



LEGISLATIVE ASSEMBLY OF MANITOBA

VOTES AND PROCEEDINGS No. 69

FIRST SESSION, FORTY-THIRD LEGISLATURE

PRAYER AND LAND ACKNOWLEDGEMENT

1:30 O'CLOCK P.M.

The Speaker tabled:

Certificate of Election respecting MLA Carla COMPTON, the newly elected Member for Tuxedo.
(Sessional Paper No. 124)

MLA Carla COMPTON, Member for the Electoral Division for Tuxedo, was conducted by Hon. Mr. KINEW and Hon. Min. FONTAINE to the floor of the House in front of the Speaker.

Hon. Mr. KINEW then said:

Honourable Speaker, I have the honour to present to you MLA Carla COMPTON, the Honourable Member for the Constituency of Tuxedo, who has taken the Oath and signed the Roll, and now claims their right to take their seat.

The Speaker thereupon said:

On behalf of all Honourable Members, I welcome you to the Legislative Assembly of Manitoba and I wish you well in your parliamentary career.

MLA COMPTON then advanced to the Chair, shook hands with the Speaker and took their seat.

Prior to Routine Proceedings, the Speaker read a letter from Garrison Settee, Grand Chief of Manitoba Keewatinowi Okimakanak Inc. (MKO) First Nations, followed by the response sent by the Speaker.

MLA DEVGAN, Chairperson of the Standing Committee on Legislative Affairs, presented its Sixth Report, which was read as follows:

Meetings

Your Committee met on July 29, 2024 at 1:00 p.m. in Room 255 of the Legislative Building.

Matters under Consideration

- Appointment process for the Ethics Commissioner and Information and Privacy Adjudicator

Committee Membership

- MLA COMPTON
- MLA DEVGAN
- Hon. Min. FONTAINE
- Mr. JACKSON
- Mr. OXENHAM
- Mrs. STONE

Your Committee elected MLA DEVGAN as the Chairperson.

Your Committee elected Mr. OXENHAM as the Vice-Chairperson.

Non-Committee Members Speaking on Record

- MLA LAMOUREUX

Officials Speaking on Record

- Deanna Wilson, Executive Director, Legislative Assembly Administration

Motions

Your Committee agreed to the following motions:

- *THAT the Standing Committee on Legislative Affairs recommends to the Legislative Assembly of Manitoba that Jeffrey Schnoor be reappointed as the Ethics Commissioner for a term of five years from date of commencement.*
- *THAT the Standing Committee on Legislative Affairs recommends to the Legislative Assembly of Manitoba that Jeffrey Schnoor be reappointed as the Information and Privacy Adjudicator for a term not to exceed three years from date of commencement.*

On motion of MLA DEVGAN, the Report of the Committee was received.

The Speaker tabled:

Report of the Ethics Commissioner's inquiry into the compliance of Hon. Mr. BUSHIE with *The Conflict of Interest (Members and Ministers) Act* pursuant to the request by Mr. NESBITT on June 3, 2024.
(Sessional Paper No. 125)

Pursuant to sub-rule 28(1), MLA COMPTON, Mr. EWASKO, MLA KENNEDY, Mr. JOHNSON and MLA LAMOUREUX made Member's statements.

The Speaker then informed the House that Ms. Madelaine BAYLY, Mr. Janlloyd DABALOS, Ms. Ayla EMBURY-HYATT, Mr. Isaac LAVITT, Ms. Luca MORIN, Mr. Christian OLSON, Mses. Bisman RANDHAWA and Kathryn SACHER, Mr. Seth STEPANIUK and Ms. Imogen ZEMLAK had been appointed Pages, and Ms. Mai-Anh HUYNH had been appointed Senior Page, for the Second Session of the Forty-Third Legislature.

Following Oral Questions, the Speaker made the following ruling:

Prior to Routine Proceedings on May 29, 2024, the Official Opposition House Leader raised a Matter of Privilege regarding an incident that occurred during House proceedings on May 28, 2024. The incident related to a complaint filed with the Ethics Commissioner and tabled in the House by the Member for Riel that day. The Official Opposition House Leader claimed that throughout Question Period, and later during the Committee of Supply meeting that day, the Premier, the Minister of Finance, the Minister of Health, and the Minister of Education all referenced that complaint using language that attacked the Member's reputation and impeded him in the fulfillment of his duties and functions. The Member concluded his remarks by moving:

That the Member for Fort Rouge, the Member for St. James and the Member for Union Station and the Member for Transcona be held in contempt of this House and the matter referred to an all party committee for consideration and review.

