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of the
Legislative Assembly of Manitoba
DEBATES
and
PROCEEDINGS
Official Report
(Hansard)

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Speaker*

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-Second Legislature

Member	Constituency	Political Affiliation
ADAMS, Danielle	Thompson	NDP
ALTOMARE, Nello	Transcona	NDP
ASAGWARA, Uzoma	Union Station	NDP
BRAR, Diljeet	Burrows	NDP
BUSHIE, Ian	Keewatinook	NDP
CLARKE, Eileen, Hon.	Agassiz	PC
COX, Cathy, Hon.	Kildonan-River East	PC
CULLEN, Cliff, Hon.	Spruce Woods	PC
DRIEDGER, Myrna, Hon.	Roblin	PC
EICHLER, Ralph, Hon.	Lakeside	PC
EWASKO, Wayne	Lac du Bonnet	PC
FIELDING, Scott, Hon.	Kirkfield Park	PC
FONTAINE, Nahanni	St. Johns	NDP
FRIESEN, Cameron, Hon.	Morden-Winkler	PC
GERRARD, Jon, Hon.	River Heights	Lib.
GOERTZEN, Kelvin, Hon.	Steinbach	PC
GORDON, Audrey	Southdale	PC
GUENTER, Josh	Borderland	PC
GUILLEMARD, Sarah, Hon.	Fort Richmond	PC
HELWER, Reg, Hon.	Brandon West	PC
ISLEIFSON, Len	Brandon East	PC
JOHNSON, Derek	Interlake-Gimli	PC
JOHNSTON, Scott	Assiniboia	PC
KINEW, Wab	Fort Rouge	NDP
LAGASSÉ, Bob	Dawson Trail	PC
LAGIMODIERE, Alan	Selkirk	PC
LAMONT, Dougald	St. Boniface	Lib.
LAMOUREUX, Cindy	Tyndall Park	Lib.
LATHLIN, Amanda	The Pas-Kameesak	NDP
LINDSEY, Tom	Flin Flon	NDP
MALOWAY, Jim	Elmwood	NDP
MARCELINO, Malaya	Notre Dame	NDP
MARTIN, Shannon	McPhillips	PC
MOSES, Jamie	St. Vital	NDP
MICHALESKI, Brad	Dauphin	PC
MICKLEFIELD, Andrew	Rossmere	PC
MORLEY-LECOMTE, Janice	Seine River	PC
NAYLOR, Lisa	Woleseley	NDP
NESBITT, Greg	Riding Mountain	PC
PALLISTER, Brian, Hon.	Fort Whyte	PC
PEDERSEN, Blaine, Hon.	Midland	PC
PIWNIUK, Doyle	Turtle Mountain	PC
REYES, Jon	Waverley	PC
SALA, Adrien	St. James	NDP
SANDHU, Mintu	The Maples	NDP
SCHULER, Ron, Hon.	Springfield-Ritchot	PC
SMITH, Andrew	Lagimodière	PC
SMITH, Bernadette	Point Douglas	NDP
SMOOK, Dennis	La Vérendrye	PC
SQUIRES, Rochelle, Hon.	Riel	PC
STEFANSON, Heather, Hon.	Tuxedo	PC
TEITSMA, James	Radisson	PC
WASYLIW, Mark	Fort Garry	NDP
WHARTON, Jeff, Hon.	Red River North	PC
WIEBE, Matt	Concordia	NDP
WISHART, Ian	Portage la Prairie	PC
WOWCHUK, Rick	Swan River	PC

LEGISLATIVE ASSEMBLY OF MANITOBA

Wednesday, March 18, 2020

The House met at 1:30 p.m.

Clerk (Ms. Patricia Chaychuk): It is my duty to inform the House that the Speaker is unavoidably absent.

Therefore, in accordance with the statutes, I would ask the Deputy Speaker to please take the Chair.

Mr. Deputy Speaker (Doyle Pivniuk): O Eternal and Almighty God, from Whom all power and wisdom come, we are assembled here before Thee to frame such laws as it may tend to the welfare and prosperity of our province. Grant, O merciful God, we pray Thee, that we may desire only in—which is in accordance with Thy will, that we may seek it with wisdom, know it with certainty and accomplish it perfectly for the glory and honour of Thy name and for the welfare of all our people. Amen.

Please be seated.

Before we start, I'm going to—when the House was rose yesterday, the honourable member for St. Johns was speaking on a manner of privilege she was—had raised.

I will now recognize the member to conclude her remarks by moving on the motion.

MATTER OF PRIVILEGE

(Continued from Tuesday, March 17, 2020)

Ms. Nahanni Fontaine (St. Johns): I appreciate the opportunity to finish laying out the case in respect of my matter of privilege. I will do so very quickly, Deputy Speaker.

As I indicated yesterday, the matter of privilege is in respect of the Pallister government's decision, a very quick decision, very surprising decision to close the Dauphin correctional facility. This done, Deputy Speaker, with no consultation with leadership in Dauphin, no consultation with workers in the Dauphin correctional facility, no consultation with families of those employees who are affected and, certainly, no consultation on the part of the Pallister government with Manitobans who are in conflict with the law and are presently housed at Dauphin correctional facility.

As I indicated yesterday, it was—it would be imperative and it should have been, let me just say, common sense, to actually meet with and engage with

the various stakeholders in the decision of closing the Dauphin correctional facility. And, unfortunately, tragically, the Pallister government failed to do so.

And so, Deputy Speaker, I would—this—indicate this afternoon that this is my first opportunity—save for yesterday—that I have had to properly and completely address this issue before our Manitoba Legislative Assembly, before this House.

I know that matters of privilege are serious, Deputy Speaker, and they are ones that must be brought forward to the House as soon as reasonably practical, and I've taken the time to conduct the necessary research in this matter and am now able to present my conclusions.

And therefore, I move, seconded by the member for Wolseley (Ms. Naylor), that this matter be immediately referred to a committee of this House for consideration.

Miigwech.

Mr. Deputy Speaker: Before recognizing any other members to speak, I would like—remind the House that remarks on this time for honourable members are limited to a—strictly relevant comments about whether the alleged matter of privilege has been raised on the earliest opportunity or whether their prima facie case has been established.

Hon. Jon Gerrard (River Heights): Mr. Deputy Speaker, this is a matter of 'plivilege' which has been raised by the MLA for St. Johns. Her matter of privilege is that the Pallister government interfered with her ability to advocate for the people of Dauphin and provide a meaningful solution to the closure of the Dauphin correctional facility.

I would submit, Mr. Deputy Speaker, that the NDP members have already brought forward a resolution on March the 5th to deal with precisely this matter, and there was a solution suggested as part of that advocacy in terms of a healing lodge. And the MLA for St. Johns, in fact, stood up and spoke during that debate. And so the member for St. Johns has had adequate opportunity to advocate and discuss this. I think that it doesn't quite fit the criteria for a matter of privilege.

I would note, Mr. Deputy Speaker, that by the end of the day today we will have squandered more than

17 hours on matters of NDP privilege. The Speaker is likely to rule that almost all of these, maybe all of them, don't meet the criteria of a matter of privilege. We will have missed about 40 questions which could have been asked in question period.

