



**LEGISLATIVE ASSEMBLY OF MANITOBA**

**VOTES AND PROCEEDINGS No. 16**

**THIRD SESSION, FORTY-SECOND LEGISLATURE**

**PRAYER**

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

Mr. REYES moved:

THAT Bill (No. 211) – The Employment Standards Code Amendment Act (Unpaid Leave for Reservists)/Loi modifiant le Code des normes d'emploi (congé non payé à l'intention des réservistes), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Mr. REYES having spoken,

And Messrs. LINDSEY and JOHNSTON and Hon. Mr. GERRARD having questioned the Member,

And the debate continuing,

And Messrs. LINDSEY, JOHNSTON and MOSES and Hon. Mr. GERRARD having spoken,

And the Question being put. It was agreed to.

The Bill was accordingly read a Second Time and referred to a Committee of this House.

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Mr. LAGIMODIERE moved:

Resolution No. 4: Inclusion of Sergeant Tommy Prince on the \$5 bill

WHEREAS Sergeant Tommy Prince was a great Indigenous Canadian who embodied duty, courage, bravery, and patriotism; and

WHEREAS a member of the Brokenhead Ojibway Nation in Manitoba, Sergeant Prince repeatedly tried to enlist in the military but was initially refused until he was finally accepted into the Canadian Army in 1940; and

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WHEREAS Sergeant Prince became a founding member of the elite 1st Canadian Parachute Battalion and the Devil's Brigade during the Second World War; and

WHEREAS Sergeant Prince was called to Buckingham Palace to receive medals from King George VI; and

WHEREAS Sergeant Prince would go on to contribute to the stalwart defense of Hill 677 in the Battle of Kapyong during the Korean War; and

WHEREAS Sergeant Prince's eleven medals make him one of the most decorated Indigenous war veteran in Canada; and

WHEREAS military service had taken a heavy toll on his health and he faced a difficult return to civilian life in Manitoba, enduring discrimination, illness, and poverty; and

WHEREAS Indigenous war veterans experienced racism from the Federal Government upon return to civilian life, and were denied many of the benefits that other non-Indigenous veterans received; and

WHEREAS Sergeant Tommy Prince died alone and homeless at a Winnipeg Salvation Army shelter in 1977; and

WHEREAS it is the responsibility of every Canadian to understand the injustices of the past and to resolve in their spirit that now is the time to make a statement in support of reconciliation.

THEREFORE BE IT RESOLVED that the Legislative Assembly of Manitoba acknowledge the well deserved tribute made to Sergeant Tommy Prince and support the bid to include this Canadian war hero on the \$5 bill.

And a debate arising,

And Mr. LAGIMODIERE having spoken,

And Ms. FONTAINE, Messrs. LAGASSÉ and REYES having questioned the Member,

And the debate continuing,

And Ms. FONTAINE, Messrs. REYES, BUSHIE and LAMONT having spoken,

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

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In accordance with Rule 33(11), the Government House Leader announced that the Private Member's Resolution titled "Call for an Inquiry into the Provincial Government's COVID-19 Second Wave Response" will be considered on the next Tuesday of Private Members' Business.

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1:30 O'CLOCK P.M.

Hon. Mrs. GUILLEMARD presented:

Annual Report of Manitoba Hydro Demand-Side Management for the fiscal year ending March 31, 2019.

(Sessional Paper No. 31)

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Pursuant to Rule 27(1), Hon. Mrs. STEFANSON, Messrs. KINEW, WOWCHUK and LINDSEY and Ms. LAMOUREUX made Members' Statements.

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By leave, during Members' Statements, the House reverted to "Introduction of Bills".

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

(No. 210) – The Personal Protective Equipment Reporting Act/Loi sur la production de rapports concernant l'équipement de protection individuelle

(Mr. KINEW)

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Following Oral Questions, Madam Speaker made the following rulings:

On March 12, 2020, the Honourable Member for Keewatinook raised a Matter of Privilege regarding statements made outside of the House by the Honourable First Minister and the Government about delays to the Lake Manitoba and Lake St. Martin Outlet Channels project. He contended that information provided during an update by the Government on March 9, 2020 was misleading and that his privileges as a Member of this House had been breached. He also expressed his opinion that the Honourable First Minister, in claiming that the project falls under the Federal Bill C-69, was misleading and an attempt at misdirection.

The Member concluded his remarks and moved "*THAT this issue be immediately referred to a committee of this House.*"

The Honourable Government House Leader and 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.

As the House knows, 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 Member for Keewatinook 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 here. 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 am not satisfied the condition was met in this instance and I ask Members to keep this in mind when assessing the aspect of timeliness in the future.

Regarding the second condition, the Honourable Member stated that misleading information obstructed his ability to fulfil his obligations in this House. I would like to remind the House that as Joseph Maingot states on page 241 of *Parliamentary Privilege in Canada* “To allege that a Member has misled the House is a matter of order not privilege.”

Furthermore, it has been ruled upon by myself and many Speakers of this House that statements made by Members outside the Chamber may not be used as the basis for a question of privilege. Beauchesne citation 31(1) advises that statements made outside the House cannot form the basis for a *prima facie* case of privilege. Also, on page 620, Bosc and Gagnon state that the Speaker has no authority to rule on statements made outside of the House by one member against the other.

In examining the matter raised I believe this to be a difference of opinion over facts, and numerous Manitoba Speakers have ruled on many occasions that a dispute between two Members as to allegations of fact does not constitute a breach of privilege.

