



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 63

THIRD SESSION, THIRTY-SEVENTH LEGISLATURE

PRAYERS

10:00 O'CLOCK A.M.

The Order of the Day being read for consideration of Bill (No. 14) – The Public Schools Modernization Act (Public Schools Act Amended)/Loi sur la modernisation des écoles publiques (modification de la Loi sur les écoles publiques), as amended and reported from the Standing Committee on Law Amendments, the House resumed the Interrupted Debate on the Proposed Amendment of Mr. GILLESHAMMER:

THAT Bill 14 be amended in the proposed section 5, as set out in section 5 of the Bill, by striking out "or" at the end of clause (c), by adding "or" at the end of clause (d) and by adding the following after clause (d):

(e) 10 or more resident electors of a school division or school district involved requesting that land be transferred from one school division or school district to another, or that land that is not in a school division or school district be added to that school division or school district.

And the debate continuing on the amendment,

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

And the Question being put on the amendment. It was negatived, on division.

Mr. GILLESHAMMER then moved:

THAT Bill 14 be amended by adding the following after section 6 of the Bill:

6.1 *Subsection 7(2) is amended by striking out "except after a review by and the receipt of a recommendation from the review commission" and substituting "unless the review commission has conducted a review and made a recommendation, and then only if the minister exercises his or her powers within three years after receiving the recommendation of the review commission".*

WHEREUPON Mr. Speaker made the following ruling:

I would like to advise the House that the amendment is out of order because it contravenes Beauchesne citation 698(8)(b) which states, an amendment may not amend sections from the original Act unless they are specifically being amended in a clause of the Bill before the Committee, or in this case, before the House.

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

And the Question being put. "Shall the ruling of the Chair be sustained?"

It was agreed to, on division.

Mr. GILLESHAMMER then moved:

THAT Bill 14 be amended in the proposed subsection 9(5.1), as set out in subsection 7(3) of the Bill, by striking out "clauses 5(a), (b) or (c)" and substituting "clauses 5(a), (b), (c) or (e)".

And a debate arising,

And Mr. GILLESHAMMER having spoken,

And the Question being put on the amendment. It was negatived, on division.

Mr. GILLESHAMMER then moved:

THAT Bill 14 be amended by striking out section 8 of the Bill.

And a debate arising,

And Messrs. GILLESHAMMER, ENNS and PITURA, Hon. Mr. GERRARD and Mr. DERKACH having spoken,

And the Question being put on the amendment. It was negatived, on division.

Mr. GILLESHAMMER then moved:

THAT Bill 14 be amended by adding the following after the proposed subsection 12.3(12), as set out in section 10 of the Bill:

Access to equivalent courses and support services

12.4 A student in a new division must have access in the new division to courses and educational support services that are equivalent to those that the student received in the former division.

And a debate arising,

And Mr. GILLESHAMMER speaking at 12:00 p.m. The debate was allowed to remain in his name.

1:30 O'CLOCK P.M.

The following petition was presented:

Mr. SCHULER – Legislative Assembly of Manitoba request the Minister of Education to reverse the decision to split the Transcona-Springfield School Division and allow it to remain as a whole or to consider immediately convening the Board of Reference to decide the matter. (L. Litkovich, E. Lubimiv, B. Semenchuk and others)

The following petition was read and received:

Mr. SCHULER – Legislative Assembly of Manitoba request the Minister of Education to reverse the decision to split the Transcona-Springfield School Division and allow it to remain as a whole or to consider immediately convening the Board of Reference to decide the matter. (K. Monkman, B. Bleue, L. Bleue and others)

The following Bills were, by leave, respectively introduced, had the purposes outlined thereof and were read a First Time:

(No. 302) – The Congregation Etz Chayim Amalgamation Act/Loi sur la fusion de la Congrégation Etz Chayim

(Mr. MARTINDALE)

(No. 203) – The Labour Relations Amendment Act/Loi modifiant la Loi sur les relations du travail

(Mr. FAURSCHOU)

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

During Members' Statements on June 26, 2002, the Honourable Premier raised a point of order regarding comments spoken by the Honourable Member for Springfield while making a Members' Statement on Bill 14 that indicated that the Honourable Premier had not been present at a committee meeting. The Honourable Premier contended that it was out of order to make a reference about Members being present or being absent from committee meetings. The Honourable Member for Springfield, the Honourable Minister of Consumer and Corporate Affairs, and the Honourable Official Opposition House Leader also spoke to the same point of order. I took the matter under advisement in order to consult the procedural authorities.

As I had stated when the matter was taken under advisement, there are not a lot of Manitoba precedents for this issue. No Manitoba Speaker has ruled on exactly this point. There have been numerous rulings from Speakers dealing with the issue of Members making reference to the presence or absence of Members from the Chamber, but not on the subject of the presence or absence of Members from a Standing Committee meeting. Beauchesne citation 289(3) advises that the absence of Members from the Chamber should not be commented on, but the citation does not make any explicit reference to Standing Committee meetings.

Similarly, Marleau and Montpetit advise on page 522 of House of Commons Procedure and Practice that “it is unacceptable to allude to the presence or absence of a Member or Minister in the Chamber. The Speaker has traditionally discouraged Members from signaling the absence of another Member from the House because there are many places that Members have to be in order to carry out all of the obligations that go with their office.” I would note again for the House that this information is related to the presence or absence of Members from the House, and not from Committees.

