Third Session – Forty-First Legislature

of the

Legislative Assembly of Manitoba

DEBATES

and

PROCEEDINGS

Official Report
(Hansard)

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Speaker

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The House met at 10 a.m.

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

Please be seated. Good morning, everybody.

ROUTINE PROCEEDINGS

Madam Speaker: Introduction of bills?

An Honourable Member: Madam Speaker.

Madam Speaker: Oh, the honourable member for St. Johns.

MATTER OF PRIVILEGE

Ms. Nahanni Fontaine (St. Johns): Madam Speaker, I rise on a matter of privilege.

Madam Speaker: On a matter of privilege, the honourable member for St. Johns.

Ms. Fontaine: The privileges of members of this House, as you know, are long-standing and of the utmost importance. As the House of Commons Procedure and Practice, at page 61, notes, and I quote: The privileges of the members of this House of Commons provide the absolute immunity they require to perform their parliamentary work while the collective and corporate rights of the House are the necessary means by which the House effectively discharges its functions. End quote.

Beauchesne, at page 11, defines privilege as, and I quote: The sum of the particular 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. End quote.

Beauchesne goes on to note, and I quote: The privileges of Parliament are rights which are absolutely necessary for the due execution of its powers. End quote. No, pardon me, still quote: "They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members." End quote. Beauchesne makes this point by citing the authority of Erskine May.

There are, then, at least two dimensions to the privileges of members of a legislative or House: one, a collective dimension and an individual dimension.

The matter of privilege that I raise today in this House concerns the latter, the individual dimension of the privileges of members. Neither the House of Commons procedure or practices nor Beauchesne's indicates a level of importance or hierarchy between the collective and individual aspects of the privilege of members, while the House of Commons Procedure and Practice notes, and I quote: Privilege essentially belongs to the House as a whole; individual members can only claim privilege insomuch as any denial of their rights or threat made to them would impede the functioning of this House. End quote.

This is a conceptual rather than moral or democratic dependence.

The individual rights, Madam Speaker, of members constitutes collectively the privileges of the House and are just as central to the fundamental right of Parliament to discharge its duties. Thus, it is reasonable to infer that both the individual and collective dimensions of the privileges of members are on equal footing and are of equal importance.

First, in the importance among the individual privileges of the members of this House is freedom of speech. Madam Speaker, the ability of members of this House to speak freely regarding any matter of business that might come before this House goes to the very heart of the privileges of members of this Assembly.

As Beauchesne, fifth edition, notes in paragraph 55, and I quote, Madam Speaker: "The privilege of freedom of speech is both the least questioned and most fundamental right of the
Member of Parliament on the floor of the House and in committee.” End quote.

The House of Commons Procedure and Practice states, at page 93, and I quote: Freedom of speech permits members to speak freely in the Chamber during a sitting or in committees during meetings. This freedom is essential for the effective workings of the House. End quote, Madam Speaker.

A necessary component to the proper exercise of freedom of speech is the ability of members to have access to the relevant information needed to discharge their duties. In order to comment on a bill, Madam Speaker, for example, to be debated and discussed in this House, it is necessary for all members to have access to the text of the bill.

So, Madam Speaker, in order to comment on a motion that is before this House, it is necessary for all members to have access to the text of the motion in order to debate and effectively discuss the motion. Madam Speaker, our job as legislatures, as members of the official opposition and as MLAs, requires us—us—all members of this House, to have the necessary information provided to us so that we can truly and faithfully represent the voices of the tens of thousands of Manitobans that we represent.

Madam Speaker, the practice on the part of the present government is to use ministerial statements to comment on a bill that has not been previously introduced by the government undermines the freedom of speech of all members and prevents the kind of informed, reasoned, collective debate that is necessary for this House to discharge its duties.

Madam Speaker, I would suggest it is an abuse of the process, and I would further suggest and submit it undermines the privileges of the members of this House.

* (10:10)

Madam Speaker, rule 26(2) of the rules and procedures of this House state, and I quote: The government must provide written notice to the Speaker, all recognized parties and any independent member of the intention to deliver a ministerial statement 90 minutes before any routine procedures. This notice must include the subject matter of the statement. End quote.