Will we have missed—we'll have missed a number of updates on the COVID-19 pandemic and we will used—have used about 12 hours which could have been productively used to discuss and debate the budget or bills.

The NDP had alternatives to this approach, but chose not to use them. The Conservatives could have compromised, but chose not to. We are the only Legislature in Canada, perhaps in the world, where there's been a complete impasse for five critical days during this COVID-19 pandemic.

Liberals have repeatedly called for discussion and debate on COVID-19 pandemic, and our calls have been repeatedly blocked by the Conservatives. Today we learned that about 30 per cent of respiratory therapist positions are vacant. This is a very worrisome finding.

And we clearly need information, questions and answers from the government as to what they are going to do about this dire situation with regard to respiratory therapists at—in Manitoba.

Thank you, Madam—Mr. Speaker.

Mr. Deputy Speaker: On that matter of privilege, as raised by the honourable member for St. Johns (Ms. Fontaine), I thank the members for their advice to the Chair.

As the House should know, the order-of—the rule is—order—and has a prima facie case of privilege. Members must demonstrate both that the issue had been raised at the earliest opportunity and also provide significant evidence that the privileges of the member of the House has been breached.

The honourable member for St. Johns did address timelessness of her remarks, but I am unconvinced by the arguments, and given by—the topic of the closure of the Dauphin Correctional Centre has been known by many—for many weeks, I am ruling that the condition of the timeliness of—is not met with in this case.

Regarding the second condition, the member argued that the government's conduct in this matter interfered with the ability to advocate for the people of Dauphin and provide and a meaningful solution to the closure of Dauphin's correctional facility. The

member also stated that the government's lack of communication prior to the announcement interfered with her ability to fulfill her parliamentary duties.

* (13:40)

In examining the matter raised, I believe that to—the difference of opinion over the facts regarding communication and consultation regard—relating to this issue. The—numerous Manitoba Speakers have ruled for many occasions that a dispute between two members as an—allegations of facts, that does not constitute a breach of privilege.

Further, too, Bosch [*phonetic*] and Gagnon, at page 148 of the House of Commons Procedure and Practice, that if a question or privilege involves a disagreement between two or more members as to facts, the Speaker typically rules that such a dispute does not prevent Manitoba for—members for fulfilling their parliamentary functions, nor does it disregard—breach of collective privileges of the House.

As well, Joseph Maingion [*phonetic*]-Maingot, on page 223, the second edition to the Parliamentary Privilege in Canada, states that: disputes between two members about the questions of facts says—in a debate does not constitute a valid question of privilege because it is a matter of debate.

I would also add that the member claimed that the government's actions were—prevented her from doing her job representing Dauphin correctional staff in this House. However, the member has had opportunities to address the issues, as the Dauphin jail closure has been raised in the House during the oral questions and also as a subject of a private member's resolution.

Finally, the member indicated that the government's actions did not allow her: to be able to do my job as a critic with the Justice in respect to particularly those Manitobans who are in conflict with the law. I must note that the member of—this is not something covered by parliamentary privilege.

On page 224, the second edition to Parliamentary Privilege in Canada, Joseph Maingot advised that parliamentary privileges concerned with the special rights of members, not their capacity as ministers or party leaders, whips or parliamentary secretaries, but strictly as their capacity as members in the parliamentary work. Therefore, a complaint of these prima facie case of privilege cannot be extended to a member in their duties as a critic.

With all of this in mind, I would rule that the honourable member does not have a prima facie matter of privilege.

* * *

Mr. Deputy Speaker: The honourable Official Opposition House Leader?

Ms. Nahanni Fontaine (Official Opposition House Leader): On House business.

Mr. Deputy Speaker: On House business.

Ms. Fontaine: I would like to ask you if you—ask the Deputy Speaker to canvass the House for leave to set aside routine proceedings today, move to orders of the day and the presentation of the budget speech, including all the stages of the budget procedure listed on page 84 of the rule book in appendix D, including the tabling of all budget documents.

Mr. Deputy Speaker: On House business—would like to canvass the House to leave to set aside routine proceedings today, move the orders of the day and the presentation of the budget speech, including all stages of the budget procedure listed on page 84 of the rule book in apprentice D, including tabling of all budget documents.

Is it leave to proceed?

Some Honourable Members: Agreed.

An Honourable Member: No.

Mr. Deputy Speaker: No? I hear a no. Leave is denied.

The honourable Government House Leader, on House business.

Hon. Kelvin Goertzen (Government House Leader): Mr. Deputy Speaker, is there leave of the House—I'm seeking leave. Is there leave of the House to not see the clock today until all stages of the budget procedure listed on page 84 of the rule book in appendix D, including the tabling of all budget documents, are completed?

Mr. Deputy Speaker: The honourable Government House Leader is asking for leave of the House—not see the clock today until all stages of the budget procedure listed in page 84 of the rule book in apprentice D, including the tabling of all budget documents, are completed.

Is there leave for the House?

Some Honourable Members: Agreed.

An Honourable Member: No.

Mr. Deputy Speaker: I hear a no. Leave is denied.

The honourable member for Union Station—oh, the honourable member for River Heights, on—?

Mr. Gerrard: On House business.

Mr. Deputy Speaker: House business. The honourable member for River Heights, on House business.

Mr. Gerrard: Mr. Deputy Speaker, I would ask if you would canvass the House to see if there is leave to move immediately to the matter of urgent public importance which has been brought before the House today; that is, to discuss and debate the situation of the COVID-19 pandemic.

Mr. Deputy Speaker: Is there leave to proceed with an emergent matter of COVID-19 in the—is there leave to move immediately to the matter of urgent public importance of the 'cobe' 19 epidemic?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Deputy Speaker: No? Leave is denied.

MLA Uzoma Asagwara (Union Station): Matter of privilege.

MATTER OF PRIVILEGE

Mr. Deputy Speaker: The honourable member for Union Station, on a matter of privilege.

MLA Uzoma Asagwara (Union Station): I rise today on a matter of privilege. It's important for me to set out the details of this, the nature of the matter of privilege prior to considering the nature of the matter at hand, Mr. Deputy Speaker.

The Supreme Court gives helpful guidance that we ought to consider here as to whether or not a question of privilege actually exists. It is important—in its important decision, known as *Vaid*, Justice Ian Binnie, writing for the court, found that legislative bodies created by the Constitution Act, 1867, do not constitute enclaves shielded from the ordinary law of the land. The framers of the constitution and Canadian parliamentarians, in passing the Parliament of Canada Act, thought it right to use the House of Commons at Westminster as the benchmark for parliamentary privilege in Canada.

Accordingly, to determine whether a privilege exists for the benefit of the Senate or House of Commons or their members, a court must decide whether the category and scope of the claimed privilege have been authoritatively established in relation to our own Parliament or to the House of Commons at Westminster. If so, the claim to privilege ought to be accepted by the court. However, if the existence and scope of a privilege have not been authoritatively established, the court will be required to test the claim against the doctrine of necessity, and that doctrine of necessity is the foundation of all parliamentary privilege.