According to Manitoba practice, 11 Members are assigned to Standing Committees, rather than having all Members of the House sitting on a particular committee. Other Members may attend Committee meetings even if they are not Members of the Committee, however these non-Committee Members cannot vote or move motions. So, it is possible that not all Members will be in attendance at each and every Standing Committee meeting.

When an issue arose in the Canadian House of Commons on May 23, 1984 relating to a question asking whether the Minister of Energy, Mines and Resources would be present at an upcoming committee meeting, Speaker Francis ruled that this was a matter for the Committee to resolve, not the House.

Based on this, I would rule that issues pertaining to the attendance of Members at Committee meetings would be better addressed by the Committee, rather than by the House.

* * *

During Oral Questions on Thursday, June 27, 2002, the Honourable Government House Leader raised a point of order regarding words spoken by the Honourable Member for Ste. Rose while speaking to a separate point of order. The words complained of were “deliberately misrepresent.” The Honourable Official Opposition House Leader also spoke to the same point of order. The Deputy Speaker took the matter under advisement in order to peruse Hansard.

On page 2955 of Hansard, the words “deliberately misrepresenting” do appear, and are attributed to the Honourable Member for Ste. Rose. Although the words “deliberately misrepresented” do appear in Beauchesne citation 492 as words that have caused intervention on the part of the Chair, in 1997 Madam Speaker Dacquay ruled that the words “deliberately misrepresenting” were unparliamentary, and called upon the then Premier to withdraw them. Based on this precedent, I am ruling that the words “deliberately misrepresenting” are out of order, and I would call upon the Honourable Member for Ste. Rose to withdraw those words.

WHEREUPON Mr. CUMMINGS withdrew his remarks.

* * *

During Oral Questions on June 27, 2002, the Honourable Government House Leader raised a point of order concerning a question that was addressed by the Honourable Member for Charleswood to the Honourable Minister of Finance, inquiring about statements allegedly made by the Honourable Minister of Finance outside the Chamber about government funding for chiropractic services. The Honourable Government House Leader contended that according to Beauchesne citation 409(6), Ministers may only be asked questions relating to the responsibility of his or her present ministry. The Official Opposition House Leader also spoke to the same point of order. The Deputy Speaker took the matter under advisement.

There are several rulings from Manitoba Speakers that can be of assistance with this issue. On June 24, 1993, Mr. Speaker Rocan ruled that it was in order to ask the then Minister of Justice a question regarding a statement that the Minister of Justice had made outside of the Chamber on the subject matter of gun control laws, as the question was related to what the policy of the government was. On May 6, 1993, Mr. Speaker Rocan ruled that questions are put to the government, and that it is the government who decides who will answer the question. And, as I ruled on April 25, 2002, a Minister is not under obligation to answer any question that is addressed to that Minister, and can indeed chose to not answer the question.

I would therefore rule that the question was in order, and that the Minister had a choice to either not answer the question, or another Minister could have answered the question.

Pursuant to Rule 23(1), Ms. ASPER, Messrs. PITURA, SCHELLENBERG, PENNER (Steinbach) and RONDEAU made Members' Statements.

The Order of the Day being read for consideration of Bill (No. 14) – The Public Schools Modernization Act (Public Schools Act Amended)/Loi sur la modernisation des écoles publiques (modification de la Loi sur les écoles publiques), as amended and reported from the Standing Committee on Law Amendments, the House resumed the Interrupted Debate on the Proposed Amendment of Mr. GILLESHAMMER:

THAT Bill 14 be amended by adding the following after the proposed subsection 12.3(12), as set out in section 10 of the Bill:

Access to equivalent courses and support services

12.4 A student in a new division must have access in the new division to courses and educational support services that are equivalent to those that the student received in the former division.

And the debate continuing on the amendment,

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

And the Question being put on the amendment. It was negatived, on the following division:

YEA

CUMMINGS	MAGUIRE
DERKACH	MITCHELSON
DYCK	MURRAY
ENNS	PENNER (Emerson)
FAURSCHOU	PENNER (Steinbach)
GERRARD	PITURA
GILLESHAMMER	REIMER
HAWRANIK	ROCAN
HELWER	SCHULER
LAURENDEAU	SMITH (Fort Garry)
LOEWEN	STEFANSON 22

NAY

AGLUGUB	MALOWAY
ALLAN	MARTINDALE
ASHTON	MCGIFFORD
ASPER	MIHYCHUK
BARRETT	NEVAKSHONOFF
CALDWELL	REID
CHOMIAK	ROBINSON
DEWAR	RONDEAU
DOER	SALE
FRIESEN	SANTOS
JENNISSON	SHELLENBERG
KORZENIOWSKI	SELINGER
LATHLIN	SMITH (Brandon West)
LEMIEUX	STRUTHERS 29
MACKINTOSH	

Mr. GILLESHAMMER then moved:

THAT Bill 14 be amended in subsection 22(2) of the Bill by adding ", if the minister has advised the division by no later than January 15 of the current fiscal year of the provincial funding that the division is to receive for the next fiscal year," at the end of the part before clause (a).

And a debate arising,

And Messrs. GILLESHAMMER, SCHULER and DERKACH, Mrs. MITCHELSON and Mr. LOEWEN having spoken,

The debate was allowed to remain open.

Thursday, July 11, 2002

The House then adjourned at 5:00 p.m. until 1:30 p.m. Monday, July 15, 2002.

Hon. George HICKES,
Speaker.