



**LEGISLATIVE ASSEMBLY OF MANITOBA**

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**VOTES AND PROCEEDINGS No. 18**

**THIRD SESSION, FORTY-SECOND LEGISLATURE**

**PRAYER**

**10:00 O'CLOCK A.M.**

In accordance with Rule 33(8), the Opposition House Leader announced that the Private Member's Resolution titled "Recognizing April 17, 2021 as the 500<sup>th</sup> Anniversary of the Philippines" will be considered on the next Thursday of Private Members' Business.

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The House resumed the debate on the Proposed Motion of MLA ASAGWARA:

THAT Bill (No. 202) – The Health Services Insurance Amendment Act (Personal Care Home Staffing Guidelines)/Loi modifiant la Loi sur l'assurance-maladie (lignes directrices en matière de dotation applicables aux foyers de soins personnels), be now read a Second Time and be referred to a Committee of this House.

And the debate continuing,

And Messrs. NESBITT and SMOOK, Hon. Mr. GERRARD, Messrs. LAGASSÉ and ISLEIFSON and Ms. MORLEY-LECOMTE having spoken,

And Mr. WOWCHUK speaking at 11:00 a.m. The debate was allowed to remain in their name.

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Mr. WASYLIW moved:

Resolution No. 5: Immediate and Comprehensive Supports Needed for Manitoba Small Businesses

WHEREAS the Provincial Government has an obligation to develop immediate and comprehensive supports for small businesses and ensure they are prepared to withstand the COVID-19 pandemic; and

WHEREAS small business in Manitoba is a vital part of the economy and its call to the Provincial Government for supports throughout the pandemic have gone unanswered; and

WHEREAS millions of dollars of funds remain unspent under the Provincial Government's failed Manitoba Restart Program; and

WHEREAS the Provincial Government, as of August 2020, spent \$425,000 on a failed economic ad campaign instead of providing supports to small businesses; and

WHEREAS the freezing of business loans since 2017 through the Communities Economic Development fund have negatively impacted small businesses; and

WHEREAS Manitoba small businesses have closed their doors, implemented safety protocols including masks, glass shields and internal policies to promote public safety for all Manitobans and are now relying on various levels of government to support them; and

WHEREAS small businesses in Manitoba were not supported by the Provincial Government to offset decreases in revenue, commercial rent costs, and costs associated with PPE; and

WHEREAS many small businesses are faced with large third-party delivery service fees as they have had to rely upon takeout and delivery services to stay open and keep people employed; and

WHEREAS some Manitoba small business owners have laid off staff throughout the pandemic and others have closed their doors permanently; and

WHEREAS the Provincial Government "Gap Protection Program" did not include many small businesses as it excluded small businesses, fishers and farmers who did not have a registered corporation; and

WHEREAS the Provincial Government implemented code red restrictions during the second wave of the pandemic without providing any new supports to businesses that will be impacted the most by that measure.

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba urge the Provincial Government to take measures to help small businesses survive the COVID-19 Pandemic by implementing immediate and comprehensive financial supports and placing a cap on commission fees charged to restaurants by third-party app-based food delivery platforms.

And a debate arising,

And Mr. WASYLIW having spoken,

And Messrs. NESBITT, SALA, LAMONT and SMOOK having questioned the Member,

And the debate continuing,

And Messrs. NESBITT, SALA, SMOOK and LAMONT having spoken,

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

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

The following Bill was read a First Time and had its purposes outlined:

(No. 216) – The Public Health Amendment Act (2)/Loi n° 2 modifiant la Loi sur la santé publique  
(Mr. KINEW)

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Madam Speaker presented:

Annual Report of the Manitoba Advocate for Children and Youth for the fiscal year ending March 31, 2020.

(Sessional Paper No. 32)

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Pursuant to Rule 27(1), Messrs. MARTIN and WASYLIW, Hon. Mr. WHARTON, Ms. ADAMS and Hon. Mr. GERRARD made Members' Statements.

