocan, Dacquay and Hickes have all ruled that in order to find allegations of deliberately 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.

As explained by Speaker Hickes in a 2011 ruling, "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 have inadvertently misled the House by unknowingly putting incorrect information on the record."

In 2007 Speaker Hickes also ruled that providing information showing the facts are at variance is not the same as providing proof of intent to mislead. As well, Speaker Dacquay ruled that without a Member admitting in the House that he or she had stated the 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.

The House of Commons Standing Committee on Procedure and House Affairs, in its 50th report, released in 2002, made some very important points about misleading and deliberately misleading. The report stated "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 inference based on 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... In the words of *Parliamentary Practice in New Zealand*, it must be established that the Member in making the statement knew at the time of the statement was made that it was incorrect and in making it the Member intended to mislead the House."

I would note for the House that on Page 1722 of *Hansard* from April 9, 2014 when this matter was raised, the Honourable Minister of Finance did acknowledge that she made a mistake while paraphrasing the report, but I would point out that this statement is not the same as an admission of deliberately misleading the House.

Therefore, based on the procedural authorities and the rulings of previous Manitoba Speakers, and with the greatest of respect, I rule that the *prima facie* case of privilege has not been established in this case.

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Pursuant to Rule 26(1), Messrs. MARCELINO (Tyndall Park), EICHLER and GAUDREAU, Mrs. ROWAT and Hon. Mr. GERRARD made Members' Statements.

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Mr. SCHULER asked Written Questions (Nos. 11 and 12) for reply to the following:

11. Can the Member for Elmwood disclose if the photo in which his picture appeared in the Wednesday, April 2, 2014 issue of the Herald community newspaper was a paid advertisement that made use of funding from the Legislative Assembly or the Provincial Government?
12. Since the Member for Elmwood is identified as a Member of Parliament and not a Member of the Manitoba Legislative Assembly in a photo appearing in the Wednesday, April 2, 2014 issue of the Herald community newspaper, can he disclose if any Provincial Government staff or resource or Manitoba Legislative Assembly staff or resource was used to take the photo?

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The House resolved into Committee of Supply.

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The House then adjourned at 5:01 p.m. until 10:00 a.m. Thursday, April 24, 2014.

Hon. Daryl REID,  
Speaker.