



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS

FOURTH SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

Immediately following the Prayer, the House resumed contributions to a point of order raised by Mr. DERKACH on April 25, 2006 regarding the responses provided by the Honourable Minister of Education, Citizenship and Youth during Oral Questions.

And Mr. DERKACH concluding his remarks,

And Hon. Mr. MACKINTOSH having spoken to the point of order,

WHEREUPON Mr. Speaker ruled that there was no point of order.

Subsequently following the Prayer, Mr. DERKACH rose on a Matter of Privilege and moved:

THAT the Premier do apologize publicly to Manitobans for the incorrect comments he has put on the record both here in the Chamber and outside the Chamber with regard to the standing order and with regard to what the intention of that is.

And Mr. LAMOUREUX and Hon. Mr. DOER having spoken.

WHEREUPON Mr. Speaker informed the House he would take the matter under advisement.

The following petitions were presented and read:

Mr. FAURSCHOU – Legislative Assembly of Manitoba to strongly urge the Premier to consider calling an independent public inquiry into the Crocus Investment Fund scandal. (D. Boyd, J. Cullen, N. Fisher and others)

Mrs. STEFANSON – Legislative Assembly of Manitoba to request the Premier of Manitoba and the Minister of Health to consider providing CancerCare Manitoba with the appropriate funding necessary so that they may provide leading edge care for patients in the same manner as other provinces and to consider accelerating the process by which new cancer treatment drugs are approved so that more Manitobans are able to be treated in the most effective manner possible. (R. Pattyn, B. Johnson, A. Levenec and others)

Mrs. DRIEDGER – Legislative Assembly of Manitoba to request the Premier of Manitoba and the Minister of Health to consider providing CancerCare Manitoba with the appropriate funding necessary so that they may provide leading edge care for patients in the same manner as other provinces and to consider accelerating the process by which new cancer treatment drugs are approved so that more Manitobans are able to be treated in the most effective manner possible. (C. McGregor, J. Toews, L. Aves and others)

Mr. PENNER – Legislative Assembly of Manitoba to request the Provincial Government to consider stopping the removal of these positions from our community (Neepawa), and to consider utilizing current technology (ie: Land Management Services existing satellite sub-office in Dauphin, MB) in order to maintain these positions in their existing location. (P. Gawazuik, M. Kirk, P. Middlemass and others)

Mr. CUMMINGS – Legislative Assembly of Manitoba to request the Provincial Government to consider stopping the removal of these positions from our community (Neepawa), and to consider utilizing current technology (ie: Land Management Services existing satellite sub-office in Dauphin, MB) in order to maintain these positions in their existing location. (F. Baldwin, C. Bradley, F. Giesbrecht and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to request the Legislative Assembly of Manitoba to consider the need to seek clarification on why the Government did not act on fixing the Crocus fund back in 2001 and to urge the Premier and his Government to cooperate in making public what really happened and call a public inquiry. (L. Mirevaldt, S. Gray, L. Schieman and others)

Hon. Mr. STRUTHERS presented:

Annual Report of the Manitoba Association for Resource Recovery Corp. for the fiscal year ending December 31, 2005.

(Sessional Paper No. 52)

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

Following Members' Statements on April 11, 2006, the Honourable Official Opposition House Leader raised a matter of privilege regarding what he described as a lack of ministerial response to written questions filed by the Honourable Member for Charleswood. He concluded his remarks by indicating that he was prepared to move the following motion if a prima facie case of privilege was found to exist by the Speaker "THAT the Rules, Orders and Forms of Proceeding of the Legislative Assembly of Manitoba be amended by adding immediately after rule 61(5) the following: Request for ministerial response, 61(5.1)(a) A Member may request that Government respond to a specific question within forty-five days by so indicating when filing his or her question. 61(5.1)(b) If such a question remains unanswered at the expiration of the said period of forty-five days, the matter of the failure of the Government to respond shall be deemed referred to the Standing Committee on Legislative Affairs. Notwithstanding any other Rule, or practice of the House, within five sitting days such a referral of the Chair of the Committee shall convene the matter of the failure of the Government to respond. The question shall be designated as referred to committee on the Order Paper. The Committee shall report back to the House within fifteen sitting days, and the report of the Committee shall be deemed received by the House, and notwithstanding Rule 31(3), the motion to concur in the committee's report shall be deemed a prioritized resolution, and placed at the bottom of the list established under Rule 31(4)." The Honourable Government House Leader also offered commentary on the matter. 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 Official Opposition House Leader asserted that he was raising the issue at the earliest opportunity, and I accept the word of the Honourable Member.

