



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 33**

**THIRD SESSION, THIRTY-EIGHTH LEGISLATURE**

**PRAYERS**

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

The following petitions were presented and read:

Mr. LOEWEN – Legislative Assembly of Manitoba to request the Provincial Government to recognize the need for a public high school in the southwest region of Winnipeg and in conjunction with the Public Schools Finance Board, to consider adequate funding to establish a high school in the southwest sector of Winnipeg. (I. Campbell, S. Karinnas, R. Wang and others)

Mr. GOERTZEN – Legislative Assembly of Manitoba to request the Premier of Manitoba to consider covering the cost of insulin pumps that are prescribed by an Endocrinologist or Medical Doctor under the Manitoba Health Insurance Plan. (A. Gilmer, E. Kowal, B. Griffith 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. (G. Obradovic, A. Obradovic, M. Obradovic and others)

Mr. LAMOUREUX – Legislative Assembly of Manitoba to request the Legislative Assembly of Manitoba to consider recognizing the need to sit for a minimum of 80 days in any given calendar year. (L. Tejones, M. Si, A. Samson and others)

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Hon. Mr. ROBINSON presented:

Supplementary Information for Legislative Review 2005-2006 – Departmental Expenditure Estimates – Culture, Heritage and Tourism.

(Sessional Paper No. 53)

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Hon. Ms. MCGIFFORD presented:

Annual Report of the The Manitoba Student Aid Program for the program year ending July 31, 2004.

(Sessional Paper No. 54)

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On motion of Hon. Mr. LATHLIN, Bill (No. 32) – The Rural Municipality of Kelsey By-law No. 5/02 Validation Act/Loi validant le Règlement 5/02 de la municipalité rurale de Kelsey, was read a First Time and had its purposes outlined.

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

Following the Prayer on April 12, 2005, the Honourable Official Opposition House Leader rose on a matter of privilege regarding comments he attributed to the Honourable First Minister on a radio show from that morning. The Honourable Official Opposition House Leader asserted that the Honourable First Minister had said on the radio program that the Opposition Members in the House were holding up passage of Bill 10 – The Pension Benefits Amendment Act. The Honourable Official Opposition House Leader concluded his remarks by moving “THAT this House in today’s sitting deal with Bill (No. 10) and that the First Minister, the Premier, apologize to all Manitobans for his statements which did not parallel the truth.” The Honourable Government House Leader, the Honourable Member for Inkster, and the Honourable Member for Springfield also offered advice to the Chair. 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 Official Opposition House Leader 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.

Beauchesne citation 31(1) advises that statements made outside of the House by a Member may not be used as the basis for a question of privilege. Marleau and Montpetit on page 522 of *House of Commons Practice and Procedure* state that the Speaker has no authority to rule on statements made outside of the House by one Member against another.

Rulings from Manitoba Speakers support these findings from the procedural authorities. It has been ruled a number of times by Manitoba Speakers that comments made outside the Assembly Chamber cannot form the basis for a prima facie case of privilege. Speaker Walding ruled so in 1983, while Speaker Phillips made similar rulings in 1986 and 1987. Speaker Rocan ruled six times between 1988 and 1995, that statements made outside the House cannot form the basis of privilege, while Speaker Dacquay also ruled the same way in 1995. I myself have made similar rulings, twice in 2004, and again, just recently on March 23, 2005.

On the basis of commentary from the procedural authorities and from rulings of Manitoba Speakers, I must therefore respectfully rule that there is no prima facie case of privilege.

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Pursuant to Rule 26(1), Messrs. EICHLER, MARTINDALE, ROCAN and SCHELLENBERG and Hon. Mr. GERRARD made Members' Statements.

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The Order of the Day having been read for consideration of Report Stage Amendment of Bill (No. 22) – The Water Protection Act/Loi sur la protection des eaux, reported from the Standing Committee on Social and Economic Development:

Hon. Mr. ASHTON moved:

*THAT Bill 22 be amended in Clause 1(1) by adding the following:*

**"commercial operation"** includes, without limitation, an agricultural operation.  
(exploitation commerciale)

**"director"** means a person designated under section 2.1 as a director of water protection.  
(directeur)

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by striking out "and" at the end of Clause 2(d), and replacing Clause 2(e) with the following:*

(e) the need to protect riparian areas and wetlands; and

(f) the benefits of providing financial incentives for activities that protect or enhance water, aquatic ecosystems or drinking water sources.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 2 as part of Part 1:*

**Director of water protection**

**2.1** The minister may designate one or more persons as directors of water protection.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 4:*

**Consultation with water planning authority**

**4.1** Before a regulation is made under subsection 4(1), the minister may consult with any water planning authority that has been designated in respect of an area proposed to form all or part of the water quality management zone. This consultation does not affect any requirement for other consultation under this Act.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 4.1:*

**Advertising proposed regulations**

**4.2(1)** At least 90 days before a regulation is made under subsection 4(1), the minister must, in a newspaper of general circulation in the affected area, advertise the fact that a draft of the proposed regulation has been filed in the public registry.

**Written objections**

**4.2(2)** Within 60 days after an advertisement is published under subsection (1), and subject to subsection (3), any person may refer a written objection to the proposed regulation to a director, in a form approved by the minister.