The Honourable First Minister spoke to the Matter before I took it under advisement.

As the House knows, for a Matter of Privilege to be ruled as a *prima facie* case, the Member must demonstrate that the issue has been raised at the earliest opportunity while also providing sufficient evidence that the privileges of the House have been breached.

On the condition of timeliness, the Official Opposition House Leader indicated in his submission that on May 28 – the previous sitting day – the Member for Riel tabled a complaint that he filed with the Ethics Commissioner. He further stated that, “I have shown that this matter could not be raised at an earlier time”. The Member failed to provide any further context regarding his claim of meeting the test of timeliness. In my opinion, the Member could have raised this matter on the previous sitting day after one of multiple instances of the alleged incident occurring, and failing that, he should have provided more information to the Chair explaining how he met the condition of timeliness. Accordingly, I am ruling that the Member failed to meet the test of timeliness in his submission.

Regarding the second condition of whether a *prima facie* case was demonstrated, the fact that the details of the complaint were raised in Question Period and the Committee of Supply is a matter of debate rather than a Matter of Privilege, and therefore in my view this matter is a difference of opinion over facts.

Past Manitoba Speakers have ruled on several similar occasions that a dispute between two Members as to allegations of fact does not constitute a breach of privilege. As well, Bosc and Gagnon advise on page 148 of the third edition of the *House of Commons Procedure and Practice* that if a question of privilege involves a disagreement between 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. Further, *Beauchesne* citation 31(1) advises that a dispute arising between two Members as to allegations of facts does not fulfill the conditions of parliamentary privilege. Finally, Joseph Maingot, on page 223 of the second edition of the *Parliamentary Privilege in Canada*, 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.”

Accordingly, I am ruling that the Member failed to demonstrate a *prima facie* case of breach of Privilege.

I do have an additional concern regarding this matter which I need to share with the House. As you know, the conflict of interest process that came into effect last Fall contains important provisions governing the behaviour of every Member of this Assembly. These provisions are an essential check on all of us and should be respected accordingly.

As we all know, it is the role of the Ethics Commissioner to address and respond to complaints raised through this process. The Speaker has no role in that regard, but I do have a role to play in governing how such complaints are considered in this House. Furthermore, during the complaint process, there will be other opportunities for Members to have their say or give their opinion on the legitimacy of such complaints as part of that process. Using a Matter of Privilege to debate anything about a complaint is not part of this process and I strongly discourage Members from attempting to do this in the future.

My concern in this case is that, in raising this Matter of Privilege, the Official Opposition House Leader seemed to be attempting to utilize an ethics complaint as a strategic procedural tool in the House. Specifically, the Member appeared to be wanting me to take the matter under advisement so that it could not be referenced in debate in accordance with House practices. I am further concerned that ultimately both sides of the House seemed to be trying to influence the Speaker regarding whether or not I should have ruled on this matter in the moment or taken it under advisement.

Let me be clear on this for all Members. It is not appropriate for the Speaker to be drawn into political and strategic maneuvering. Members will certainly have political differences and grievances with each other, and it is entirely appropriate for them to be addressed, discussed and debated in this place, but all Members should leave the Speaker out of such disputes. My role is to preside over such interactions, not to be drawn into them as a participant. I expect all Members to show greater respect for the role of the Speaker in the future.

Thank you for your attention to this matter.

MLA MOYES tabled:

Request for Opinion Regarding Compliance of Heather Stefanson with *The Conflict of Interest (Members and Ministers) Act*, dated January 12, 2024.

(Sessional Paper No. 126)

Request for Opinion Regarding Compliance of Mr. WHARTON with *The Conflict of Interest (Members and Ministers) Act*, dated January 12, 2024.

(Sessional Paper No. 127)

Request for Opinion Regarding Compliance of Mr. NESBITT with *The Conflict of Interest (Members and Ministers) Act*.