Now, in such a case, in order to sustain a claim of privilege the Assembly or the Assembly member seeking its immunity must show that the sphere of activity for which privilege is claimed is so closely and directly connected with the fulfillment by the Assembly or its members of their functions as a legislative and deliberative body, including the Assembly's work in holding the government to account, that outside interference would undermine the level of autonomy required to enable the Assembly and its members to do their legislative work with dignity and efficiency. Once a claim to privilege is made out, the court will not inquire into the merits of its exercise in any particular instance. That's 29, 37 through 40, and 46 through 48.

Now, this is helpful, but clearly raises the question, Mr. Deputy Speaker, what is the doctrine of necessity?

* (13:50)

The court continued, and I quote: Parliamentary privilege is defined by the degree of autonomy necessary to perform Parliament's constitutional function. Sir Erskine May's leading text on the subject defines parliamentary privilege as the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament and by members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Emphasis added, on page 75.

Similarly, Maingot defines privilege in part as, and I quote, the necessary immunity that the law provides for Members of Parliament and for members of the legislatures of each of the 10 provinces and two territories, in order for these legislators to do their legislative work. It's page 12, emphasis added.

To the question, necessary in relation to what, therefore, the answer is: necessary to protect legislators in the discharge of their legislative and deliberative functions and the Legislative Assembly's work in holding the government to account for the conduct of the country's business.

To the same effect, see R. Marleau and C. Monpetit's edition, *House of Commons Procedure and Practice*, 2000–year 2000, where privilege is defined as the rights and immunities that are deemed necessary for the House of Commons as an institution, and its members as representatives of the electorate, to fulfill their functions. It's on page 50.

Now, reference may be made to J. G. Bourgenois [*phonetic*]–Bourgeneau [*phonetic*]–[*interjection*]–Bourinot—so embarrassing, sorry—I think I've heard that before—thank you—*Parliamentary Procedure and Practice in the Dominion of Canada*. That's the fourth edition, 1916, at page 37. It is obvious that no legislative assembly would be able to discharge its duties with efficiency or to assure its independence and dignity unless it had adequate powers to protect itself and its members and officials in the exercise of their functions.

The British joint committee report adopted a similar approach: parliamentary privilege consists of the rights and immunities which the two Houses of Parliament and their members and officers possess to enable them to carry out their parliamentary functions effectively. Without this protection, members would be handicapped in performing their parliamentary duties and the authority of Parliament itself in confronting the executive and as a forum for expressing the anxieties of citizens would be correspondingly diminished.

While much latitude is left to each House of Parliament, such a purposive approach to the definition of privilege implies important limits. There is general recognition, for example, that privilege attaches to, and I quote, proceedings in Parliament. End quote. Nevertheless, as stated in—

Mr. Deputy Speaker: Order.

Although the—we're enjoying the—hearing from the member of—sharing background information about the parliamentary privilege, would it be possible for the honourable member to explain what the issue of claim of privilege is so that we can—so that the Chair can be in a position to understand the applicability on the reference to the particular issues.

The information is information that the member has already put in the record previously and explained about the previous matter of privilege raised.

MLA Asagwara: Mr. Deputy Speaker, I can appreciate that feedback and I feel it very important to be able to provide this historical information to supplement what I will be articulating in terms of the matter of privilege. I do see your point and so I will move further along, then, in getting into the specifics of regarding the matter of privilege that I'm bringing forward today.

So, I guess I'll move a bit ahead here and just talking about—right before I get into the details of this specific matter of privilege, I'll just say that, you know, in order to sustain a claim of parliamentary privilege, the Assembly or its members, in seeking immunity, must show that the sphere of activity for which privilege is claimed is so closely and directly connected with the fulfillment by the Assembly or its members of their functions as a legislative or deliberative body, including the Assembly's work in holding this government to account, that outside interference would undermine the level of autonomy required to enable the Assembly and its members to do their work with dignity and efficiency.

So, those are—I mean, those are direct quotes from the authorities and the experts on this matter and I think that it's important to highlight the background considerations which form and must inform and guide our deliberations on what constitutes a matter of privilege for this Chamber.

And so moving into some details around the matter of privilege that I want to raise today, the matter I want to raise for you concerns specifically the issue of the stress and strain that has been caused and delivered to our health-care system. Certainly, during a time like right now, where we're dealing with a pandemic and we're seeing, you know, the results of what can happen when a system, our health-care system, lacks the capacity to deal with even two strains of influenza but now we're seeing COVID-19, I certainly, as a member of this Chamber, as a representative for Union Station and hearing, at this point, what seems like an hourly basis from my own constituents and broader Manitobans about this specific issue.

And, you know, there've been reports that the nurses at one of Manitoba's most important hospitals—and certainly during this period of time, we would all agree that all of our hospitals and, you know, service-delivery centres are critically important—but there've

been reports that the nurses at one of Manitoba's most important hospitals have considered enacting greylisting, Mr. Deputy Speaker. And that is warning—to explain, sort of, the details around what greylisting actually is for the sake of this matter of privilege, that is warning other prospective employment candidates that they ought to not take jobs at this specific centre. In this case, the particular health centre is Health Sciences Centre because of the difficult and problematic working conditions that exist there.

Mr. Deputy Speaker, I'm sure you can appreciate how significant that is in any health-care system and certainly a health-care system like Health Sciences Centre. That's a pretty extraordinary measure that the Manitoba nurses have been considering. So this is a severe issue and it's an issue that requires attention, but the government—this government—has refused to make available the necessary information regarding the staffing provisions at HSC available to members in order for us to be able to fulfill our functions.

So this government, this Pallister government has—

Mr. Deputy Speaker: Order.

I just want to remind, again, the member for Union Station (MLA Asagwara) that when focusing on the matter of privilege, the House has to—had been breached: the privilege such as freedom of speech; freedom of arrest of civil actions; exemption from jury duty; freedom of obstruction or intimidation; or dealing with the rights of House of collective, including the regulation of internal affairs of the House, the authority to maintain the attendance and service of the members, the power of—to discipline, the rights to institute inquiries and to call witnesses and demand papers, the rights to administrator oaths to witnesses and the rights of published papers.

These are some of the—should be raised when trying to prove a prima facie breach of privilege has occurred, rather than debating the policy issues.

*(14:00)

MLA Asagwara: So moving ahead, then, to elaborating on my point and trying to wrap it up. Ultimately, this is a severe issue, requires attention. The government, you know, has made every attempt to undermine and provide misleading information to members of this House and to myself as a representative for Union Station, as the member for Union Station. This fundamentally prevents the ability of members of this Chamber and myself to conduct

the business they are duty bound to do, and that is to fulfill our rules as members of this House.

The fact that the Pallister government has refused to provide the necessary information regarding staffing at our most important health-care institution effectively impedes the ability of members to do their job. It means that the government is undermining the rights of members of this House. And this constitutes a breach of privilege.

This is concerning, Mr. Deputy Speaker, and really shows just to what lengths the government's mismanagement of our health-care system is putting it at risk. And—

Mr. Deputy Speaker: Order.

In respect, I think the member made their case and the matter—in this matter, and I would encourage—*[interjection]*—okay.

MLA Asagwara: I know, Mr. Deputy Speaker, that matters of privilege are serious and that they are ones that must be brought forward to the Chamber in a reasonable amount of time and a practical amount of time. And I've taken time to consult with the relevant authorities and experts on the matter, and I've presented, you know, a summary of those efforts for this Chamber. And, at this time, I'll kind of provide a final note on that.

