



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 31

THIRD SESSION, FORTY-SECOND LEGISLATURE

PRAYER

1:30 O'CLOCK P.M.

Hon. Mr. EICHLER presented:

Annual Report of the Manitoba Development Corporation for the fiscal year ending March 31, 2020.

(Sessional Paper No. 37)

Hon. Mrs. COX, the Minister responsible for Status of Women, made a statement regarding International Women's Day.

Ms. MARCELINO and, by leave, Ms. LAMOUREUX commented on the statement.

Pursuant to Rule 27(1), Mr. LAGIMODIERE, Ms. FONTAINE, Messrs. TEITSMA, LINDSEY and REYES made Members' Statements.

Following Members' Statements, Mr. LAMONT rose on a Matter of Contempt regarding the fact that the Government introduced several Bills without distribution, along with related comments made by Mr. TEITSMA on social media.

WHEREUPON Madam Speaker ruled there was no Matter of Contempt.

Following Oral Questions, Madam Speaker made the following ruling:

Following the Prayer on October 14, 2020, the Honourable Official Opposition House Leader raised a matter of privilege regarding the government's failure to table several reports in contravention of statutory tabling provisions. In raising the matter, the Member asserted that the failure to table these reports directly impeded her ability to do her job as an MLA and to hold the government accountable. The Honourable Official Opposition House Leader concluded her remarks by moving: *"THAT the matter of the failure of this Government to respect the laws of this province and to put forward information to this Assembly required by statute be referred to an all-party committee for immediate consideration."*

The Honourable Government House Leader also spoke to the Matter of Privilege. I then took the matter under advisement.

I thank the Honourable Members for their advice to the Chair.

There are two conditions that must be satisfied in order for a matter raised to be ruled in order as a *prima facie* case of privilege - was the issue raised at the earliest available opportunity, and was sufficient evidence provided to demonstrate that the privileges of the Member or of the House were breached.

The Honourable Official Opposition House Leader asserted that she was raising the issue at the earliest opportunity in response to a ruling delivered by the Speaker on October 13, 2020. This ruling drew the attention of the Honourable Member to footnote 106 on page 443 of Bosc and Gagnon's *House of Commons Procedure and Practice*, 3rd Edition. She indicated that research had been conducted to verify tabling dates, and after the research was completed, the matter was raised at the earliest opportunity on the next day. After hearing this explanation, I am satisfied that the matter was raised at the earliest available opportunity.

The second issue to consider is whether the evidence provided was sufficient to demonstrate that a *prima facie* breach of privilege has occurred. The footnote from page 443 of Bosc and Gagnon describes an April 1993 ruling made by *House of Commons* Speaker John Fraser. This ruling involved a situation where the then Federal Government failed to table a document in a timely manner as required by statute. In ruling on this matter of privilege, Speaker Fraser noted that Members cannot function if they do not have access to the material that they need to do their work. In order to allow further discussion of the issue between government and opposition, he found that there was a *prima facie* case of privilege. The motion for the matter of privilege was immediately agreed to, and the issue was referred to the Standing Committee on House Management.

In conferring with procedural staff of the *House of Commons*, confirmation was received that the issue of timely tabling of reports and documents in compliance with statutory provisions continues to be relevant, and that a *prima facie* matter of privilege could be found if there was a failure to table such materials as required by law.

In order to determine whether a *prima facie* case of privilege exists, it is necessary to compare the statutory tabling requirements and verify whether the reports were or were not tabled within the legally mandated period.

The Honourable Official Opposition House Leader in raising the issue noted that three separate reports were not tabled in a timely manner in accordance with statutory provisions. These include a report required to be tabled under *The Path to Reconciliation Act*; an annual report required to be tabled under *The Climate and Green Plan Act*; and a report to the Legislature on a comprehensive review of *The Police Services Act*.

In looking at *The Path to Reconciliation Act*, sections 5(1) and (2) of the Act do require that within three months after the end of the fiscal year, the Minister must table a copy of the report in the Assembly and make it available to the public. There are also provisions requiring the report or a summary of the report to be translated into the languages of Cree, Dakota, Dene, Inuktitut, Michif, Ojibway and Oji-Cree. In looking at the list of sessional and intersessional documents tabled in 2020, the 2019/2020 report had not been tabled in the House when this matter was raised. However I am advised that on November 18, 2020 an order was made under *The Emergency Measures Act* to move the tabling deadline to December 30, 2020, and is deemed to have come into effect on June 30, 2020.

