



**Legislative Assembly
Province of Alberta**

No. 47

VOTES AND PROCEEDINGS

Second Session

Twenty-Third Legislature

Wednesday, May 11, 1994

The Speaker took the Chair at 1:30 p.m.

ROUTINE

Presenting Petitions

Mrs. Soetaert, Hon. Member for Spruce Grove-Sturgeon-St. Albert, presented a petition from 331 St. Albert and surrounding area residents regarding the inclusion of the Sturgeon Hospital within the Edmonton Region.

Dr. Massey, Hon. Member for Edmonton-Mill Woods, presented a petition from 1,500 South-east Edmonton residents regarding the maintenance of the Grey Nuns Hospital in Mill Woods as a full-service, active hospital.

Ms Carlson, Hon. Member for Edmonton-Ellerslie, presented a petition from 1,028 Albertans regarding the maintenance of the Grey Nuns Hospital in Mill Woods as a full-service, active hospital.

Mr. Doerksen, Hon. Member for Red Deer-South, presented a petition from 1,200 Red Deer and Innisfail residents regarding the maintenance of the Alberta Children's Hospital in Calgary as a full-service, pediatric health care facility.

Ms Burgener, Hon. Member for Calgary-Currie, presented a petition from 8,699 Albertans regarding the maintenance of the Alberta Children's Hospital in Calgary as a full-service, pediatric health care facility.

Mr. Dickson, Hon. Member for Calgary-Buffalo, presented a petition from 66 Albertans regarding the provision of equal protection for gay and lesbian people.

Mr. Dalla-Longa, Hon. Member for Calgary-West, presented a petition from 71 Calgary and area residents regarding the maintenance of the Alberta Children's Hospital in Calgary as a full-service, pediatric health care facility.

Mr. N. Taylor, Hon. Member for Redwater, presented a petition from 165 Bon Accord and Morinville residents regarding the inclusion of the Sturgeon Hospital within the Edmonton Region.

Mr. Yankowsky, Hon. Member for Edmonton-Beverly-Belmont, presented a petition from 260 Albertans regarding the implementation of health care user fees for seniors and government funding for health care, education, kindergarten and seniors housing.

Reading and Receiving Petitions

On request by Mr. Zariwny, Hon. Member for Edmonton-Strathcona, the following petition was read and received:

We, the undersigned, feel that Advanced Education is essential to all Albertans, and petition the Assembly to urge the Government to reconsider its proposed cuts to Advanced Education.

On request by Mr. Collingwood, Hon. Member for Sherwood Park, the following petition was read and received:

We, the undersigned, petition the Legislative Assembly to urge the Government to maintain the Grey Nuns Hospital in Mill Woods as a full-service, active hospital and continue to serve the South-east end of Edmonton and surrounding area.

On request by Ms Hanson, Hon. Member for Edmonton-Highlands-Beverly, the following petition was read and received:

We, the undersigned, petition the Legislative Assembly to urge the Government to keep the current system of funding for Family and Community Support Services (FCSS) and not transfer any FCSS dollars to the Department of Municipal Affairs.

On request by Mr. Kirkland, Hon. Member for Leduc, the following petition was read and received:

We, the undersigned, petition the Legislative Assembly to urge the Government to maintain the Grey Nuns Hospital in Mill Woods as a full-service, active hospital and continue to serve the South-east end of Edmonton and surrounding area.

On request by Mrs. Soetaert, Hon. Member for Spruce Grove-Sturgeon-St. Albert, the following petition was read and received:

We, the undersigned, petition the Legislative Assembly to urge the Government to express our grave concerns with the implications of the recently tabled School Amendment Act, 1994 (Bill 19). We petition the Legislative Assembly to urge the Government to provide us with time to examine the issues, and an opportunity for stakeholders and elected government officials to dialogue together for the benefit of the children of Alberta.

Notices of Motions

Hon. Mr. Day gave oral notice of the following motion:

Be it resolved that further consideration of any or all of the resolutions, clauses, sections or titles of Bill 19, the School Amendment Act, 1994, shall be the first business of the Committee and shall not be further postponed.