So essentially, you know, as a result—just summarizing everything I've provided today—as a result of the government's mismanagement of the health-care system and the possibility of greylisting at Health Sciences Centre and the refusal of the government to provide accurate and adequate information about Manitoba's most important health-care institution, I move, seconded by the member for Concordia (Mr. Wiebe), that this matter be immediately referred to a committee of this House for consideration.

Mr. Deputy Speaker: Before recognizing any other members to speak, I would remind the House that remarks at this time by honourable members are limited to strictly relevant comments about whether the alleged matter of privilege has been raised at the earliest opportunity, and whether a prima facie case has been established.

Hon. Jon Gerrard (River Heights): The matter raised by the member for Union Station (MLA Asagwara) concerning the stress and strain which has been caused and delivered to our health-care system in recent times is certainly a serious one and one that

needs to be discussed and debated and of which there are numerous questions which could and should be asked in question period. I think we should really be in question period, Mr. Deputy Speaker, to ask those questions, rather than use this as a matter of privilege.

I would suggest that, although it is really important that we are addressing at the moment the situation of a shortage of respiratory therapists and critical-care nurses—that's ICU nurses—it is going to be paramount that we have the up-to-date and the full complement of respiratory therapists and critical-care nurses when we reach a peak need for ICU capacity and respirators in the weeks ahead. We don't know precisely when that peak will come; it could come perhaps as early as three weeks, but is likely to be later than that, maybe six or 12 or even 18 weeks. We'll wait and see. But we certainly need action right away to address this to make sure there's a plan to ensure that we have a full complement of respiratory therapists and critical-care nurses.

These are the matters which really should have been the subject of this debate, and these are the matters which should have been the subject of question period. And I would ask the opposition perhaps to consider stopping their matters of privilege so we could indeed have question period.

Thank you.

Mr. Deputy Speaker: I thank the members for their advice for the Chair of—on this matter.

The House knows, in order to be a ruled—in order to a prima facie case of privilege, members must demonstrate both that the issue has been raised at the earliest opportunity and also provided significant evidence that the privileges of the members of the House has been breached.

Regardless, regarding timeless—timeliness, the member did identify that—and as—did not identify that it's an issue, so the condition of timeliness was not met. The privilege has also—own—apply to members of the House and not to the health-care system, so that cannot form a basis of—for privilege. The serious of this—as serious as the issue is, it does not fulfill the criteria of a breach of privilege.

Therefore, with the greatest respect to the honourable member for Union Station, does not have a breach of privilege.

Ms. Nahanni Fontaine (Official Opposition House Leader): Deputy Speaker, I challenge the decision of the Chair.

Mr. Deputy Speaker: The ruling of the Chair has been challenged.

The question before the House: shall the ruling of the Chair be sustained.

Voice Vote

Mr. Deputy Speaker: All those in favour of, please say yea.

Some Honourable Members: Yea.

Mr. Deputy Speaker: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Deputy Speaker: In my opinion, the Yeas have it.

Recorded Vote

Ms. Fontaine: Deputy Speaker, a recorded vote, please.

Mr. Deputy Speaker: A recorded vote has been called. Call in the members.

Order. The one hour provided for ringing of the division bells has expired. I am therefore directing the division bells to be turned off and the House proceed with the vote.

The question before the House is shall the ruling of the Chair be sustained.

Division

A RECORDED VOTE was taken, the result being as follows:

Yeas

Cox, Cullen, Eichler, Ewasko, Fielding, Friesen, Gerrard, Goertzen, Gordon, Guenter, Guillemard, Helwer, Isleifson, Johnson, Johnston, Lagimodiere, Lamont, Lamoureux, Martin, Michaleski, Micklefield, Morley-Lecomte, Nesbitt, Pallister, Pedersen, Reyes, Schuler, Smith (Lagimodière), Smook, Squires, Stefanson, Wharton, Wishart, Wowchuk.

Nays

Adams, Asagwara, Brar, Bushie, Fontaine, Kinev, Lindsey, Maloway, Moses, Naylor, Sala, Sandhu, Smith (Point Douglas), Wasyliv, Wiebe.

* (15:10)

Clerk (Ms. Patricia Chaychuk): Yeas 34, Nays 15.

Mr. Deputy Speaker: The ruling of the Chair has been sustained.

House Business

Hon. Kelvin Goertzen (Government House Leader): On House business.

Mr. Deputy Speaker: On House business.

Mr. Goertzen: Thank you, Mr. Deputy Speaker—

An Honourable Member: Matter of privilege.

Mr. Goertzen: Not now.

In the event that the Legislative Assembly cannot consider the budget and budget speech today, it will be the government's intention to bring them forward for consideration in the Legislature on Thursday, March 19th.

Mr. Deputy Speaker: It has been brought forward by the—been announced by the honourable Government House Leader, that the—in the event that the Legislative Assembly cannot consider the budget or the budget speech today, it will be the government's intention to bring them forward for consideration in the Legislature on Thursday, March 19th.

Agree—okay; it's been announced. Okay.

* * *

Ms. Lisa Naylor (Wolseley): On a matter of privilege.

MATTER OF PRIVILEGE

Mr. Deputy Speaker: On a matter of privilege?

The honourable member for Wolseley, on a matter of 'pliverage'.

Ms. Lisa Naylor (Wolseley): On a matter of privilege, Deputy Speaker.

I rise today on a matter of privilege with regard to the Pallister government's misleading information about the North End Sewage Treatment Plant. The Pallister government provided new information regarding this project in January regarding upgrades and interim measures, and after consulting relevant authorities regarding this new development, this is the first opportunity I have had to raise this in the House.

The matter of privilege that I'm raising on today is as follows. The government has repeatedly and publicly stated that they are working to address the large, point-source pollution of phosphorus and nitrogen from the North End Sewage Treatment Plant to save Lake Winnipeg.

To date, the Pallister government has not put forward any financial support for the project, and they let the City of Winnipeg off the hook by not forcing them to use an interim measure to reduce phosphorus outputs as of February 1st, 2020. Further, the government recently announced they are looking at private-public partnerships to build the North End Sewage Treatment Plant, further delaying much-needed improvements to the treatment plant.

From the government's actions, it is clear that their statements regarding their work to save Lake Winnipeg are misleading to the House and to all Manitobans. Their misleading statements are an attempt at misdirection.

As such, the ongoing statement of misleading information and actions obstruct my ability to fulfill my obligation in this House. This matter is a prima facie case of privilege, Deputy Speaker, because I cannot properly fulfill my role as the critic for Climate and Conservation when the government continues to mislead the House on their investments or on their actions to upgrade the North End treatment plant.

It's important to also address that the Speaker's view of the matter is clearly of the utmost importance, but, more importantly, interference should not be construed in narrowly physical terms. Interference as understood in a discussion of privilege or contempt will go beyond the mere interference, say, of a member's ability to enter this House. Rather, it will extend to any matter which impedes a member's ability to do their job, and this type of interference is one that cannot be fully enumerated in advance.