The purpose of this rule, Madam Speaker, is clear. It is meant to provide the relevant information to all interested parties and members of this House in advance of such a statement so that members can prepare a reasoned and informed reply to the statement by the minister.

Madam Speaker, however, the minister is clearly abusing the rule and undermining its intent. In providing notice that a ministerial statement will contain a bill, which will only be introduced minutes prior to delivering of the statement, the minister is preventing the ability of the member of preparing an informed response to the statement.

Madam Speaker, the purpose of providing 90 minutes notice is undermined as the notice in practice when it is reduced to mere minutes, as the content or subject matter of the statement will only become clear once the bill is introduced immediately prior to the delivery of the ministerial statement.

Madam Speaker, what is—what's more, this is a new and worrisome practice on the part of the government. It is not being used due to extraordinary circumstances or urgent and emergent situations. Rather, I would suggest it is an attempt to circumvent the time limit associated with the introduction of bills and to violate and undermine the notice requirements contained within the notice of ministerial statements rule.

Madam Speaker, fundamentally, this practice on the part of the government undermines the freedom of speech and privileges of all members in this House to properly respond in an informed fashion to matters of debate before this House.

Madam Speaker, this matter has been raised at the earliest opportunity. It has come to our attention that this statement was to be given today, and I have immediately raised this issue in the House to bring this important matter to its attention.

Madam Speaker, therefore, I move that the Speaker immediately—oh, sorry—I move, seconded by the member for Concordia (Mr. Wiebe), that the Speaker immediately direct the government to no longer use ministerial statements to discuss bills that have not been introduced, and, secondly, to immediately refer this matter to the rules committee.

Miigwech, Madam Speaker.

Madam 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. Cliff Cullen (Government House Leader): Thank you very much, Madam Speaker, and good morning.

Certainly, the member speaks and raises the issue around the 90-minute notice. Clearly, that was a new rule just brought in recently, and I think the intent was to provide opposition the background information or what the statement was going to be about in the House on that specific day.

Certainly, the information relative to bringing forward a bill, tabling that bill and distribution and when government could speak to that particular bill, I think, maybe does need some clarification as per the rules. We'll certainly seek your advice on that, Madam Speaker. Certainly, the intent with a ruling is to make sure the 90-minute rule that the opposition does have an opportunity to be advised of what the statement will be about.

But, as far as the distribution when government can speak to that particular legislation, we seek your advice.

Hon. Jon Gerrard (River Heights): Madam Speaker, I want to comment briefly on this.

You know, the situation used to be, in the first few years that I was in the Legislature, that I would get no notice of ministers' statements. I would have to get up here and speak after the representatives from the other party had spoken without having any advanced word in terms of what the ministerial statement was going to be or even that there was going to be one.

We've moved on from that. We have a process now which is dignified, which provides for 90 minutes warning or recognition of the ministerial statement and what it's going to be on.

The problem in this case is that the Minister of Infrastructure (Mr. Schuler) is bringing forward a minister's statement on transportation, so we don't know whether this is a ministerial statement about a superhighway that he's building to a community in his constituency or whether it's something to do with rapid transit in Winnipeg. We doubt that, because this government doesn't seem to be very concerned about rapid transit or about electric vehicles given that there's been discussion of–[interjection]

Madam Speaker: Order.

Mr. Gerrard: –about, you know, green plans and so on, but there's a whole range of substitute–or of things that he could be announcing. We hope that it is an announcement related to making sure that the rail line will be built very quickly to the town of Churchill because we've been waiting for that for a long time.

But, the fact is–[interjection]

Madam Speaker: Order.

Mr. Gerrard: –that because there's such a wide range of subjects, it's not clear what the minister is going to be talking about, and this isn't really proper advance notice.

So I would concur with the member from St. Johns that, in fact, this should be referred to the rules committee, and I believe we are due for a meeting of the rules committee, and I hope that can be held on an urgent basis.

Thank you.

Hon. Steven Fletcher (Assiniboia): On the matter of privilege brought forward by the member from St. Johns, it seems to be–meet the test of being the first opportunity to raise the issue. It is also a prima facie case. At the end of the last session, I had listed about 30 books that refer to parliamentary process, and it seems that we are drifting away from many of those traditions of processes and that this is just another example.

