



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 65**

**THIRD SESSION, FORTY-FIRST LEGISLATURE**

**PRAYER**

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

Madam Speaker presented:

Report of Amounts Claimed and Paid pursuant to section 4 of the Members' Salaries, Allowances and Retirement Plans Disclosure Regulation for the fiscal year ending May 14, 2018.

(Sessional Paper No. 67)

Pursuant to Rule 27(1), Messrs. NESBITT and LINDSEY, Hon. Mr. FRIESEN, Mr. ALTEMEYER and Hon. Ms. SQUIRES made Members' Statements.

Following Oral Questions, Madam Speaker made the following ruling:

At the start of Routine Proceedings on May 31st, 2018 the Honourable Member for Flin Flon raised a Matter of Privilege relating to another Matter of Privilege he had raised on May 17th, 2018, which was subsequently dealt with on May 30th, 2018. The previous matter addressed an incident in the House which occurred on May 16th, 2018. In his submission on May 31st, 2018 the Honourable Member for Flin Flon contended that during Oral Questions on May 16th the Premier had used documents in his hand as a prop in debate, and that in ruling on a subsequent Point of Order the Speaker had stated that Members should not use exhibits in any debate. The Honourable Member for Flin Flon further indicated that the Premier had not respected this ruling from the Chair and that his disregard for the authority of the Speaker impacted Members in their ability to perform their jobs.

The Honourable Government House Leader and the Honourable Member for Assiniboia both spoke to this matter before I took it under advisement.

As Members know there are two conditions which must be met to demonstrate a prima facie case of privilege: timeliness and the demonstration of sufficient evidence to prove that the privileges of the House have been breached.

Before I address those conditions however, I must identify a problem with the Member's submission. He appeared to be providing information as supplemental material relating to his previous Matter of Privilege. However, Members should know that once a ruling on a Matter of Privilege is delivered, the matter is closed, and should not be revived. If a Member wants to raise a new Matter of Privilege they must follow the same process as for any privilege submission, including:

1. Meeting the test of timeliness;
2. Explaining precisely what privileges were breached; and
3. Concluding their remarks with a motion suggesting a remedy to the problem.

On the third point, while I have recently allowed Members a moment in the House to write out their motions if they had neglected to include one in a privilege submission, I am giving notice now to all Members that I will no longer be providing such prompts. If a motion is not included in any future privilege submissions, the matter will be ruled out of order as a breach of our Rule 36(2).

In his submission on May 31st, 2018 the Honourable Member for Flin Flon did not address the first and third of the requirements noticed above, though he did provide useful information regarding precisely what privileges he had alleged were breached.

Given these omissions, I must find that the Member has not established a prima facie case of privilege, however for the sake of clarity I will speak to his concerns regarding the alleged breach of privileges identified.

In his submission on May 31st, 2018 the Honourable Member for Flin Flon suggested that the Premier was disregarding the authority of the Speaker, and that the Premier's lack of respect for the Rules of this House "impacts the ability of all Members to pursue their duties." The Member also stated that when one Member does not respect a ruling of the Speaker, "this undermines the confidence in the rules and traditions of this House that all Members ought to have", and that such a situation "will undermine the trust and confidence that Manitobans place in our Legislature."

This is a serious allegation. To this I would respond that the situation in question was resolved at the time to the satisfaction of the Speaker. As the Member noted, the question of the use of exhibits at the end of Question Period on May 16th was raised as a point of order immediately by the Honourable Leader of the Official Opposition. In response to that point of order I ruled that Members should not use exhibits in the House, and that the Leader of the Official Opposition did have a point of order.

Focusing for one moment on the substance of that point of order, let me offer some clarity regarding the use of exhibits in the House. On page 617 of the Bosc and Gagnon's Third Edition of House of Commons Procedure and Practice, it is noticed that:

"Speakers have consistently ruled that visual displays or demonstrations of any kind used by Members to illustrate their remarks or emphasize their positions are out of order. Similarly, props of any kind have always been found to be unacceptable in the Chamber. Members may hold notes in their hands, but they will be interrupted and reprimanded by the Speaker if they use papers, documents or other objects to illustrate their remarks."

The basis for this practice is of course that we are meant to engage in debates in this place with our words and not with visual aids. This sentiment is a cornerstone of the Westminster tradition of parliamentary democracy. No argument here is ever bolstered with the use of exhibits, only with eloquence and wisdom. Manitoba Speakers have upheld this practice for decades, as have I during my tenure. Consequently, I would urge all Honourable Members to be attentive to my words on this matter today as I will be watching for such infractions.

Regarding the issue of Members commenting on my performance in this role, or disregarding the authority of the Presiding Officer, I would caution all Honourable Members about reflecting on decisions or actions of the Chair. As is noticed on page 323 of the Third Edition of House of Commons Procedure and Practice:

“The actions of the Speaker may not be criticized in debate or by any means except by way of a substantive motion... Reflections on the character or actions of the Speaker (an allegation of bias, for example) could be taken by the House as breaches of privilege and punished accordingly.”

Given the numerous Matters of Privilege raised in recent days, I feel it is incumbent on me as your Speaker to provide some further essential information regarding the process for raising Matters of Privilege in the House.

As the esteemed parliamentary scholar Joseph Maingot explained on page 217 in the Second Edition of Parliamentary Privilege in Canada:

“The purpose of raising matters of “privilege” in either House of Parliament is to maintain the respect and credibility due to and required of each House in respect of these privileges, to uphold its powers, and to enforce the enjoyment of the privileges of its Members. A genuine question of privilege is therefore a serious matter not to be reckoned with lightly and accordingly ought to be rare, and thus rarely raised in the House of Commons.”