As O'Brien and Bosc note, it is impossible to codify all incidents which might be interpreted as matters of obstruction, interference or intimidation and, as such, constitute prima facie cases of privilege. However, some matters found to prima facie include the damaging of member's reputation, the usurpation of the title of a Member of Parliament, the intimidation of members and their staff and of witnesses before committees and the provision of misleading information.

I would emphasize that last point. The most important authorities, arguably apart from the Supreme Court of Canada, hold that the provision of misleading information constitutes a breach of the privileges of members of this House, and it is clear that this government, its Premier (Mr. Pallister) and its ministers are guilty of the provision of such misleading information.

It must be noted that information which is misleading is not the same as false information. The standard definition of misleading is that a statement or assertion gives the wrong idea or impression. However, it is clear that the partial presentation of information which on its own is not incorrect can nonetheless give the wrong idea to a reasonable observer.

Thus, it bears repeating the standard of the interference of a member's ability to do her job does not require her to show that the government provided false information, only misleading information. This is a weaker test, Deputy Speaker, but one which nonetheless infringes the ability of a member to do her job.

It almost goes without saying, Deputy Speaker, that the provision of false information is clearly a case of misleading a member. Thus, if it is established that false information has been put on the record in this House, then this will impede a member in their duty.

And, in this instance, the Pallister government repeatedly came—claimed that a change in the federal environmental assessment process is impeding work on the Lake Manitoba-Lake St. Martin outlet channel. This is not true, and such misdirection impedes my ability to engage in civil discourse on this matter, as misinformation is put on the record and, as such, it is a breach of my privileges.

My evidence is as follows: The Pallister government directed the City of Winnipeg to use funds that have been dedicated for North End Sewage Treatment Plant upgrades. They are unwilling to put forward the necessary resources to pay for the essentials; that is, the essential of protecting our waterways in Manitoba.

Further, municipalities—an overwhelming majority of 95 per cent—passed a resolution calling on the Province to declare an aquatic state of emergency on Lake Winnipeg and to take immediate action to deal with the increasing blue-green algae blooms.

Deputy Speaker, the current Minister of Climate and Conservation and the former minister of Sustainable Development are willing to misrepresent the government's commitment to saving Lake Winnipeg. They're willing to do so repeatedly to the media, in this House and even in opinion pieces in national media.

Their attempts at misdirection and their cavalier attitude to the norms of this place stifle debate on these issues and, therefore, violate my privileges.

We should make all attempts to be factual and truthful about the nature of the obligations of the crowned.

Deputy Speaker, I will not burden you with the consideration of why this government might follow such a misguided approach in communicating on this issue.

However, I will end with this. After promising concrete action to save Lake Winnipeg, they have still not got this project done, nor have they made any financial commitment to date, and now the Pallister government is looking at a private-public partnership to build the North End treatment plant, further delaying the immediate action that's needed to save Lake Winnipeg.

Therefore, I move, seconded by the member for St. James (Mr. Sala), that this issue be taken under consideration by an all-party committee.

* (15:20)

Mr. Deputy Speaker: Before recognizing other members to speak, I would remind the House that remarks at this time by the honourable members are limited strictly relevant comments about whether the alleged manner of 'plivilege' has been raised at the earliest opportunity and whether the prima facie case has been established.

Hon. Jon Gerrard (River Heights): Mr. Deputy Speaker, a few comments on this matter of privilege.

The matter of privilege deals with the fact that the Pallister government is providing misleading information in relation to the North End treatment plant. The North End treatment plant is clearly an important consideration. The updates to this plant have been delayed and delayed and delayed under both the present government and the previous government.

However—same thing—said that, the—if we'd had a budget we would've known whether there is funding for the North End treatment plant in the budget and the member would have had an opportunity to speak on the budget and debate it and to bring this up. So I'm not sure that it would actually apply as a matter of privilege if one considered it broadly.

Moreover, the member, in bringing this up, is interfering with other members' ability to raise important issues related to COVID-19 and the pandemic, and so that there is a relative importance in terms of the matter of privilege. There are really, really important economic issues the—with related to the pandemic.

The Ontario government yesterday has enacted a declaration of emergency to protect the public, brought forward funding of more than \$300 million to do various things, like increasing the capacity in hospitals, more testing and screening, further protecting front-line workers, \$50 million for long-term-care homes to help protect the people who are living in personal-care homes. All these are matters which we should be debating and discussing here.

I would like to, also, before I wind up, acknowledge the fact that some businesses are finding ways under very difficult circumstances to contribute to the situation. The Food Fare, the Zeids, have decided to open early and so that older people and people with immunocompromised situations can come when there's low traffic. The Bernstein's Deli has decided to spread out the tables so that there will be social distancing. I think we need to compliment these businesses in finding ways to continue.

I think we still need that economic update, and I hope we get it very quickly.

Thank you, Mr. Speaker.

Mr. Deputy Speaker: The honourable Government House Leader—sorry, my mic was off.

Hon. Kelvin Goertzen (Government House Leader): Thank you, again, Mr. Deputy Speaker.

I'll just say, briefly, that I'm disappointed in the member. I mean, clearly, it's another one of a long line of frivolous and vexatious matters of privilege, and I think for the member opposite, as a new member, it's important for her to know, and I've sometimes learnt this lesson hardly—it's been a hard lesson for me to learn sometimes over my 17 years here, that words matter and the things that you leave on the record stay there for a very long time. And there will be constituents of hers who will look back and wonder what their MLA was doing during the time of the pandemic and might say, well, she was a school trustee, so she must have been asking questions about schools and how they were dealing with the pandemic.

But, of course, that's not what she was doing at the time of a pandemic. She was raising scurrilous and frivolous points of order.

And they'll say that about the member for Concordia (Mr. Wiebe), too, and for the member for Fort Garry (Mr. Wasyliv) and all the other members there. They'll look back, and if they have a hard time finding Hansard, we'll make sure they see it, Mr. Deputy Speaker.

Mr. Deputy Speaker: Order.

On the matter of privilege raised by the honourable member for Wolseley (Ms. Naylor), I thank the member for their advice to the Chair.

As the House should know, in order to be—the ruled in order to the prima facie case of privilege, members must demonstrate both that the issue has been raised at the earliest opportunity and also provide sufficient evidence that the privileges of the member of the House has been breached.

The honourable member for Wolseley did not address timeliness in her remarks, and given that the topic of the North End treatment plant has been known for many weeks, I am ruling that the condition of the timeliness has not yet—had not met the—in this case.

Regarding the second condition, the member argued that the government's misleading statements on the topic interfered with her ability to fulfill her parliamentary duties. In examining the matter raised, I believe this is to be a difference of opinion over the facts regarding the communication and consultation relating to this issue and that numerous Manitoba Speakers have ruled in many occasions that a dispute between two members as alleged—allegations of fact does not constitute a breach of privilege.

Further, Bosc and Gagnon advised that on page 148, the House of Commons Procedures and Practice, that if a question of privilege involves a disagreement between two or more members as a—to facts, the Speakers typically rules that such a dispute does not prevent members for fulfilling their parliamentary functions nor does it such a disagreement breach of collective privileges of this House.