The member from St. Johns made the case clearly with the proper citation, and I would agree with the motion.

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

Joseph Maingot, in the second edition of Parliamentary Privilege in Canada, states on page 14, that allegations of breach of privilege by a member in the House that amounts to complaints about procedures and practices in the House are, by their very nature, matters of order.

* (10:20)

He also states on page 223 of the same edition, a breach of the standing orders or a failure to follow an established practice would invoke a point of order rather than a question of privilege.

On this basis, I would therefore rule that the honourable member does not have a prima facie case
of privilege. However, I would also indicate that this does not prevent this from being ruled as a point of order at the time it is happening.

**Ms. Fontaine:** Respectfully and with all due respect, I am challenging the Chair's decision.

**Madam Speaker:** The ruling of the Chair has been challenged.

**Voice Vote**

**Madam Speaker:** All those in favour of the motion, please say yea–oh–all those in favour of sustaining the ruling of the Chair, please say yea.

Some Honourable Members: Yea.

**Madam Speaker:** All those opposed, please say nay.

Some Honourable Members: Nay.

**Madam Speaker:** In my opinion, the Yeas have it.

**Recorded Vote**

**Ms. Nahanni Fontaine (Official Opposition House Leader):** Madam Speaker, I request a recorded vote, please.

**Madam Speaker:** A recorded vote having been called, call in the members.

The question before the House is: Shall the ruling of the Chair be–

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

**Yea**


**Nay**

Allum, Altemeyer, Fletcher, Fontaine, Gerrard, Kinew, Lamoureux, Lindsey, Maloway, Marcelino (Tyndall Park), Smith (Point Douglas), Swan, Wiebe.

**Clerk (Ms. Patricia Chaychuk):** Yeas 34, Nays 13.

**Madam Speaker:** The ruling of the Chair has been sustained.

***

**Madam Speaker:** The honourable Official Opposition House Leader.

**Ms. Nahanni Fontaine (St. Johns):** I rise on a point of order.

**Point of Order**

**Madam Speaker:** The honourable member for St. Johns, on a point of order.

**Ms. Fontaine:** As Beauchesne, at paragraph 233 notes, and I quote: Points of orders are questions raised with the view of calling attention to any departure from the standing orders or the customary modes of proceeding in debate or in the conduct of legislative business and may be 'rised' at virtually any time by any member. End quote.

Rule 26(2) of the Rules, Orders and Forms of Proceedings of the Legislative Assembly of Manitoba of this House states, and I quote: The government must provide written notice to the Speaker, all recognized parties and any independent 'memmer'–member of the intention to deliver a ministerial statement 90 minutes before any routine proceedings. The notice must include the subject matter of the statement. End quote.

**Madam Speaker:** Order, please.

**Ms. Fontaine:** The purpose of this rule is clear. It is meant to provide the relevant information regarding a ministerial statement to all the interested parties and members of this House in advance of such a statement so that members can prepare a reasoned and informed reply to the statement by the minister. Madam Speaker, what's more, the purpose of the rule is to provide all members with advance notice that a ministerial statement will take place that day and to inform the members, in a reasonable and appropriate fashion with adequate time to prepare, of the subject matter of the statement to be given by the minister.

Madam Speaker, it has become clear that the government is developing a worrisome practice that violates this fundamental role. The practice on the
part of the present government is to use ministerial statements to comment on bills that have not been previously introduced by the government. This practice violates rule 26(2), as in effect shortens the length of notice regarding the subject matter of a ministerial statement from 90 minutes to actually just mere minutes. According to the daily program our House follows, the introduction of bills is followed by, in very short order, the delivery of ministerial statements. Rather than there being a 90-minute period in which to research and prepare responses to the subject matter of ministerial statements, it is mere minutes instead.

Or, Madam Speaker, to put it differently, the purpose of providing 90 minutes notice is undermined, as the notice in practice is reduced to mere minutes as the content or subject matter of the statement will only become clear once the bill is introduced immediately prior to the delivery of the ministerial statement.

