



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 2

FIRST SESSION, THIRTY-EIGHTH LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

Mr. Speaker presented:

Certificate of Election respecting Ms. Kerri IRVIN-ROSS, the newly elected Member for Fort Garry.

(Sessional Paper No. 3)

Certificate of Election respecting Mrs. Leanne ROWAT, the newly elected Member for Minnedosa.

(Sessional Paper No. 4)

Auditor General's Report – Investigation of Hecla Island Land and Property Transactions dated August 2003.

(Sessional Paper No. 5)

Report pursuant to Section 38(1) of the Indemnities, Allowances and Retirement Benefits Regulation for the fiscal year ending March 31, 2003.

(Sessional Paper No. 6)

Auditor General's Report – An Examination of Le Collège de Saint-Boniface dated August 2003.

(Sessional Paper No. 7)

Auditor General's Report – Annual Report of the Operations of the Office for the fiscal year ending March 31, 2003.

(Sessional Paper No. 8)

Hon. Mr. CHOMIAK presented:

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Health.

(Sessional Paper No. 9)

Hon. Ms. MIHYCHUK presented:

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Industry, Trade and Mines.
(Sessional Paper No. 10)

Hon. Ms. MCGIFFORD presented:

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Advanced Education and Training.
(Sessional Paper No. 11)

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Seniors Directorate.
(Sessional Paper No. 12)

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Status of Women.
(Sessional Paper No. 13)

Hon. Mr. LATHLIN presented:

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Aboriginal and Northern Affairs.
(Sessional Paper No. 14)

Hon. Mr. SALE presented:

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Healthy Child Manitoba.
(Sessional Paper No. 15)

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Energy, Science and Technology.
(Sessional Paper No. 16)

Hon. Ms. WOWCHUK presented:

Supplementary Information for Legislative Review 2003-2004 – Departmental Expenditure Estimates – Agriculture and Food.
(Sessional Paper No. 17)

Mr. Speaker informed the House that Stephanie MULAIRE, Nikita KIPPEN, Rhiannon KUZMIN, Ashley LAVALLÉE, Kyle BURKETT, Carson STONEY, Frankie SARSON and Valene BERTRAND had been appointed Pages for the First Session of the Thirty-Eighth Legislature.

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

As Speaker of the 37th Legislature, I took under advisement a matter of privilege raised by the Honourable Member for Russell on April 30, 2003, regarding the release of a report by the Auditor General. Given that I had undertaken to return to the House with a ruling, and also given that the fourth edition of Bourinot advises that a breach of privilege committed in one parliament may be considered and dealt with in another Parliament, I am now returning to the House with a ruling on this matter, as I believe the matter raised is one that is very important to Members.

During Oral Questions on Wednesday, April 30, 2003, the Honourable Member for Russell raised a matter of privilege regarding the release and distribution of the Auditor General's report on the Dakota Tipi First Nation Gaming Commission and First Nation Gaming Accountability in Manitoba. The Honourable Member for Russell indicated that he was unable to obtain a copy of the report that had been tabled in the House, and that copies were not being provided to Members but were being provided to the media. He then moved "THAT this matter, because of its seriousness, be moved to the Standing Committee on Legislative Affairs, and then be reported to the House so that this matter can be cleared once and for all." The Honourable Minister of Energy, Science and Technology, the Honourable Member for River Heights, and the Honourable Member for Turtle Mountain also offered contributions on this issue. 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 to be ruled in order as a prima facie case of privilege. First, was the matter raised at the earliest opportunity and second, whether a prima facie case of privilege has been established.

I am satisfied that the matter was raised at the earliest opportunity, so this condition has been met.

Regarding the second condition, of whether a prima facie case of privilege has been established, the issue of access by Members to reports and information has been raised in the House on several occasions, and I am not unmindful that this issue is of serious concern for Members. On previous occasions, when this type of situation has been raised, it usually has been raised in the context of the release of reports and information by a government prior to release in the House. However, in this instance, we are dealing with a case where the issue under consideration is the release of a report by an Independent Officer of the Legislative Assembly.

The parliamentary authorities do not contain any relevant citations to offer guidance for the matter at hand. Manitoba practice does not contain any specific rulings dealing with the release of a report by an Independent Officer of the Legislature; therefore the practices of the Canadian House of Commons were examined.

A comparable case did occur in the Canadian House of Commons in October, 2000, when the report of the Information Commissioner was tabled in the House on October 16, 2000, yet copies were not made available to Members of the Opposition until three hours after the tabling. In this particular case, the Chair did not rule that there was a prima facie case of privilege; however the Chair did undertake to conduct an investigation into the apparent miscommunication surrounding the release of the report, so as to ensure that the situation did not occur again.