As well, Jeffen [*phonetic*] Maingot, on page 223 of the second edition of the Parliamentary Privilege in Canada states that the dispute between two members about the question of facts that in a debate does not constitute a valid question of privilege because it is a matter of debate.

I would also add that the member claimed that the government's actions have prevented her from doing her job in this—in the House. However, the member has had opportunities to address the issue as the North End treatment plant has been raised in this House during oral questions.

With all this in mind, I would rule that the honourable member does not have a prima facie matter of privilege.

Ms. Nahanni Fontaine (Official Opposition House Leader): Respectfully, I do challenge the Chair.

Mr. Deputy Speaker: The ruling of the Chair has been challenged.

The question before the House is shall the ruling of the Chair be sustained.

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Deputy Speaker: I hear a no.

Voice Vote

Mr. Deputy Speaker: All those in favour of the—please say yea.

Some Honourable Members: Yea.

Mr. Deputy Speaker: All those opposed, please say nay.

Some Honourable Members: Nay.

Mr. Deputy Speaker: In my opinion, the Yeas have it.

Recorded Vote

Ms. Fontaine: A recorded vote, please.

Mr. Deputy Speaker: A recorded vote has been declared. Call in the members.

Order. The one hour provided for ringing of the division bells has expired. I am therefore directing the division bells to be turned off and the House proceed with the vote.

The question before the House is shall the ruling of the Chair be sustained.

Division

A RECORDED VOTE was taken, the result being as follows:

Yeas

Cox, Cullen, Eichler, Ewasko, Fielding, Friesen, Gerrard, Goertzen, Gordon, Guenter, Guillemard, Helwer, Isleifson, Johnson, Johnston, Lagimodiere, Lamont, Lamoureux, Martin, Michaleski, Micklefield, Morley-Lecomte, Nesbitt, Pedersen, Reyes, Schuler, Smith (Lagimodière), Smook, Squires, Stefanson, Wishart, Wowchuk.

Nays

Adams, Asagwara, Brar, Bushie, Fontaine, Kinew, Lindsey, Maloway, Moses, Naylor, Sala, Sandhu, Smith (Point Douglas), Wasyliw, Wiebe.

Clerk (Ms. Patricia Chaychuk): Yeas 32, Nays 15.

* (16:30)

Mr. Deputy Speaker: The ruling of the Chair has been sustained.

MATTER OF PRIVILEGE

Mr. Mark Wasyliw (Fort Garry): I rise on a matter of privilege.

Mr. Deputy Speaker: The honourable member for Fort Garry, on a matter of 'pliverage'—privilege.

Mr. Wasyliw: I take this matter seriously, Mr. Deputy Speaker, and ask for an opportunity to address this issue and to lay out the matter in a factual manner to the best of my ability. While this may take a little bit of time, this matter is important for how our Chamber operates. It relates to one of the most important matters in this place: our privileges in this House.

My matter concerns the Pallister government's public discussions of several matters that will be included in legislation that have not yet been read in the House. Now, as to the matter of timeliness, I believe the phrase earliest opportunity must be understood in a reasonable sense. That is, earliest opportunity cannot simply mean the next moment in time in which a member has the ability to speak. This is too simple an understanding of the phrase.

Rather, the earliest opportunity must be understood in a holistic or contextual manner. This holism or contextualism will allow for members to consult the relevant authorities, speak with or study various experts on the matter, as the case may be, as well as review the evidence that's been compiled on the matter at hand.

A thorough review of the evidence will not only determine for a particular member whether they reasonably ought to believe if a matter of privilege has indeed been raised—that is, if there is a prima facie case for believing that a member of this Chamber's privilege has been breached—but it was also form the basis of any ruling or judgment regarding that matter that the Speaker and, ultimately, this House may make.

So, as a result, the acquisition of correct and accurate information by members must be taken into

consideration in the determination as to whether or not a member has brought their concerns in a timely fashion. Thus, the question of reasonableness is not fully objective in the sense that there is a fixed or proper amount of time for bringing forward a matter of privilege in this House.

The question will depend both on the objective facts, such as whether the information is forthcoming, available, comprehensible, et cetera. Neither is the question fully subjective, however. It cannot be a question of the speed of each individual member or their willingness to expend the time to investigate a matter to determine whether a matter of privilege has been brought to this House in a timely fashion.

It is properly understood as an intersubjective standard, Mr. Deputy Speaker, a standard that must reflect the true capabilities of members to acquire information and bring it forward to this House with demands that this House may reasonably make of all members to bring forward matters at the earliest opportunity. So the question of timeliness is then best understood as a contextual, as I earlier stated. This digression helps understand the timeliness question, with respect to the matter I'm bringing forward today.

So I want to take the opportunity to read in the relevant facts into the record. It's important that they are clear, so I ask for the Speaker's indulgence on this matter. I'll endeavour to be as succinct as possible.

Now, the Pallister government released press releases—you may recall this—on March 6th and on March 10th. Now, these are distinct from other instances of violations of my privilege. In this instance, the Pallister government revealed the contents of their budget bill which has yet to be tabled in this House, even though they've had five days to do it.

The Pallister government announced changes to payroll taxes and film tax credits, however the bills that enact these changes have not been tabled, nor has the budget been read.

So it's a long-standing and clearly understood tradition of this House, a tradition and practice that has been affirmed and reaffirmed on many occasions that bills that are to be introduced in this House and debated in this House must be first presented to this House prior to any other person or venue. This is a principle which is long-standing and clearly established.

Now, our most important authority, the House of Commons Procedure and Practice, second edition,

O'Brien and Bosc, page 85, is very clear. They note a dissemination of a bill to media prior to members of the media constitutes a breach of privilege. They write, and I quote, for example, in 2001, a question of privilege was raised regarding a briefing that the Department of Justice held for members of the media on a bill not yet introduced in the House, while denying members access to the same information.

Speaker Milliken ruled that the provision of information concerning legislation to the media without any effective measures to secure the rights of the House constituted a prima facie case of contempt, and the citation for that is Debates, March 19th, 2001, pages 1839 to 1840.

Now, the matters were then referred to the Standing Committee on Procedure and House Affairs in its 14th report, presented to the House on May 9, 2001. The committee found that privileges of the House have been breached, and I quote again: This case should serve as a warning that our House will insist on the full recognition of its constitutional function and historic privileges across the full spectrum of government. Close quote.

Now, however, the committee did not recommend any sanctions in light of the apology of the Minister of Justice and the corrective actions that were being taken to ensure that such actions did not reoccur.

A prima facie breach of privilege was found in a similar case later the same year and this matter, again, was referred to the Procedure and House Affairs Committee. Close quote.

Again, we do not have any apology from the minister involved in this case, nor is there any indication of any corrective action.

So, in this case, however, the responsible minister has not apologized for the breach, nor has the responsible department taken any corrective action to ensure that the actions that constituted the breach do not take place again and thereby denying members of this House access to this information.

Now, the government, the Premier (Mr. Pallister) and his ministers attempted to do indirectly what it cannot do directly, and that's circumvent the process of first presenting a bill to this House and before it presents legislation to the broader public and the media.

So it's a long-standing principle of this House that one cannot do indirectly what one cannot do directly,

and this is another principle that cannot be subject to question.