**Scientific or technical information**

**4.2(3)** An objection under subsection (2) must be based on written scientific or technical information relating to an area proposed to form all or part of the water quality management zone. This information must be provided to the director at the time the objection is referred.

**Director's actions**

**4.2(4)** Upon receiving an objection under subsection (2), the director must

- (a) notify the minister that an objection has been received; and
- (b) consider the objection, and the supporting scientific or technical information.

**Advice to the minister**

**4.2(5)** Within 60 days after notifying the minister of the objection, the director must give advice to the minister as to whether the proposed regulation should be varied or revised.

**Expert advice re scientific or technical issues**

**4.2(6)** Before providing advice under subsection (5), if the director determines that there is an unresolved scientific or technical issue, he or she must obtain expert advice in such a manner as may be set out in the regulations.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 4.2:*

**Review of regulation**

**4.3** The minister must, not later than five years after the date on which a regulation under section 4 comes into force, require the water council to

- (a) review the effectiveness of the regulation and, in the course of that review, consult with any persons affected by the regulation that the council considers appropriate; and
- (b) recommend, if it considers it advisable, that the regulation be amended or repealed.

The minister may, in addition, require the council to undertake such a review at any other time.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 8 as part of Part 2:*

**Compensation where allocation cancelled or reduced**

**8.1(1)** Where the effect of any action taken or regulation or order made under subsection 7(2) is to

(a) cancel or reduce the allocation of water at any point or place to a person holding a licence under *The Water Rights Act*; and

(b) allocate or increase the allocation of water at that point or place to another person who does not hold a licence, or whose licence is, relative to the licence referred to in clause (a), lower in precedence under section 8 (precedence of licences) of *The Water Rights Act*;

the person whose allocation is cancelled or reduced is entitled to receive from, and shall be paid by the other person, compensation for any loss or damage resulting from the cancellation or reduction.

**No compensation in certain circumstances**

**8.1(2)** Despite subsection (1), no compensation is payable where the action is taken, or the regulation or order is made, for a purpose relating to public health or the provision of drinking water. The determination of the purpose of the action, regulation or order is to be made by the minister.

**Agreement respecting compensation**

**8.1(3)** Within 60 days after action is taken or an order or regulation is made that has the effect described in subsection (1), the persons described in that subsection may make an agreement setting out

(a) the amount of compensation payable and the terms of payment; and

(b) the undertaking of one person to pay that compensation, on those terms, to the other person.

**Arbitration**

**8.1(4)** Where an agreement under subsection (3) is not made, the amount of compensation and the terms of payment must be determined in accordance with *The Arbitration Act*.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended in Clause 11(1)(b)(iv) by adding "wetlands," after "riparian areas,"*

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 20(a):*

(a.1) to review regulations respecting water quality management zones, and provide advice to the minister;

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 32:*

#### PUBLIC REGISTRY

##### **Public registry**

**32.1** The minister must maintain a public registry, which may be in electronic form, containing a copy of each of the following:

- (a) a draft of each proposed regulation or amendment to a regulation under this Act;
- (b) every declaration, order or regulation made under section 7 (serious water shortages);
- (c) every order respecting a commercial operation made under a regulation described in section 33.1;
- (d) each watershed management plan approved by the minister under Part 3;
- (e) such other information as the minister may from time to time direct.

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 33(1)(h):*

(h.1) respecting the establishment of programs to provide financial incentives to protect or enhance water, aquatic ecosystems or drinking water sources;

(h.2) respecting the manner in which the director must obtain expert advice for the purpose of section 4.2;

And a debate arising,

And Hon. Mr. ASHTON having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Mr. ASHTON then moved:

*THAT Bill 22 be amended by adding the following after Clause 33 as part of Part 4:*

**Transitional orders re commercial operations**

**33.1(1)** A regulation made under Part 2 other than section 7, or under any of clauses 33(1)(a) to (d), may provide that an owner or operator of a commercial operation affected by the regulation may apply to a director for an order

(a) specifying a transitional plan by which the applicant may, over a specified period, come into compliance with the regulation; and

(b) exempting the applicant from the application of all or part of the regulation for that period, or any part of it.

**Requirements of regulation**

**33.1(2)** Where a regulation provides the right to apply for an order as described in subsection (1), the regulation must also provide

(a) that a director may issue an order only if he or she is satisfied that

(i) the applicant will suffer serious economic hardship unless an order is issued, and

(ii) issuing an order will not result in activities that



(A) present or may present an unacceptable risk of significant harm to water or an aquatic ecosystem, or

(B) place a drinking water source or public health at risk;

(b) that an order may be subject to terms and conditions;

(c) a process for appealing, to the minister,

(i) a director's decision whether to issue an order; and

(ii) a provision, term or condition of an order; and

(d) a process for varying an order, on the application of the government or the person subject to the order, if there has been a change in circumstances.

And a debate arising,

And Hon. Mr. ASHTON and Mr. LAMOUREUX having spoken,

The debate was, on motion of Mr. DERKACH, adjourned.