Madam Speaker, what's more, this practice means the government is attempting to have another opportunity to comment on the first reading of the bill. The use of ministerial statements to comment on bills only recently–that is, minutes prior–introduced, is a de facto repeat of the first reading of the bill.

Madam Speaker, in addition, the fact that the minister has unlimited time to make a ministerial statement means that the time limit on speeches for the introduction of bills is effectively violated. Rather than seeking leave of the House, which would respect our rules and procedures, as well as the customs and traditions of this House, the government is attempting to undermine the rules of the House by using ministerial statements to comment on legislation only very lately introduced.

* (11:30)

Madam Speaker, it is a long-standing practice and custom of this House to limit speeches on the introduction of bills or first reading to approximately a minute. The purpose of this limitation is quite clear; the first reading is meant to outline the basic thrust or content of the bill and for it to be then printed and distributed to members for consideration and study. The purpose of the first reading is not to engage in any lengthy debate or discussion, to affirm or to deny the principle of the bill or any of its particulars. Rather, it is merely to briefly and succinctly explain the intent and impact of the bill being presented to the House and then to ensure all members have access to its contents so that they consider them at the earliest opportunity.

Madam Speaker, this limitation of the length of the first reading speeches is of a long-standing tradition, and it is justified. It provides the members an opportunity to actually study a bill prior to having to rise in this Chamber and respond to its contents. It provides members the ability to consult with affected and interested parties, to canvass the views of the many Manitobans who may be impacted by the particular bill and to ensure their voices are adequately heard and 'represented' in debate.

Madam Speaker, this does not prevent deviations from this practice. All that is needed to extend discussion on first readings is a request for leave of this House, but leave has not been sought. Rather, the traditions and customs of this House are being circumvented. The limitation on speeches for first reading is undermined by the use of ministerial statements to comment on legislation that was only introduced moments earlier.

This is, Madam Speaker, the second time the Minister of Infrastructure (Mr. Schuler) has violated this rule this week, and it is concerning that this minister is displaying so little regard for the rules and customs of this House.

Madam Speaker, ministerial statements do not have a time limit set in our rules. As a result, when they concern legislation that has been introduced only moments prior, these statements are a de facto repetition or extension of the first reading's speech.

Madam Speaker, the subject matter for the statement for which notice was given today, and I quote: Minister of Infrastructure, Bill 17, The Drivers and Vehicles Amendment and Highway Traffic Amendment Act.

Madam Speaker, this clearly violates rule 26(2) of the House, which is titled Notice of Ministerial Statement. In addition, it constitutes a contravention of the customs and traditions of this House, which clearly limit the time allotted to MLAs upon the presentation of bills on first reading and which require leave of this House to extend.

Madam Speaker, as a result, I request you rule the ministerial statement concerning–and again, I quote–Bill 17, The Drivers and Vehicles Amendment and Highway Traffic Amendment Act, to be ruled out of order, and that this matter be considered by the rules committee at the earliest opportunity.
Miigwech, Madam Speaker.

Mr. Cullen: Certainly, the Opposition House Leader covered a lot of ground in that particular point.

I will say, Madam Speaker, that our current rules do not speak specifically about the situation raised in terms of when a government can speak after a bill is introduced. So, on that premise, I certainly seek your advice in terms of what the ruling should be.

Mr. Gerrard: I believe there should be more information in providing, at the time of such a statement, a request or an announcement that there will be a statement so that it's clear the direction that the government is going, rather than being very vague, because the bill could be on any—could take us in any of many different directions. So I support the point of order.

Mr. Fletcher: I support the point of order. It's important that we know what is going to be said or what could possibly be said instead of hiding behind—having the government hide behind the fog that seems to descend on those benches from time to time. So I support the point of order, too.

Madam Speaker: I thank all honourable members for their advice to the Chair on the point of order.

After listening to the arguments put forward, I would rule that there is a point of order and that a government bill should be distributed in the House first before a ministerial statement can be held on that bill. It would be discourteous to proceed with the ministerial statements before copies have been distributed in the House.

There have been many rulings by various Speakers over the years on the issue of members receiving copies of bills first before the media receives copies and before detailed content of legislation is revealed to the media. I would see distribution of government bills in the House and ministerial statements in the same way.