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Following Oral Questions, Madam Speaker made the following rulings:

On March 12, 2020, the Honourable Leader of the Official Opposition raised a Matter of Privilege regarding the Honourable Government House Leader's failure to provide certain information during Oral Questions on March 10, 2020 regarding the halted construction of the new Maryland Park School in Brandon due to issues that have arisen with the general contractor, Fresh Projects. He stated, "When the Minister answered questions about Fresh Projects and about the 5797501 Manitoba Limited company, he did not answer directly and in a concrete manner." The Honourable Leader of the Official Opposition concluded his remarks by moving: "*THAT this matter be moved to an all-party committee for consideration.*"

The Honourable Government House Leader and the Honourable Member for River Heights both spoke to the Matter of Privilege before I took it under advisement, and I thank all Honourable Members for their advice to the Chair on this matter.

In order to be ruled in order as a *prima facie* case of privilege, Members must demonstrate that the issue has been raised at the earliest opportunity, and also provide sufficient evidence that the privileges of the House or the privileges of individual Members have been breached.

Regarding timeliness, the Honourable Leader of the Official Opposition stated that he required two days' time to conduct research so that he "may come back to this Chamber with the proper information" prior to raising this Matter of Privilege. Construction of the Brandon school was halted on March 2, 2020, and this information was widely available the following day. Therefore, I am not convinced that the issue of timeliness has been met. Accordingly, I am ruling that the condition of timeliness was not met in this case.

Regarding the second condition of whether a *prima facie* case has been demonstrated, the Honourable Leader of the Official Opposition argued that the minister was knowingly declining to provide the facts of this matter and was therefore "infringing on all of our rights here as members."

I would remind the House that the individual protections for Members under parliamentary privilege include:

- the freedom of speech;
- the freedom from arrest and civil actions;
- exemptions from jury duty;
- freedom from obstruction, interference, intimidation and molestation; and
- the exemption from attendance as a witness.

In order for a *prima facie* breach of privilege to be found, one or more of these individual protections would need to be demonstrated to have been violated.

Based on his comments in the House on March 12, 2020, the Honourable Leader of the Official Opposition appears to have a grievance against the Government regarding the content of the Honourable Government House Leader's answers during Oral Questions.

As Speaker Hickes ruled in 2009, the Speaker is not responsible for the quality or contents of replies to questions. Furthermore, Speaker Hickes ruled that a member may put a question but has no right to insist upon an answer.

Speaker Reid also explained in a 2014 ruling, "It is not up to the Speaker to determine the quality or the contents of a particular answer to a question that may have been posed in this House and there is no provision in our rules or in the practices that would require or in any way permit the Speaker to insist on certain answers."

Accordingly, I am ruling that this matter does not constitute a *prima facie* case of privilege.

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On March 16, 2020, the Honourable Official Opposition House Leader raised a Matter of Privilege regarding the use of a motion to adjourn, moved by the Honourable Minister of Infrastructure during debate on the Poverty Reduction Strategy Annual Report at the Standing Committee on Social and Economic Development on December 5, 2019. She stated that it is the responsibility of the Opposition to hold the Government to account, and that in moving the motion to adjourn the Honourable Minister thwarted her ability as a Member of this House to do her job properly and comprehensively.

The Member concluded her remarks and moved “*THAT this matter be referred to an all party committee for further consideration.*”

The Honourable Government House Leader and the Honourable Member for River Heights also spoke to the Matter of Privilege which was then taken under advisement by the Deputy Speaker in order to consult the procedural authorities.

I thank all Honourable Members for their contributions to the Matter of Privilege.

As the House is well aware, when raising a Matter of Privilege Members must satisfy two conditions for the matter to be ruled in order as a *prima facie* case. It needs to be demonstrated that the issue was raised at the earliest opportunity, and that sufficient evidence has been provided to demonstrate that the privileges of the House have been breached, in order for the matter to be put to the House.

In regards to raising the matter at the earliest opportunity, the Honourable Official Opposition House Leader stated that this was the earliest opportunity to raise this issue as she had taken the time to consult with the relevant authorities, conduct research and evaluate relevant information. Bosc and Gagnon advise on page 145 of the third edition of *House of Commons Procedure and Practice* that “the matter of privilege to be raised in the House must have recently occurred and must call for the immediate action of the House.” As the Member points out during her comments, the Standing Committee in question sat in December of last year. Accordingly, I am ruling that the test of timeliness was not met.