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Hon. Ms. ALLAN moved:

THAT Bill (No. 25) – The Workers Compensation Amendment Act/Loi modifiant la Loi sur les accidents du travail, was read a Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Ms. ALLAN having spoken,

The debate was, on motion of Mr. CULLEN, adjourned.

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Hon. Mr. SMITH moved:

THAT Bill (No. 29) – The Municipal Councils and School Boards Elections Act/Loi sur les élections municipales et scolaires, was read a Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SMITH having spoken,

The debate was, on motion of Mr. MAGUIRE, adjourned.

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Hon. Ms. WOWCHUK moved:

THAT Bill (No. 30) – The Manitoba Agricultural Services Corporation Act/Loi sur la Société des services agricoles du Manitoba, was read a Second Time and referred to a Committee of this House.  
(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Ms. WOWCHUK having spoken,

The debate was, on motion of Mr. EICHLER, adjourned.

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Hon. Ms. WOWCHUK presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 30).  
(Sessional Paper No. 55)

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The House resumed the Adjourned Debate on the Proposed Motion of Hon. Ms. ALLAN:

THAT Bill (No. 23) - The Workplace Safety and Health Amendment Act (Needles in Medical Workplaces)/Loi modifiant la Loi sur la sécurité et l'hygiène du travail (aiguilles utilisées en milieu médical), be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Mr. SCHULER and Hon. Mr. GERRARD having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to a Committee of this House.

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Hon. Mr. ROBINSON moved:

THAT Bill (No. 3) – The Recreational Trail Property Owners Protection Act (Occupiers' Liability Act Amended)/Loi sur la protection accordée aux propriétaires de biens à l'égard des sentiers récréatifs (modification de la Loi sur la responsabilité des occupants), was read a Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Mr. ROBINSON having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Ms. OSWALD moved:

THAT Bill (No. 8) – The Manitoba Council on Aging Act/Loi sur le Conseil manitobain du vieillissement, was read a Second Time and referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Ms. OSWALD having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Ms. OSWALD presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 8).

(Sessional Paper No. 56)

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Hon. Mr. MACKINTOSH moved:

THAT Bill (No. 11) – The Provincial Court Amendment Act (Justices of the Peace)/Loi modifiant la Loi sur la Cour provinciale (juges de paix), was read a Second Time and referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. MACKINTOSH having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Mr. MACKINTOSH presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 11).

(Sessional Paper No. 57)

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Hon. Mr. SMITH moved:

THAT Bill (No. 15) – The Emergency Measures Amendment Act/Loi modifiant la Loi sur les mesures d'urgence,, was read a Second Time and referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. SMITH having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Mr. SMITH presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 15).

(Sessional Paper No. 58)

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Hon. Mr. SALE moved:

THAT Bill (No. 17) – The Regional Health Authorities Amendment and Manitoba Evidence Amendment Act/Loi modifiant la Loi sur les offices régionaux de la santé et la Loi sur la preuve au Manitoba, was read a Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SALE having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Ms. MCGIFFORD moved:

THAT 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 Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Ms. MCGIFFORD having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Mr. SELINGER moved:

THAT Bill (No. 20) – The Life Leases Amendment Act/Loi modifiant la Loi sur les baux viagers, was read a Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SELINGER having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Mr. RONDEAU moved:

THAT Bill (No. 21) – The Oil and Gas Amendment and Oil and Gas Production Tax Amendment Act/Loi modifiant la Loi sur le pétrole et le gaz naturel et la Loi de la taxe sur la production de pétrole et de gaz, was read a Second Time and referred to a Committee of this House.

(Recommended by His Honour, the Lieutenant Governor)

And a debate arising,

And Hon. Mr. RONDEAU having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Mr. RONDEAU presented:

Message from His Honour, the Lieutenant Governor recommending the disposition of public revenue for Bill (No. 21).

(Sessional Paper No. 59)

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Hon. Mr. SELINGER moved:

THAT Bill (No. 24) – The Consumer Protection Amendment Act (Cost of Credit Disclosure and Miscellaneous Amendments)/Loi modifiant la Loi sur la protection du consommateur (communication du coût du crédit et modifications diverses), was read a Second Time and referred to a Committee of this House.

And a debate arising,

And Hon. Mr. SELINGER having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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Hon. Ms. WOWCHUK moved:

THAT Bill (No. 26) – The Margarine Repeal Act/Loi abrogeant la Loi sur la margarine, was read a Second Time and referred to a Committee of this House.

And a debate arising,

**Wednesday, April 20, 2005**

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And Hon. Ms. WOWCHUK having spoken,

The debate was, on motion of Mr. ROCAN, adjourned.

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The House resumed the Adjourned Debate on the Proposed Motion of Hon. Mr. SMITH:

THAT Bill (No. 12) - The Liquor Control Amendment Act/Loi modifiant la Loi sur la réglementation des alcools, be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And leave having been denied to have the matter remain in the name of Hon. Mr. ASHTON,

And Messrs. CULLEN and LAMOUREUX having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to a Committee of this House.

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The House then adjourned at 5:30 p.m. until 10:00 a.m. Thursday, April 21, 2005.

Hon. George HICKES,  
Speaker.