To be clear, a government bill should be distributed in the Chamber before a minister can proceed with a ministerial statement on that bill. This might mean that the House may have to take a pause to ensure the distribution is completed before proceeding with the ministerial statement, or perhaps the ministerial statement can be held on a subsequent day.

I do agree that this is an issue that should be discussed by the Standing Committee on the Rules of the House. In the interim, and until it happens, if a ministerial statement is scheduled for the same day that the bill is introduced in the House, as Speaker, I will ensure that the ministerial statement does not proceed until the bill is distributed. The Chamber Branch staff will do their best to ensure a quick delivery of the bill.

I thank all honourable members for their co-operation.

INTRODUCTION OF BILLS

Bill 17—The Drivers and Vehicles Amendment and Highway Traffic Amendment Act

Hon. Ron Schuler (Minister of Infrastructure): Madam Speaker, I move, seconded by the Minister of Crown Services (Mr. Cullen), that Bill 17, The Drivers and Vehicles Amendment and Highway Traffic Amendment Act; Loi modifiant la Loi sur les conducteurs et les véhicules et le Code de la route, be now read a first time.

Motion presented.

Mr. Schuler: Madam Speaker, our government is committed to make Manitoba roads safer for all by introducing stricter penalties for distracted driving. Bill 17 supports this commitment by amending The Drivers and Vehicles Act and The Highway Traffic Act.

Bill 17 amends The Highway Traffic Act to create tiered licence suspensions of three days for a first offence and seven days for a second and subsequent offence for the use of a hand-operated electronic device while driving in Manitoba.

Madam Speaker, I would like to introduce stakeholders in the gallery: Mike Mager, president of CAA Winnipeg; Chief Danny Smyth, Winnipeg's city of—city police; Terry Shaw, Manitoba Trucking Association; Inspector Al Hofland of OIC Selkirk RCMP detachment; VIP Ward Keith, for his first visit to the Chamber representing Manitoba Public Insurance Corporation; and Denise Elias, president of MADD Canada.

I welcome them to the Chamber.

Madam Speaker: Is it the pleasure of the House to adopt the motion?

* (11:40)

Some Honourable Members: Agreed.

Some Honourable Members: No.

Madam Speaker: The—I have heard a no.
Madam Speaker: All those in favour of the motion, please say yea.

Some Honourable Members: Yea.

Madam Speaker: All those opposed, please say nay.

Some Honourable Members: Nay.

Madam Speaker: In my opinion, the Yeas have it.

Recorded Vote

Ms. Nahanni Fontaine (Official Opposition House Leader): Madam Speaker, I request a recorded vote.

Madam Speaker: A recorded vote having been called, call in the members.

The question before the House is first reading of Bill 17, The Drivers and Vehicles Amendment and Highway Traffic Amendment Act.

Division

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

Yeas

Allum, Bindle, Cox, Cullen, Curry, Ewasko, Fielding, Fletcher, Fontaine, Friesen, Gerrard, Goertzen, Guillemard, Helwer, Isleifson, Johnson, Johnston, Kinew, Lagassé, Lagimodiere, Lamoureux, Lindsey, Maloway, Marcelino (Tyndall Park), Mayer, Michaleski, Micklefield, Morley-Lecomte, Nesbitt, Piwniuk, Reyes, Schuler, Smith (Point Douglas), Smith (Southdale), Smook, Squires, Stefanson, Swan, Teitsma, Wharton, Wiebe, Wishart, Wowchuk, Yakimoski.

Nays

Clerk (Ms. Patricia Chaychuk): Yeas 44, Nays 0.

Madam Speaker: I declare the motion carried.

The hour being past 12:30 p.m., this House is adjourned and stands adjourned until 1:30 p.m. Monday.
ROUTINE PROCEEDINGS

Matter of Privilege
Fontaine 705
Cullen 707
Gerrard 707
Fletcher 707

Introduction of Bills
Bill 17–The Drivers and Vehicles Amendment and Highway Traffic Amendment Act
Schuler 710
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http://www.gov.mb.ca/legislature/hansard/hansard.html