Returning once more to the Third Edition of House of Commons Procedure and Practice, it is noted on page 142 that “a Member wishing to raise a question of privilege in the House must first convince the Speaker that his or her concern is *prima facie* (on the first impression or at first glance) a question of privilege.” To be clear, this means a Member must demonstrate precisely and clearly which privileges have been breached.

Beyond that, as I noted earlier the Member must demonstrate that they are raising the matter at the earliest opportunity, and they must, crucially, conclude their remarks with a motion suggesting a remedy to the problem they have identified.

Failure to meet any of these tests will result in the matter not being ruled as a *prima facie* case of privilege.

I would urge all Honourable Members to consider all of these factors before they stand in the House to raise a Matter of Privilege.

I thank Members for their attention to this important information.

From her decision, Ms. FONTAINE appealed to the House,

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

It was agreed to, on the following division:

**YEA**

BINDLE	MICHALESKI
CLARKE	MICKLEFIELD
COX	MORLEY-LECOMTE
CULLEN	NESBITT
CURRY	PALLISTER
EWASKO	PEDERSEN
FIELDING	PIWNIUK
FRIESEN	REYES
GOERTZEN	SCHULER
GRAYDON	SMITH (Southdale)
GUILLEMARD	SMOOK
HELWER	SQUIRES
ISLEIFSON	STEFANSON
JOHNSON	TEITSMA
JOHNSTON	WHARTON
LAGASSÉ	WISHART
LAGIMODIERE	WOWCHUK
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MAYER	

**NAY**

ALLUM	LAMOUREUX
ALTEMEYER	LINDSEY
FLETCHER	MALOWAY
FONTAINE	MARCELINO (Logan)
GERRARD	MARCELINO (Tyndall Park)
KINEW	SMITH (Point Douglas)
KLASSEN	SWAN ..... 14

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The following petitions were presented and read:

Mrs. SMITH (Point Douglas) – Legislative Assembly of Manitoba to urge the Premier of Manitoba and the Minister of Justice to immediately call a Public Inquiry into the systems that had a role in the life and death of Tina Fontaine as well as the function of the administration of justice after her death and that the terms of reference of a Public Inquiry be developed jointly with the caregivers of Tina Fontaine and/or the agent appointed by them. (A. Gamblin, J. Gamblin, T. Conrad and others)

Mr. ALLUM – Legislative Assembly of Manitoba to urge the Provincial Government to recognize the importance of providing health care services to northern communities and immediately reinstate the funding for The Pas Primary Care Center’s new facility so northern families and seniors can access the quality primary health care they deserve.

Hon. Mr. FLETCHER – Legislative Assembly of Manitoba to urge the Provincial Government to take the necessary steps to ensure that the Vimy Arena site is not used for an addiction treatment facility and to take the necessary steps to ensure the preservation of public land along Sturgeon Creek for the purposes of park land and recreational activities for public use (including being an important component of the Sturgeon Creek Greenway Trail and the Sturgeon Creek ecosystem) under the current designation of PR2 for the 255 Hamilton Avenue location at the Vimy Arena site, and to maintain the land to continue to be designated for Parks and Recreation Active Neighbourhood/Community.

Hon. Mr. GERRARD – Legislative Assembly of Manitoba to urge the Provincial Government to immediately begin implementation of plans to convert systems and forms to be more inclusive of Two-Spirit and other non-binary individuals, whether it be to include a third gender option, or no requirement for gender on forms, unless medically or statistically necessary, including health cards, and birth certificates; to immediately instruct the Manitoba Public Insurance corporation to offer a third gender option, or no gender requirement for licenses or any other form of provincial identification; to instruct Manitoba Health, Seniors and Active Living to offer the option of Manitoba Health Cards with no gender in order to reduce the anxieties of transgender and non-binary persons accessing the healthcare system as a first step; and to consider revisiting legislation that may need updating to meet the needs of its citizens in this regard. (M. Vandal, A. Rempel, N. Richard and others)

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Hon. Mr. CULLEN moved:

That the Standing Committee on Legislative Affairs (the Committee) study the report titled: *Modernizing Manitoba's Conflict of Interest Legislation – Recommendations of the Conflict of Interest Commissioner*, by Jeffrey Schnoor, Q.C., dated April 2018, and make recommendations regarding how best to proceed with changes to the rules governing Members of the Legislative Assembly in *The Legislative Assembly and Executive Council Conflict of Interest Act* and *The Legislative Assembly Act*; and

THAT, within the parameters of the practices and Rules of the House and the instructions of this motion, the Committee be authorized to decide how it will conduct its business, including deciding to hold meetings at such times and places it considers advisable to receive briefs and hear presentations; and

THAT, despite Rule 4(12) the Committee may meet in the months of June, July and August; and

THAT the Committee be able to call witnesses, including, but not limited to, the Conflict of Interest Commissioner, and other experts in ethics, political science or whatever field the Committee deems appropriate; and

THAT the Committee must report to the House by November 8, 2018.

And a debate arising,

And Hon. Mr. CULLEN and Mr. SWAN having spoken,

And Hon. Mr. FLETCHER speaking at 5:00 p.m. The debate was allowed to remain in his name.

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**Monday, June 18, 2018**

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The House then adjourned at 5:00 p.m. until 10:00 a.m. Tuesday, June 19, 2018.

Hon. Myrna DRIEDGER,  
Speaker.