(Sessional Paper No. 128)

By leave, the House agreed to adopt the following debate provisions regarding the consideration of reports from the Ethics Commissioner, and to have these provisions remain in effect until the end of the Second Session of the 43rd Legislature:

1. The statutory requirement that the Assembly must consider a report of the Ethics Commissioner within 10 sitting days after the report is tabled (in accordance with section 51(1) of *The Conflict of Interest (Members and Ministers) Act*) shall be met through the House's consideration of an Ethics Report motion.
2. This arrangement will apply to all Ethics Commissioner reports regarding complaints against Members tabled in this House, including the report tabled earlier today.
3. The wording of an ethics report motion shall follow this model:

That the Legislative Assembly accept the Report of the Ethics Commissioner regarding the Honourable Member for _____, dated _____, and approve the recommendation contained therein.
4. The tabling of a report from the Ethics Commissioner by the Speaker shall serve as notice of the accompanying Motion, which shall then appear on the Order Paper the following sitting day under the heading: "Ethics Report Motions".
5. The ethics report motions shall be listed on the Order Paper without referencing a sponsoring Member.
6. An ethics report motion shall be considered as the first item of business under Orders of the Day – Government Business.
7. If the Government House Leader does not call the motion for debate by the tenth sitting day after the report was tabled, the Speaker shall call the motion for debate on that day.

8. On the day an ethics report motion is to be considered, if Routine Proceedings has not concluded 60 minutes prior to the usual adjournment hour the Speaker must terminate Routine Proceedings and proceed to Orders of the Day.
9. If the tenth sitting day after the Report was tabled coincides with any of the deadline days related to Specified or Designated Bills, or the deadline day for the financial process referenced in Rule 2(1), the resolution of this process will take precedence.
10. Debate on ethics report motions shall proceed under the following terms:
 - a) The Speaker shall read the motion to the House to open the floor for debate.
 - b) During debate on an ethics report motion:
 - i. No Member shall speak longer than 10 minutes.
 - ii. All Members may speak to the motion, in the following debate rotation:
 1. The Member who is the subject of the complaint, or a Member of their party.
 2. The complainant Member, or a Member of their party.
 3. A Member of the subject's party.
 4. A Member of the complainant's party.
 5. An independent Member.
 - c) An ethics report motion cannot be amended.
 - d) Debate on an ethics report motion shall be limited to one sitting day. The House shall not adjourn until all Members have had an opportunity to speak to the motion. When there are no further speakers in the debate, the Speaker shall put the question.
 - e) Ethics report motions may not be considered during debate on:
 - i. The motion for an Address in Reply to the Speech from the Throne; or
 - ii. The motion to approve in general the budgetary policy of the Government.

Mr. JACKSON moved the following Opposition Day motion:

THAT the Legislative Assembly of Manitoba direct the Ethics Commissioner to investigate the serious allegations brought forward by the MLA for Fort Garry of a “toxic, deceitful and dysfunctional workplace” created by the Premier within the Provincial Government between MLAs, civil servants and political staff and that the Ethics Commissioner’s findings be tabled in a report to the Legislative Assembly.

And a debate arising,

And Mr. JACKSON, Hon. Min. FONTAINE, Mr. KHAN, Mrs. STONE, MLA LAMOUREUX, Messrs. NESBITT, NARTH and WASYLIW, MLA BEREZA, Messrs. KING, JOHNSON and GOERTZEN, Mrs. COOK, Mr. BALCAEN, Ms. BYRAM and Messrs. PERCHOTTE and EWASKO having spoken,

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

AYE

BALCAEN	KHAN
BEREZA	KING
BYRAM	LAGASSÉ
COOK	NARTH
EWASKO	NESBITT
GOERTZEN	PERCHOTTE
GUENTER	PIWNIUK
HIEBERT	STONE
JACKSON	WASYLIW
JOHNSON	WHARTON
	WOWCHUK.....21

NAY

ALTOMARE	MARCELINO
BLASHKO	MOROZ
BRAR	MOSES
BUSHIE	MOYES
CABLE	NAYLOR
CHEN	OXENHAM
COMPTON	PANKRATZ
CROSS	REDHEAD
DELA CRUZ	SANDHU
DEVGAN	SCHMIDT
FONTAINE	SIMARD
KENNEDY	SMITH
LOISELLE	WIEBE26

Wednesday, October 2, 2024

During the debate, the Speaker interjected and requested the word “lying” spoken by the Honourable Member for Fort Whyte be withdrawn and that the Member apologize.

WHEREUPON Mr. KHAN withdrew their remarks and apologized.

The House then adjourned at 6:34 p.m. until 10:00 a.m. Thursday, October 3, 2024.

Hon. Tom LINDSEY,
Speaker.