



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 10

THIRD SESSION, FORTY-SECOND LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

The following Bill was read a First Time and had its purposes outlined:

(No. 203) – The Manitoba Hydro Amendment Act (Referendum Before Privatization of Subsidiary)/Loi modifiant la Loi sur l'Hydro-Manitoba (référendum applicable à la privatisation des filiales)
(Mr. SALA)

Pursuant to Rule 27(1), Hon. Ms. SQUIRES, Mr. WASYLIW, Hon. Mr. FIELDING, Ms. FONTAINE and Mr. EWASKO made Members' Statements.

Following Oral Questions, Madam Speaker made the following ruling:

On March 11, 2020, the Honourable Member for Union Station rose in the House to contend that the Honourable First Minister and a Minister had wilfully misled the House regarding facts related to the feeding of hungry kids and providing funding directly for doing so. The Honourable Member alleged the misleading statements were made on Wednesday, March 4th; Monday, March 9th; and Tuesday, March 10th in this House. Finally, the Honourable Member alleged that the statements should be found in contempt and moved “THAT the matter be moved to an all-party committee for consideration.” The Honourable Government House Leader and the Honourable Member for River Heights also offered advice to the Chair. I then took the matter under advisement in order to consult the procedural authorities. I thank all Honourable Members for their contributions to the matter of contempt.

In raising privilege or contempt, Members must satisfy two conditions in order for the matter to be ruled in order as a *prima facie* case. It needs to be demonstrated that the issue was raised at the earliest opportunity, and that sufficient evidence has been provided to demonstrate that the privileges of the House have been breached, in order for the matter to be put to the House.

The Honourable Member for Union Station asserted that although the misleading statements were made on March 4th, 9th and 10th respectively, this period of time was used by the Member to consult relevant information, do some research and review publications regarding this very complex matter. I should note for the House that the onus on the Member is not to verify what the facts are when raising privilege about misleading the House, rather it is to provide proof of intent to mislead the House, as a variance of facts is not necessarily proof of intention to mislead.

Further, Bosc and Gagnon advise on page 145 of the third edition of *House of Commons Procedure and Practice* that “The matter of privilege to be raised in the House must have recently occurred and must call for the immediate action of the House.” Therefore the Member must satisfy the Speaker that the matter is being brought to the House as soon as practicable after becoming aware of the situation. I ask Members to keep this in mind when assessing the aspect of timeliness in the future as I am not satisfied the condition was met in this case.

Regarding the second condition, the noted authority Joseph Maingot advises on page 241 of the second edition of *Parliamentary Privilege in Canada* “To allege that a Member has misled the House is a matter of order rather than privilege.”

In addition, previous Manitoba Speakers have consistently ruled that in order to prove allegations that a Member deliberately misled the House, it is necessary to prove that there was clear intent involved to purposely mislead the House by knowingly making statements that would mislead. Speakers Walding, Phillips, Rocan, Dacquay, Hickes, Reid and myself have all ruled that the burden of proof to demonstrate the intention to mislead is placed solely on the Member raising the privilege.

To quote Speaker Hickes on this from 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 that some facts are at variance is not the same as providing proof of intent to mislead. Also, Speaker Dacquay ruled in 1998 that without a Member admitting in the House that they 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.

Finally, the Member alleged that this was a matter of contempt. As noted both on page 225 of the second edition of *Parliamentary Privilege in Canada*, and on page 60 of Bosc and Gagnon’s *House of Commons Procedure and Practice*, a matter of contempt is something which offends the authority or dignity of the House. Bosc and Gagnon go on to say that contempt does not have to actually impede or obstruct the House or a Member, but it must have a tendency to produce such results.

The Member has not made it clear that the House has been obstructed or impeded in the performance of its functions, nor have Members of the House or House staff been impeded in the discharge of their duties. Nor am I convinced that the authority and dignity of the House have been compromised. I must therefore advise the House that I am not convinced that an act of contempt has been committed, and I would therefore rule the motion out of order as contempt of the House.

Subsequently following Oral Questions, Hon. Mr. PALLISTER rose on a Matter of Privilege alleging that comments made in the House by Mr. SALA regarding the Treasury Board Secretary, specifically allegations of a conflict of interest, infringed upon the Member's ability to perform his duties as an MLA and as the First Minister.

And Mr. KINEW and Hon. Mr. GERRARD having spoken.

WHEREUPON Madam Speaker informed the House she would take the matter under advisement.

The following petitions were presented and read to the Legislative Assembly of Manitoba:

Hon. Mr. GERRARD – To urge the Provincial Government to provide financing for upgrades to the cochlear implant covered under Medicare, or provide funding assistance through the Cochlear Implant Speech Processor Replacement Program, to assist with the replacement costs associated with a device upgrade.

Mr. MALOWAY – To urge the Minister of Justice to immediately reverse the decision to close the DCC and proceed with the previous plan to build a new correctional and healing centre with an expanded courthouse in Dauphin.

Mr. KINEW asked Written Question (No. 3) for reply to the following on May 20, 2020:

3. Could the Minister of Crown Services provide all information regarding the contents of the May 8th, 2020 memo from Jay Grewal, President and CEO of Manitoba Hydro, in regards to the \$86 million in potential cuts and layoffs at Manitoba Hydro as well as advise how the Provincial Government responded to that memo?

By leave, it was agreed for the House to sit past the usual adjournment hour in order to conclude consideration of the remaining stages of Bill (No. 44) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, including referral of the Bill to the Committee of the Whole following Second Reading.

Hon. Mr. FIELDING for Hon. Mr. PALLISTER moved:

THAT Bill (No. 44) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, be now read a Second Time and be referred to Committee of the Whole.

And a debate arising,

And Hon. Mr. FIELDING having spoken,

And Mr. LINDSEY and Hon. Mr. GERRARD having questioned the Minister,

And the debate continuing,

And Mr. LINDSEY, Hon. Mr. GERRARD and Mr. LAMONT having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to the Committee of the Whole.

The House resolving into Committee of the Whole.

Bill (No. 44) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, was considered in the Committee of the Whole and reported without amendment.

Hon. Mr. FIELDING for Hon. Mr. PALLISTER moved:

THAT Bill (No. 44) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi, reported from the Committee of the Whole, be concurred in and be now read for a Third Time and passed.

And a debate arising,

And Hon. Messrs. FIELDING and GERRARD having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly concurred in, read a Third Time and passed.

Wednesday, October 28, 2020

Her Honour, Janice FILMON, Lieutenant Governor of the Province of Manitoba, having entered the House at 4:46 p.m., and being seated on the Throne:

Madam Speaker addressed Her Honour in the following words:

Your Honour,

At this sitting, the Legislative Assembly has passed a Bill that I ask Your Honour to give assent to.

(No. 44) – The Employment Standards Code Amendment Act/Loi modifiant le Code des normes d'emploi

To this Bill the Royal Assent was announced by the Clerk of the Legislative Assembly as follows:

"In Her Majesty's name, Her Honour assents to this Bill."

At 4:49 p.m., Her Honour was then pleased to retire.

The House resumed the debate on the Proposed Motion of Hon. Mr. FIELDING:

THAT Bill (No. 2) – The Budget Implementation and Tax Statutes Amendment Act, 2020/Loi d'exécution du budget de 2020 et modifiant diverses dispositions législatives en matière de fiscalité, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Mr. LINDSEY having spoken,

And Ms. FONTAINE speaking at 5:00 p.m. The debate was allowed to remain in their name.

The House then adjourned at 5:00 p.m. until 10:00 a.m. Thursday, October 29, 2020.

Hon. Myrna DRIEDGER,
Speaker.