Now, the members of this Chamber have been duly elected by the people of the province. They have a constitutionally mandated role to fulfill. Their parliamentary function demands that they be presented with the details of legislation which they must debate and vote upon. And constitutional convention, the practice of this House, the procedural authorities who guide our work as legislatures and as parliamentarians, the courts who interpret our work, all demand collectively that we condemn a practice which undermines our privileges as memorized— as members—pardon me.

So, to summarize my argument, there is no disputing the central facts of this case. The Pallister government presented information regarding a government bill to the media in advance of members of this House. This breach is long-standing, clearly recognized privileges of members of this House to have legislation presented in the House in advance of any other individual or venue, and I believe it offends this Chamber that the minister has not briefed members of this House and all members, I might add, including government members, or apologized for his actions.

* (16:40)

Now, I should add for context, Mr. Deputy Speaker, that this issue is not new to this House and that this issue that's been raised recently in the House for consideration by no less of authority than Madam Speaker. If you recall, Madam Speaker has sort of set a precedent here: she has admonished all members on all sides of this House to respect the long-standing tradition of this House that details of legislation appear before members of this House before they're disseminated to members of the media.

Indeed, the government members supposedly accept this claim and I quote for this Chamber, the former House leader of the government caucus from May 9th, 2018. The quote begins: The contents of legislation being shared with both the public and the media before members of this Assembly have had a chance to review and receive shows that the official opposition now has a chance to review—or, sorry, now has a history of disrespecting your traditions and practices of this Assembly and the rights of the MLAs receiving information first before we are asked to offer comment or debate. This has been a long-standing parliamentary tradition and one that is

observed by this Chamber and its members. Close quote.

Well, those were the words of the representative of the government caucus less than two years ago, Mr. Deputy Speaker, but the government's own ministers have failed to heed those words in their actions. So, when faced with the decision as to whether or not to follow a long-standing tradition they previously recognized, the government decided their short-term political interests were more important than respecting the traditions of privilege afforded to members of this House.

This is contemptuous behaviour, Mr. Deputy Speaker, and needs to be called out as such and stopped immediately; this needs to be addressed in a fashion that will ensure the government, its departments and officials do not engage in such a manner in the future; and this needs to be addressed in a way that ensures Premier (Mr. Pallister) of our province is required to respect the proper rules of the House.

To that end, I have a motion and I'll read it into the record. So, as a result of the Pallister's government, I move, seconded by the member from St. James, that this issue be immediately referred to a committee of this House.

Thank you, Mr. Deputy Speaker.

Mr. Deputy Speaker: Before recognizing any other members to speak, I would remind the House that the remarks at this time by honourable members are limited to strictly relevant comments about whether the alleged matter of privilege has been raised at the earliest opportunity and whether the prima facie case has been established.

Hon. Jon Gerrard (River Heights): The member has brought forward a matter of privilege today is one of a whole series of matters privilege. I think it's questionable whether this could've been actually brought forward earlier. I would argue that there are some critical issues that we should be dealing with today which deal with the COVID-19 outbreak and that when one looks at this matter of privilege relative to the needs of the province of Manitoba, that we should be considering not—rather than this matter of privilege, the concerns that exist with regard to the 'coving' 19 outbreak.

I mentioned earlier on that we are desperately in need of an approach which has got some similarity to that of Ontario where it brought forward a whole lot of new funding for critical areas of health care. I

would suggest, although it's not included in that list, that as well as supporting front-line workers, more testing, more capacity in hospitals, long-term-care homes, residential facilities, protecting teachers and retirement homes and protecting indigenous communities, that there is also a critical need to invest in research. It is unlikely there is to be a vaccine for some time, but there is some evidence that a chloroquine may actually ameliorate the symptoms and we should be involved in partnership with others around the world in clinical trials of this chloroquine to treat patients or protect health-care workers in this—event of this global pandemic. There may be other drugs that can be looked at at the same time, but clearly we should be involved in this from a Manitoba perspective. We should not step back from doing our share.

We also need to be looking carefully at the support for businesses. I notice that the support for businesses was lacking in the presentation yesterday of the government—Ontario, but we're getting all sorts of inquiries from people in the business community. For example, what are their guidelines for operating? Individual businesses are making their own choices. The Premier has said that the home-care daycares will stay operational, but he's not indicated—and grocery stores and pharmacies will stay operational—but it's not clear for many other businesses not only whether they should continue to operate, but also what measures they should be taking, given their particular circumstances. And we desperately need answers to that, and that's why we should have had question period today as well.

So, with those comments on this matter of privilege, I'm looking forward to your ruling, Mr. Deputy Speaker, and your wisdom. Thank you. Merci. Miigwech.

Mr. Deputy Speaker: On the matter of privilege raised by the honourable member for Fort Garry (Mr. Wasyliv), I thank the member for their advice to the Chair.

As the House should know, in order to be a ruled—in order to be a prima facie case of privilege, members must demonstrate both that the issue has been raised at the earliest opportunity and also provide sufficient evidence that the privilege of the member of the House has been breached.

The honourable member for Fort Garry did address the issue of timeliness in remarks; however, he did not identify that this was the earliest

opportunity to raise the issue. So I am ruling that the condition of timeliness has not met in this case.

Regarding the second condition of whether the prima facie case has been demonstrated, on page 224 on the second edition of the Parliamentary Privilege in Canada, Joseph Maingot advised that in a complaint that a minister of the Crown has made a statement outside the House rather than the House, or that the government provides information only to its supporters in the House may well amount to the grievance against the government, but the absence of the—and order in the House forbidding such activity, there has no personal or corporate privilege that has been breached in doing, and that either—neither does it constitute contempt at the House in the privilege sense.

Looking at Manitoba's precedence, seekers from the last several decades have consistently found that similar circumstances, that the Speaker Walding ruled in June 2nd, 1983, such a complaint may be better as a discourtesy, but is not a matter of privilege. The Manitoba Speakers Phillips, Rocan, Hickey and Reid all have supported this 'settiment' of subsequent rulings.

I will also observe that there's underlying principles here in the primacy and authority of this Assembly. I select the representatives in order to deal you with carefully consider the business before us so that we may make informal decisions.

Any matter of 'distye' and—destined for consideration by the body, including legislation, should be introduced and explained here first before it is shared with the public or the media. This has been the practice that has been place for over 150 years. As has been noted previously, however, it's received years—recent years, we have seen this practice evolved. This has become common to members on all sides of the House to discuss in general and in conceptual terms. Potential legislation outside the House is in advance of introductions. These discussions have occurred in the form of consultations with stakeholders and also through interactions with the media.

From the perspective of the Speaker's Chair, as long as such discussions do not reveal or relate to any detailed provisions of upcoming legislation, the primacy of an authority of the Assembly has not been 'interfringed' upon.

* (16:50)

In the current circumstances, I must note that no evidence has provided to the Chair to demonstrate that

'pecific' provisions of the bill in questions are shared with the media or anyone else prior to the distribution of the bills in the House. This is a crucial point. In absent of such proof, I am—have no basis to rule that any privilege has been breached.

Accordingly, after careful consideration of all that I have related to the House, I must find that the prima facie case of privilege has not been established in this manner.

MATTER OF PRIVILEGE

Mr. Adrien Sala (St. James): I rise on a matter of privilege.

