



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 12**

**THIRD SESSION, FORTY-SECOND LEGISLATURE**

**PRAYER**

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

The following Bills were read a First Time and had their purposes outlined:

(No. 37) – The Planning Amendment and City of Winnipeg Charter Amendment Act/Loi modifiant la Loi sur l'aménagement du territoire et la Charte de la ville de Winnipeg  
(Hon. Ms. SQUIRES)

(No. 40) – The Manitoba Liquor and Lotteries Corporation Amendment and Liquor, Gaming and Cannabis Control Amendment Act/Loi modifiant la Loi sur la Société manitobaine des alcools et des loteries et la Loi sur la réglementation des alcools, des jeux et du cannabis  
(Hon. Mr. WHARTON)

(No. 41) – The Fair Registration Practices in Regulated Professions Amendment Act/Loi modifiant la Loi sur les pratiques d'inscription équitables dans les professions réglementées  
(Hon. Mr. EICHLER)

(No. 42) – The Remote Witnessing and Commissioning Act (Various Acts Amended)/Loi sur l'attestation à distance (modification de diverses lois)  
(Hon. Mr. CULLEN)

(No. 45) – The Public Schools Amendment and Manitoba Teachers' Society Amendment Act/Loi modifiant la Loi sur les écoles publiques et la Loi sur l'Association des enseignants du Manitoba  
(Hon. Mr. GOERTZEN)

(No. 46) – The Court Practice and Administration Act (Various Acts Amended)/Loi sur la pratique et l'administration des tribunaux (modification de diverses dispositions législatives)  
(Hon. Mr. CULLEN)

(No. 47) – The Early Learning and Child Care Act/Loi sur l'apprentissage et la garde des jeunes enfants  
(Hon. Mrs. STEFANSON)

(No. 48) – The Fiscal Responsibility and Taxpayer Protection Amendment Act/Loi modifiant la Loi sur la responsabilité financière et la protection des contribuables

(Hon. Mr. FIELDING)

(No. 49) – The Freedom of Information and Protection of Privacy Amendment Act/Loi modifiant la Loi sur l'accès à l'information et la protection de la vie privée

(Hon. Mr. FIELDING)

(No. 50) – The Legal Aid Manitoba Amendment Act/Loi modifiant la Loi sur la Société d'aide juridique du Manitoba

(Hon. Mr. CULLEN)

(No. 51) – The Limitations Act/Loi sur les délais de prescription

(Hon. Mr. CULLEN)

(No. 52) – The Minor Amendments and Corrections Act, 2021/Loi corrective de 2021

(Hon. Mr. CULLEN)

(No. 53) – The Municipal Statutes Amendment Act (2)/Loi n° 2 modifiant diverses lois en matière de droit municipal

(Hon. Ms. SQUIRES)

(No. 54) – The Personal Health Information Amendment Act/Loi modifiant la Loi sur les renseignements médicaux personnels

(Hon. Mr. FRIESEN)

(No. 55) – The Reducing Red Tape and Improving Services Act, 2021/Loi de 2021 visant la réduction du fardeau administratif et l'amélioration des services

(Hon. Ms. SQUIRES)

(No. 56) – The Smoking and Vapour Products Control Amendment Act/Loi modifiant la Loi sur la réglementation de l'usage du tabac et du cannabis et des produits servant à vapoter

(Hon. Mr. FRIESEN)

(No. 57) – The Protection of Critical Infrastructure Act/Loi sur la protection de l'infrastructure essentielle

(Hon. Mr. CULLEN)

(No. 58) – The Criminal Property Forfeiture Amendment Act/Loi modifiant la Loi sur la confiscation de biens obtenus ou utilisés criminellement

(Hon. Mr. CULLEN)

(No. 59) – The Police Services Amendment Act/Loi modifiant la Loi sur les services de police

(Hon. Mr. CULLEN)

(No. 60) – The Liquor, Gaming and Cannabis Control Amendment Act (2)/Loi n° 2 modifiant la Loi sur la réglementation des alcools, des jeux et du cannabis

(Hon. Mr. CULLEN)

(No. 61) – The Apprenticeship and Certification Amendment Act/Loi modifiant la Loi sur l'apprentissage et la reconnaissance professionnelle

(Hon. Mr. EICHLER)

(No. 62) – The Animal Diseases Amendment Act/Loi modifiant la Loi sur les maladies des animaux

(Hon. Mr. PEDERSEN)

(No. 63) – The Petty Trespasses Amendment and Occupiers' Liability Amendment Act/Loi modifiant la Loi sur l'intrusion et la Loi sur la responsabilité des occupants

(Hon. Mr. CULLEN)

(No. 64) – The Education Modernization Act/Loi sur la modernisation de l'éducation

(Hon. Mr. GOERTZEN)

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Pursuant to Rule 27(1), Messrs. SALA, LAGASSÉ and MICHALESKI, Ms. NAYLOR and Mr. LAGIMODIERE made Members' Statements.