Regarding the second issue of whether a prima facie case was demonstrated, although the Honourable Official Opposition House Leader cited our Manitoba rules as well as commentary from the House of Commons regarding specific rules that are in place in the House of Commons, he did not cite a Manitoba rule that had been breached. Our rules are silent on the length of time permitted for Ministers to respond to written questions, therefore there is no provision for the Speaker to enforce in this matter. According to our Manitoba rules, rule 60(2) states that unanswered written questions are reprinted on the Order Paper once every two weeks until answered, and this action was followed. The unanswered written questions were filed for notice on November 22, 2005, and appeared on the Order Papers for November 23 and December 7, 2005, and also on March 8 and March 22, 2006. Again, I reiterate, given that Manitoba does not have a rule requiring answers to written questions to be provided within a specific time frame, there is no rule for the Speaker to be enforcing.

In addition, Joseph Maingot advises on page 14 of the second edition of *Parliamentary Privilege in Canada* that allegations of breaches of privilege by a Member in the House that amount to complaints about procedures and practices in the House are by their very nature matters of order." He also states on page 223 of the same edition "A breach of the Standing Orders or a failure to follow an established practice would invoke a point of order rather than a matter of privilege."

I would therefore rule with the greatest of respect that the matter raised is not in order as a prima facie case of privilege.

From his decision, Mr. DERKACH appealed to the House,

And the Question being put, "Shall the ruling of the Chair be sustained?" It was agreed to, on the following division:

YEA

ALLAN	MALOWAY
ALTEMEYER	MARTINDALE
ASHTON	MCGIFFORD
BJORNSON	NEVAKSHONOFF
BRICK	REID
CALDWELL	ROBINSON
CHOMIAK	RONDEAU
DEWAR	SALE
DOER	SANTOS
IRVIN-ROSS	SCHELLENBERG
JENNISSEN	SELINGER
JHA	SMITH
KORZENIOWSKI	STRUTHERS
LATHLIN	SWAN
LEMIEUX	WOWCHUK..... 31
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NAY

DERKACH	LAMOUREUX
DRIEDGER	MAGUIRE
DYCK	MITCHELSON
EICHLER	REIMER
GERRARD	TAILLIEU 10

Pursuant to Rule 26(1), Mr. MAGUIRE, Ms. IRVIN-ROSS, Messrs. DERKACH and NEVAKSHONOFF and Hon. Mr. GERRARD made Members' Statements.

Following Members' Statements, Mrs. DRIEDGER rose on a Matter of Privilege and moved:

THAT the Minister of Education, Citizenship and Youth be requested to withdraw his inaccurate and misleading statements, correct the record and apologize to this House and to Manitobans.

And Hon. Mr. BJORNSON having spoken.

WHEREUPON Mr. Speaker ruled there was no Matter of Privilege.

From his decision, Mr. DERKACH appealed to the House,

And the Question being put, "Shall the ruling of the Chair be sustained?" It was agreed to, on the following division:

YEA

ALLAN	MACKINTOSH
ALTEMEYER	MALOWAY
ASHTON	MARTINDALE
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BRICK	NEVAKSHONOFF
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JENNISSEN	SELINGER
JHA	SMITH
KORZENIOWSKI	STRUTHERS
LATHLIN	SWAN
LEMIEUX	WOWCHUK.....30

NAY

CULLEN	LAMOUREUX
DERKACH	MAGUIRE
DRIEDGER	PENNER
DYCK	REIMER
EICHLER	ROCAN
FAURSCHOU	STEFANSON13
GERRARD	

The House then adjourned at 5:02 p.m. until 1:30 p.m. Thursday, April 27, 2006.

Hon. George HICKES,
Speaker.