Based on this precedent, I would rule that there is no prima facie case of privilege, but I would like to advise the House that I did take action to redress this situation. At the time the issue was raised, I investigated the situation, and as a result, wrote to the Independent Officers of the House to request that in future, when reports are being tabled in the House, the Independent Officers provide 9 copies of the report for tabling in the House. By providing 9 copies for the Chamber, this will help to ensure that there are sufficient copies to meet the demands of Members. In addition, the importance of also providing copies to the Legislative Assembly Journals Office in a timely manner was stressed to the Independent Officers, to further ensure that copies are available for Members and for the caucuses. I trust that this should resolve the matter.

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Following the presentation of the Speech from the Throne on Monday, June 23, 2003, the Honourable Member for River Heights rose on a matter of privilege to discuss the seating arrangement of the House, particularly the allocation of seats provided to the Honourable Member for River Heights and the Honourable Member for Inkster. At the conclusion of his remarks, the Honourable Member for River Heights moved “THAT this House recess to allow for representatives from MLAs in all three seating blocks to get together with the Speaker to see if the concerns in relation to seating in the Legislature can be resolved.” The Honourable Government House Leader, the Honourable Member for Russell, and the Honourable Member for Inkster also offered contributions on this issue. 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 to be ruled in order as a prima facie case of privilege. First, was the matter raised at the earliest opportunity, and second, whether a prima facie case of privilege has been established.

I am satisfied that the matter was raised at the earliest opportunity, so this condition has been met.

Regarding the second condition, of whether a prima facie case of privilege has been established, there are no previous Manitoba rulings that would provide guidance in this case. The past practices of the Manitoba House with regard to seating has been that the assignment of blocks of seating has been under the purview of the Speaker, while the Leaders of Recognized parties have been given the discretion to assign specific seats within the block of seats allocated by the Speaker. Marleau and Montpetit advise on page 184 of *House of Commons Procedure and Practice* that those Members who do not have a party designation or who represent a party not recognized by the House are seated subject to the discretion of the Speaker.

The events of the First Session of the 38th Legislature were such that there was no Speaker in place after the election, because according to The Legislative Assembly Act, the position of Speaker becomes vacant on dissolution. In the absence of the Speaker, the Clerk of the Legislative Assembly has the duty to exercise the administrative authority of the Office of Speaker regarding matters such as allocation of block seating for the seating plan. In this instance, a temporary seating plan was devised by the Clerk, based on past practices of the House.

Although some Honourable Members may not have been satisfied with the placement of seating, as was stated by Speaker Parent of the House of Commons on September 30, 1998, “there is no such thing as a bad seat in the House of Commons. We have all been elected in the same manner to sit here as Honourable Members.” I would therefore rule that there is no prima facie case of privilege.

Pursuant to Rule 26(1), Messrs. RONDEAU, EICHLER, DEWAR and GOERTZEN and Ms. KORZENIOWSKI made Members’ Statements.

By leave, Hon. Mr. MACKINTOSH presented:

Sequence for consideration of the Estimates by the Committee of Supply, both in the Chamber and outside the Chamber.

(Sessional Paper No. 18)

The House resolving into the Committee of Supply.

The section of Committee of Supply sitting in the Chamber having risen, by leave, Hon. Mr. MACKINTOSH moved:

THAT the following Sessional Orders apply despite any other rule or practice of this House:

September 2003 sittings

1. The House shall sit for a period from September 8 to September 30, 2003.
2. By the usual adjournment hour on September 30, 2003, the business of supply for the 2003-04 fiscal year must be concluded as follows:
 - (a) by the usual adjournment hour on September 24, all interim, main, capital and supplementary supply resolutions must be put;
 - (b) by the usual adjournment hour on September 29, both the concurrence motion in the Committee of Supply and the concurrence motion in the House must be put; and

(c) by the usual adjournment hour on September 30, all stages for the passage (including all related motions, three readings and royal assent) of the following bills must be completed:

The Appropriation Act, 2003

The Loan Act, 2003

The Budget Implementation and Tax Statutes Amendment Act, 2003

If the Committee of Supply, the Committee of the Whole, or the House has not concluded any item or stage described above by the required hour and day, the Committee Chairperson or the Speaker, as the case may be, must interrupt the proceedings at the adjournment hour on the stated day and put all questions necessary to dispose of the required items without further debate or recorded vote.

3. No Government or Private Members' Resolution or Bill, other than those included in the business of supply, may be considered during the September, 2003 sittings of the House.

4. Thursday morning sittings of the House during the September, 2003 sittings may be used only for the business of supply.

5. On or after September 22, 2003, or after completing consideration of the estimates, the Government House Leader may announce additional hours of sitting of the House to consider the business of supply.

Subsequent sittings 2003-04

6. The next session of the Assembly must begin on November 20, 2003.

7. The House must sit for eight sitting days in March, 2004 (plus any Friday on which the House must sit during a budget debate). On the conclusion of this period, the Speaker must adjourn the House at the usual adjournment hour.

8. The House must resume sitting during the week of April 12 to 15, 2004, and must adjourn no later than June 10, 2004.

And the Question being put. It was agreed to.

The House then adjourned at 5:32 p.m. until 1:30 p.m. Tuesday, September 9, 2003.

Hon. George HICKES,
Speaker.