Mr. Deputy Speaker: The honourable member for St. James, on a matter of privilege.

Mr. Sala: The government has failed to call the Standing Committee on Crown Corporations for the consideration of Manitoba Liquor & Lotteries' annual reports. This interferes with my ability to perform my duties as a member of this House and as a member of the official opposition.

And so you might wonder how this constitutes my earliest opportunity, Mr. Deputy Speaker. Well, again, timeliness is holistic and especially when we're dealing with an issue as complex as a commitment for a billion-dollar Crown corporation.

When considering how this committee has not been called, we should evaluate how this is interfering on my ability as a member and other members' abilities to speak.

It's at this point we should examine the central point on which the question of parliamentary privilege often hangs: What are the parliamentary functions of the members of this Chamber?

If we can determine to a greater or lesser degree what are the proper duties or functions of members of this House and other Houses, then we can determine to what extent certain actions or events infringe on the rights and privileges necessary for members to discharge those very same duties or functions.

Mr. Deputy Speaker, the government has failed to call the Standing Committee on Crown Corporations for consideration of Manitoba Liquor & Lotteries Corporation. The Crown Corporations Governance and Accountability Act, which oversees all Crown corporations to ensure continuity and accountability in all our beloved Crown agencies, states the following:

That when an annual report of a corporation is laid before the Legislative Assembly—that is section 10(2) Tabling reports in the Assembly—that the responsible minister must table a copy of each annual report referred to in subsection (1) in the Assembly within 15 days after receiving if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins.

The annual report, subject to any other act, then stands permanently referred to the Standing Committee on Crown Corporations of the Leg. Assembly unless the Assembly otherwise orders. The last time the Standing Committee on Crown Corporations of the Legislative Assembly met regarding the annual report on Manitoba Liquor & Lotteries was on October 21st, 2016.

Mr. Deputy Speaker, there are five annual reports to still be discussed and passed by the standing committee. Let me repeat that: that's five annual reports. So it begs the question of why this government is refusing to call the committee. Are they interfering in something the CEO—being disclosed to all members of the House? Are they simply interfering in my ability to do my job, or both?

The government's failure to call the standing committee of Crown Corporations to consider Manitoba Liquor & Lotteries Crown corporation is unacceptable and impeding on my ability to conduct my duties as an elected member to this Legislature on behalf of my constituents.

Now, this is a prima facie case of privilege, Mr. Deputy Speaker, because as members, it is our privilege to ask questions of our Crown corporations to ensure they are being managed efficiently and equitably. It's clear that the government's failure to call the Standing Committee on Crown Corporations is limiting my ability to fulfill my function to hold the government to account with the management of our Crown corporations.

Highly important events have occurred over the last four years that the committee has not been called; most recently, thefts and violent acts at Liquor Marts, Mr. Deputy Speaker, of course, as we all know. Employees of Liquor Marts were highly concerned, and rightfully so, about the thefts and their safety, and in order to best serve my constituents, it is urgent that the minister call a standing committee on Manitoba Liquor & Lotteries.

As a representative of my constituents and a member of the opposition, it's my duty to understand

both the financial implications to the Crown corporation and how new and coming safety measures are functioning. Employees had concerns about whether these safety measures were enough and this needs to be addressed.

Additionally, like other Crown corporations, the government has politically interfered with the board of MBL. Their failure to follow procedures and engage in meaningful dialogue with the board resulted in them dismissing the board chair.

It seems there is a pattern with this government not wanting to engage in open dialogue, Mr. Deputy Speaker, especially when it comes to allowing us to fulfill our parliamentary duties and engage in dialogue relating to MBL. Therefore, as a result of the actions of the Minister of Crown Services (Mr. Wharton) and this government, I move, seconded by the member for The Maples (Mr. Sandhu), that this issue be immediately referred to a committee of this House.

Thank you, Mr. Deputy Speaker.

Mr. Deputy Speaker: Before recognizing any other members—to speak, I would remind the House that the remarks at this time for honourable members are limited to strictly relevant comments about whether the alleged matter of privilege has been raised at the earliest opportunity and whether the prima facie case has been established.

Hon. Jon Gerrard (River Heights): I rise to put a few remarks on the record in relationship to this matter of privilege that has been brought forward which deals with the Manitoba Liquor & Lotteries. There clearly are some significant issues which should be discussed at the committee, which questions which should be asked here.

We have had the government decide to completely close four casinos; we have had not the— not had the opportunity to ask questions and to undertake to understand precisely the reasons. Clearly, a lot of casinos across the country are closing, but we would like to know whether or not the government consulted with First Nations on these closures, whether there was any discussion about alternatives for some activities in casinos which— where the risk may be low.

But, regardless of that, the point here is that there are critical questions that need to be asked. Those questions should be asking here. If we had opportunities in question period, we could have a much more fulsome discussion. If we had debate on this issue, we could actually be discussing and

debating this, if we were dealing with the budget, because that certainly comes under budgetary matters. So there are opportunities, Mr. Speaker, and I will close with those remarks.

Thank you. Merci. Miigwech.

Hon. Kelvin Goertzen (Government House Leader): I'm going to be completely honest: I was having a conversation with the Opposition House Leader. I have absolutely no idea what the member said, but I'm sure it's nonsense, based on everything that I've heard in the last few days, Mr. Deputy Speaker.

Mr. Deputy Speaker: On the matter of privilege raised by the honourable member for St. James (Mr. Sala), I would like to inform the House that the matter of concerning the methods of which the House proceeds in the conduct of business is a matter of order, not privilege.

Joseph Maingot, the second edition, parliamentary 'prilerage' in Canada states that, on page 14, that alleged—allegations of breach of privilege by a member of—in the House and the amount of complaints about the procedures and practices in the House are by their very nature matters of order.

He also states that, on page 223 of the same edition, the breach of the standing orders or failure to follow the established practice would evoke a point of order rather than a question of privilege. On the this basis, I would therefore rule that the honourable member does not have a prima facie matter of privilege.

* * *

Ms. Nahanni Fontaine (Official Opposition House Leader): Is there leave of the House to call it 5?

Mr. Deputy Speaker: Is there leave for the House to call it 5?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Mr. Deputy Speaker: No—I hear a no.

Point of Order

Mr. Deputy Speaker: A point of order on the—of the honourable Government House Leader, on a point of order.

Mr. Goertzen: Yes, I do want to apologize, Mr. Deputy Speaker, when I spoke to the matter of privilege earlier. I indicated that I hadn't heard the comments from the member who raised it and in saying that it probably felt a little disrespectful.

And I, of course, we all have many things going on and I wasn't trying to be disrespectful to the member. I'm sure that whatever he said, it meant something to him—to him, anyway, Mr. Deputy Speaker. And so I don't want the member opposite to feel I was in any way being derogatory to him.

Mr. Deputy Speaker: On that point of order—it was not a point of order. Like—thank you for the apology.

* * *

Mr. Deputy Speaker: The hour being 5 p.m., the House is now adjourned and stands adjourned until 1:30 p.m. tomorrow afternoon.

LEGISLATIVE ASSEMBLY OF MANITOBA

Wednesday, March 18, 2020

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