Further, Bosc and Gagnon advise on page 148 that if a question of privilege involves a disagreement between two (or more) Members as to facts, the Speaker typically rules that such a dispute does not prevent Members from fulfilling their parliamentary functions, nor does such a disagreement breach the collective privileges of the House. As well, on page 223 Joseph Maingot states that a "dispute between two Members about questions of facts said in debate does not constitute a valid question of privilege because it is a matter of debate."

I would therefore rule that the Honourable Member does not have a *prima facie* 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. Members have a tendency to use the rubric of 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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On March 12, 2020, the Honourable Member from St. Vital raised a Matter of Privilege alleging that the Government has been infringing upon the privileges of Opposition Members because they have not called a meeting of the Standing Committee on Crown Corporations to consider annual reports from Efficiency Manitoba since June of 2018. The Member stated that not referring Efficiency Manitoba to Committee has prevented the Opposition from holding the Government accountable on many serious issues affecting Efficiency Manitoba. The Member concluded his remarks by moving: “*THAT this issue be immediately referred to a committee of this House.*”

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

There are two conditions that must be satisfied in order for the matter raised to be ruled in order as a *prima facie* case of privilege. First, was the issue raised at the earliest opportunity, and second, has sufficient evidence been provided to demonstrate that the privileges of the House have been breached, in order to warrant putting the matter to the House.

On the issue of timeliness, the Honourable Member argued that he believed “that we should as Members have time to consult relevant authorities, to speak with or study experts and what they've said on these matters so that we can properly be prepared to speak on that matter at hand.” Further, the Member indicated that the Committee in question had not met since June of 2018 to consider Efficiency Manitoba reports. This in itself makes it clear that the Member, or any of his colleagues, had many months in order to raise this matter. Accordingly, I am ruling that the test of timeliness was not met.

Regarding the second issue, I have stated on numerous occasions 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 amount to complaints about procedures and practices in the House are by their very nature matters of order.” 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.”

It has also been ruled many times in this House that the opinion of the Speaker cannot be sought about matters arising concerning Committees and that it is not competent 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 such rulings during his tenure, and as your current Speaker I have also delivered this same ruling, including earlier this session.

Although the Honourable Member from St. Vital may have a difference of opinion regarding the timing of calling Crown Corporation meetings, this falls more into the category of a complaint against the Government, and not a breach of parliamentary privilege.

With the greatest of respect then, I rule that the matter raised does not fulfill the criteria of a *prima facie* case of privilege.

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

Hon. Mr. GERRARD – To urge the Provincial Government to undertake a combined review of the Vivian Sand Facility processing plant and the mining/extraction portion of the operation as a Class 3 development with a review by Manitoba’s Clean Environment Commission to include the public hearings and participant funding; and to halt all activity at the mine and plant until the Clean Environment Commission’s review is completed and the project proposal has been thoroughly evaluated.

MLA ASAGWARA – 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.

Mr. BRAR – To urge the Minister of Agriculture to reconsider the changes to Crown land leases and instead create an agreeable strategy that satisfies all parties, specifically ranchers; to recognize the value of agriculture in the province of Manitoba and the value Crown land holds to farmers in sustaining their livelihood; and to understand the important role farmers play in the Manitoba economy and to allow them to take part in discussions that directly impact their livelihood.

Mr. BUSHIE – 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.

Mr. LINDSEY – 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.

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.

Ms. MARCELINO – 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.

Mr. MOSES – 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.

Ms. NAYLOR – 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.

Mr. SALA – 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.

Mr. SANDHU – 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.

Mrs. SMITH (Point Douglas) – 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.

Mr. WASYLIW – 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.

Mr. WIEBE – 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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Following Petitions, Mr. LAMONT rose on a Matter of Urgent Public Importance and moved:

THAT under Rule 38(1), the regularly scheduled business of the House be set aside to discuss a Matter of Urgent Public Importance, namely the need for urgent attention to the impending poverty and homelessness crisis exacerbated by the spread of the COVID-19 pandemic.

And Mr. LAMONT, Hon. Mr. GOERTZEN and Mrs. SMITH (Point Douglas) having spoken to the urgency of the motion,

WHEREUPON Madam Speaker ruled as follows:

I thank the Honourable Members for their advice to the Chair on the motion proposed by the Honourable Member for St. Boniface regarding the Matter of Urgent Public Importance. The 90-minute notice prior to the start of Routine Proceedings required by Rule 38(1) was provided, and I thank the Honourable Member for that.

Under our rules and practices, the subject matter under this rule requiring urgent consideration must be so pressing that the public interest will suffer if the matter is not given immediate attention. There must also be no other reasonable opportunities to raise the matter.

I have listened very carefully to the arguments put forward. Although poverty, homelessness and the COVID 19 pandemic are indeed serious matters, Members have had other opportunities to debate these matters, including earlier today during Oral Questions, or during Members' Statements or as a Grievance.

Therefore, for the purpose of today's House Business, I do not believe this matter needs another forum for debate, and with the greatest of respect I rule this motion out of order as a Matter of Urgent Public Importance.

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**Tuesday, November 17, 2020**

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Hon. Mr. CULLEN moved:

THAT Bill (No. 42) – The Remote Witnessing and Commissioning Act (Various Acts Amended)/Loi sur l'attestation à distance (modification de diverses lois), be now read a Second Time and be referred to a Committee of this House.

And a debate arising,

And Hon. Mr. CULLEN having spoken,

And Ms. FONTAINE, Hon. Mr. GERRARD and Mr. LAMONT having questioned the Minister,

And the debate continuing,

And Ms. FONTAINE, Messrs. WISHART, WIEBE and LAMONT, MLA ASAGWARA and Ms. MARCELINO having spoken,

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

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The House then adjourned at 5:00 p.m. until 1:30 p.m. Wednesday, November 18, 2020.

Hon. Myrna DRIEDGER,  
Speaker.