Sections 5(1) and 5(7) of *The Climate and Green Plan Act* require that the Minister responsible prepare an annual report on the programs, policies and measures employed within that year to implement the climate and green plan. The report is to be tabled within 15 days after it has been prepared if the Assembly is sitting, or if the Assembly is not sitting, within 15 days after the next sitting period begins. At the time the matter of privilege was raised, the report had not been tabled but was subsequently tabled on October 26, 2020. The date on the report is December 31, 2019.

Section 90 of *The Police Services Act* states that within five years after this Act comes into force, the Minister must undertake a comprehensive review of the Act, and must, within one year after the review is undertaken or within such further time as the Legislative Assembly may allow, submit a report on the review to the Assembly. This provision in the Act came into force on June 18, 2015. Subsequent to the raising of the matter of privilege, the report was tabled on November 5, 2020, and the date of the report is indicated as September, 2020.

In speaking to this matter of privilege, the Honourable Government House Leader noted that there are exceptional circumstances this year due to the COVID 19 pandemic, and that could be a contributing factor. I am sympathetic to the challenges that we have all faced this year as a society, the Provincial Government included, due to the COVID 19 pandemic. However, the Speaker does not have any authority to override the statutory requirement for the tabling of these reports even if there may be valid extenuating circumstances that cause delay in the preparation and tabling of the reports.

For that reason, given that the reports were not tabled in accordance with statutory requirements and due to the precedent of the 1993 ruling by *House of Commons* Speaker Fraser, I must rule that there is a *prima facie* case of privilege.

As a result, the motion moved by the Honourable Official Opposition House Leader can go forward in the House under Orders of the Day. It is a debatable motion, and the House must also vote on and adopt the motion in order for the remedy suggested in the motion to proceed.

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

Mr. BRAR – 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. LINDSEY – 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.

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Mr. MALOWAY – To urge the Provincial Government to halt its proposed closure of CancerCare sites at the Concordia Hospital and Seven Oaks General Hospital, while guaranteeing access to high-quality outpatient cancer services in northeast and northwest Winnipeg.

Mr. MOSES – 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.

Ms. NAYLOR – To urge the Provincial Government to increase funding for licensed not for profit child care programs in recognition of the importance of early learning and child care in Manitoba which will also improve quality and stability in the workforce.

Mr. SALA – To urge the Provincial Government reverse cuts and closures that negatively impact patients' ability to access timely, quality health care; and to make real investments in Manitoba's public health care system that will improve the timeliness and quality of care for patients by increasing the number of beds across the system, and recruiting and retaining an adequate number of nurses and other health professionals to meet Manitoba's needs.

Mr. SANDHU – 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. WASYLIW – 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. WIEBE – 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.

Ms. FONTAINE moved:

THAT the matter of the failure of this Government to respect the laws of this province and to put forward information to this Assembly required by statute be referred to an all-party committee for immediate consideration.

And a debate arising,

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And Ms. FONTAINE, Hon. Mr. GOERTZEN, Mr. WIEBE, Hon. Mr. GERRARD, Ms. NAYLOR and Mr. LINDSEY having spoken,

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

YEA

ADAMS	LINDSEY
ALTOMARE	MALLOWAY
ASAGWARA	MARCELINO
BRAR	MOSES
BUSHIE	NAYLOR
FONTAINE	SALA
GERRARD	SANDHU
KINEW	SMITH (Point Douglas)
LAMONT	WASYLIW
LAMOUREUX	WIEBE21
LATHLIN	

NAY

CLARKE	MARTIN
COX	MICHALESKI
CULLEN	MICKLEFIELD
EICHLER	MORLEY-LECOMTE
EWASKO	NESBITT
FIELDING	PEDERSEN
FRIESEN	PIWNIUK
GOERTZEN	REYES
GORDON	SCHULER
GUENTER	SMITH (Lagimodière)
GUILLEMARD	SMOOK
HELWER	SQUIRES
ISLEIFSON	STEFANSON
JOHNSON	TEITSMA
JOHNSTON	WISHART
LAGASSÉ	WOWCHUK33
LAGIMODIERE	

The House then adjourned at 5:07 p.m. until 10:00 a.m. Tuesday, March 9, 2021.

Hon. Myrna DRIEDGER,
Speaker.