Regarding the second condition of whether a *prima facie* case has been demonstrated, it has been ruled on numerous times in this House that the opinion of the Speaker cannot be sought about matters arising in Committees and that it is not proper for the Speaker to exercise procedural control over Committees. Speaker Rocan made such a ruling in 1989, in 1993 and in 1994. Speaker Hickes also made five rulings, twice in 2004, once in 2005 and twice in 2006, and as your current Speaker I have delivered similar ruling, including earlier this session.

Also, Bosc and Gagnon state on page 153 that Speakers have consistently ruled that, except in the most extreme situations, they will only hear questions of privilege arising from committee proceedings on presentation of a report from a committee which deals directly with the matter and not as a question of privilege raised by an individual Member.

I would therefore rule that the Honourable Member does not have a *prima facie* case Matter of Privilege.

Finally, I would also encourage Members to exercise caution in the raising of Matters of Privilege. While I would never deny a Member the right to raise privilege in the House, I fear that there is a worrying trend toward the trivialization and devaluation of what Parliamentary Privilege represents. As stated on page 220 of *Parliamentary Privilege in Canada*, in the Canadian House of Commons, “questions of privilege are frequently raised but few are found to be *prima facie* cases. Furthermore, Members have a tendency to use the rubric privilege to raise what is really a matter of order, or in the words of the Speaker of the House of Commons, a grievance against the Government.”

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

Hon. Mr. GERRARD – To urge the Provincial Government to call a Public Inquiry into the mishandling of the second wave of the pandemic and into the outbreak at Parkview Place personal care home; and to replace the current Minister of Health, Seniors and Active Living as a result of his failure to support personal care homes and his failure to adequately prepare the province for the second wave of the pandemic.

Ms. LAMOUREUX – To urge the Provincial Government to provide financing for upgrades to the cochlear implant covered under Medicare, or provide funding assistance through the Cochlear Implant Speech Processor Replacement Program, to assist with the replacement costs associated with a device upgrade.

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Pursuant to Section 36(a) of the Sessional Order passed by this House on October 7, 2020, leave was granted to amend the Sessional Order by replacing Section 35 with the following:

**Presentations to Standing Committees**

**35 (a)** All public presentations to Bills at Standing Committees will take place remotely, with presenters appearing either virtually or by telephone.

(b) When appearing before a Standing Committee, representatives of a Crown Corporation or an Office of the Assembly may participate in the meeting either in person or virtually.

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MLA ASAGWARA moved the following Opposition Day Motion:

THAT the Legislative Assembly of Manitoba urge the Provincial Government to immediately take over operations of all Revera personal care homes in Manitoba, including The Maples and Parkview personal care homes, for the duration of the pandemic to ensure the safety and well-being of seniors in care and also be urged to immediately publish all inspection reports of Revera care homes as well as all other personal care homes in Manitoba.

And a debate arising,

And MLA ASAGWARA, Mr. SMOOK, Ms. NAYLOR, Messrs. ISLEIFSON and MOSES, Hon. Mr. GERRARD, Messrs. ALTOMARE and LINDSEY, Mrs. SMITH (Point Douglas), Messrs. LAMONT, BRAR and WIEBE, Ms. ADAMS, Ms. MARCELINO, Messrs. BUSHIE and KINEW having spoken,

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

**YEA**

ADAMS	LINDSEY
ALTOMARE	MALOWAY
ASAGWARA	MARCELINO
BRAR	MOSES
BUSHIE	NAYLOR
FONTAINE	SALA
GERRARD	SANDHU
KINEW	SMITH (Point Douglas)
LAMONT	WASYLIW
LAMOUREUX	WIEBE .....20

**NAY**

CULLEN	MICHALESKI
EICHLER	MICKLEFIELD
EWASKO	MORLEY-LECOMTE
FIELDING	NESBITT
FRIESEN	PEDERSEN
GOERTZEN	PIWNIUK
GORDON	REYES
GUENTER	SCHULER
GUILLEMARD	SMITH (Lagimodière)
HELWER	SMOOK
ISLEIFSON	SQUIRES
JOHNSON	STEFANSON
JOHNSTON	TEITSMA
LAGASSÉ	WHARTON
LAGIMODIERE	WISHART
MARTIN	WOWCHUK.....32

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The House then adjourned at 5:24 p.m. until 1:30 p.m. Monday, November 23, 2020.

Hon. Myrna DRIEDGER,  
Speaker.