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Following Oral Questions, Madam Speaker made the following ruling:

On March 11, 2020, the Honourable Member for Fort Garry rose in the House alleging a Matter of Privilege on the grounds that cuts to the public service made by the Provincial Government led to the removal of public accountability and those actions have impeded the Member's ability to hold this Government to account and interfered with his parliamentary duties. The Member concluded his comments by moving "THAT this matter be moved to an all-party committee for consideration." The Honourable Member for River Heights also offered advice to the Chair. I then took the matter under advisement in order to consult the procedural authorities.

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

In raising privilege, Members must satisfy two conditions in order 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.

The Honourable Member for Fort Garry suggested that the criteria for determining the earliest opportunity should be interpreted in a “holistic or contextual matter” and “cannot simply mean the next moment in time in which a Member has ability to speak”. The procedural authorities disagree with the Member’s contention. 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.” Therefore the Member must satisfy the Speaker that the matter is being brought to the House as soon as practicable after becoming aware of the situation. I ask Members to keep this in mind when assessing the aspect of timeliness in the future as I am not satisfied the condition was met in this case.

Regarding the second issue of whether a *prima facie* case was demonstrated, the Member essentially alleged that administrative or policy decisions made by the Provincial Government in regards to the funding of the public service were grounds for a Matter of Privilege. I would note for the House that Joseph Maingot advises on page 224 of the second edition of Parliamentary Privilege in Canada that allegations of misjudgement, or mismanagement or maladministration on the part of a Minister in the performance of (their) ministerial duties does not come within the purview of parliamentary privilege. This finding is supported by one ruling from Speaker Rocan in 1994, three rulings from Speaker Dacquay in 1996 and one by Speaker Hickes in 2006.

This principle is also confirmed by a decision of Speaker Lucien Lamoureux regarding a Matter of Privilege raised in the Canadian House of Commons on March 9, 1972. The matter alleged inadequate funding by the government of the office of the federal Auditor General. The allegation stated the lack of funding had an impact on staff and resources for that office, created delays in submitting a report which in turn affected the privileges of Members by impeding them in the discharge of their duties.

Speaker Lamoureux ruled that there was no *prima facie* case of privilege, as the complaint about the facilities of the Auditor General’s office did not relate to privilege but rather to a matter of administration. Speaker Lamoureux stated in the ruling: “I remind Honourable Members that this is not a decision on the substance of the matter but one only on procedure, which is the limit of the Speaker’s responsibility in such matters.” He also indicated that the matter could be raised under different circumstances on another occasion.

The Member for Fort Garry alleged that the cuts to public service impeded his ability to hold the government to account. However, given that Members have been able to ask questions during Oral Questions, make Members’ Statements and participate in debate and in Committee meetings, it is difficult to agree with the suggestion that the Member was impeded from performing his parliamentary duty.

In regards to the Member's comments that he could not fulfill his role as critic to hold the government to account, Maingot further advises on page 224 of the same edition that "parliamentary privilege is concerned with the special rights of Members, not in their capacity as ministers or as party leaders, whips, or parliamentary secretaries, but strictly in their capacity as Members in their parliamentary work. Therefore, the Honourable Member from Fort Garry cannot claim the protection of parliamentary privilege for the performance of his duties as a critic but only as an MLA. All of the above references from Joseph Maingot are supported by rulings from myself as well as from Speakers Rocan, Dacquay and Hickes.

The Member has not demonstrated any obstruction or impediment regarding the function of the House nor the discharge of his duty. I must therefore rule with the greatest of respect that the matter raised does not fulfill the criteria of a *prima facie* case of privilege. This however, does not prevent the Member from raising the issue in other areas, such as questions in the House, or during discussions held by the Public Accounts Committee or other such decision making bodies for the Legislative Assembly.

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Prior to Petitions, Ms. FONTAINE rose on a Matter of Privilege alleging that the fact that the Government introduced two dozen Bills today and only distributed a few of them to Members infringed upon their ability to do their job and moved the following motion:

THAT this issue be immediately referred to a committee for consideration.

And Hon. Messrs. GOERTZEN and GERRARD having spoken.

WHEREUPON Madam Speaker informed the House she would take the matter under advisement.

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The following petition was presented and read to the Legislative Assembly of Manitoba:

Mr. MALOWAY – To urge the Minister of Justice to immediately reverse the decision to close the DCC and proceed with the previous plan to build a new correctional and healing centre with an expanded courthouse in Dauphin.

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The House resolving into Committee of Supply.

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The House then adjourned at 5:00 p.m. until 10:00 a.m. Tuesday, November 3, 2020.

Hon. Myrna DRIEDGER,  
Speaker.