Tabling Returns and Reports

Hon. Mr. Ady, Minister of Advanced Education and Career Development:

Agreement, dated April 11, 1994, between Her Majesty The Queen In Right Of Alberta, as represented by the Minister of Advanced Education and Career Development (the "Province") and Canadian Imperial Bank of Commerce
Sessional Paper 1016/94

Mr. Collingwood, Hon. Member for Sherwood Park:

Order in Council O.C. 668/92, dated November 19, 1992, regarding the giving by the Crown of indemnities to Members and former Members of Executive Council and others
Sessional Paper 1017/94

Oral Question Period

During Oral Question Period, Mr. Bruseker, Hon. Member for Calgary-North West, filed the following:

Letter, dated April 15, 1983, from P.D. Ledgerwood, Deputy Chief Electoral Officer, to the Barrhead Progressive Conservative Association, regarding the 1982 Annual Financial Statement for the constituency
Sessional Paper 1018/94

Privilege

The Speaker made the following ruling:

On May 4, 1994, the Member for Edmonton-Glengarry put the following question to the Premier during Oral Question Period:

Mr. Speaker, the Paddle River scam has disclosed that two Ministers, that one and that one, interfered with contract awarding, interfered with the regular process of awarding contracts. My first question to the Premier is this: why would the Premier reward that Minister and that Minister by putting them back into Cabinet when he knew about that interference?

The Minister of Economic Development and Tourism and the Minister of Transportation and Utilities both rose on questions of privilege on the basis that the charge of interfering with the awarding of contracts breached their privileges as Members of this Assembly. Both Members alleged, and the Member for Edmonton-Glengarry did not deny, that they were the Ministers referred to. The Chair finds that the question of privilege was raised by both Members at the earliest opportunity in compliance with Standing Order 15(6).

In view of the fact that the same statement impacts both the Minister of Economic Development and Tourism and the Minister of Transportation and Utilities and the issue of privilege is therefore the same in both cases, the Chair will deal with both questions in this single ruling.

The main thrust of the arguments by both the Minister of Economic Development and Tourism and the Minister of Transportation and Utilities was that they did nothing wrong, albeit for different reasons. The Minister of Economic Development and Tourism stated that he was not involved at all. The Minister referred to Beauchesne paragraph 63. That paragraph refers to persons outside the House who cast reflections on the House. The Minister did however, raise the question of making allegations such as this against Members. In reply to the Minister of Economic Development, the Member for Edmonton-Glengarry relied upon Beauchesne, paragraph 31 which states:

A dispute arising between two Members as to allegations of facts, does not fulfill the conditions of parliamentary privilege.

The Member for Edmonton-Glengarry referred to evidence from the court documents in the Opron case, one of which appeared to refer to the Minister of Economic Development and Tourism. The Member for Edmonton-Glengarry said that he was relying on media reports and if the Minister of Economic Development and Tourism was to say he had no involvement, Edmonton-Glengarry would retract his statements.

The Minister of Transportation and Utilities stated that he was involved in the hiring of "day labour". He distinguished this from being involved in the awarding of contracts, by which he appears to have meant the process of putting contracts out to tender and awarding them on the basis of bids. The Minister said he had never interfered with the tendering and bidding process. In reply to the Minister of Transportation and Utilities, Edmonton-Glengarry stated that a contract for day labour is nonetheless a contract and since the Minister has said he was involved in selecting persons to do day labour, he was involved in the awarding of contracts. The Member for Edmonton-Glengarry referred to Beauchesne, paragraph 31, set out above.

The arguments of all 3 parties are wide of the point of what constitutes a question of privilege. Maingot in *Parliamentary Privilege in Canada*, says this at page 13:

To constitute "privilege" generally there must be some improper obstruction to the member in performing his parliamentary work in either a direct or constructive way, as opposed to mere expression of public opinion or of criticisms of the activities of the members (for example, threatening a member for what he said in debate, contemptuous reflections on members, allegations of improper conduct during a proceeding in Parliament, or allegations that a chairman was biased).

As will be set out shortly, the truth or untruth of a charge made is not the issue in a question of privilege. This must be emphasized: the question is whether the words constituted an improper obstruction to the Member in performing his parliamentary work.

It is important to clearly understand the role of the Chair in this. The duty of the Chair is to find whether a *prima facie* case exists: Standing Order 15(6) and (7). Maingot, at page 188 states:

A *prima facie* case of privilege in the parliamentary sense is one where the evidence on its face as outlined by the member is sufficiently strong for the House to be asked to send it to a committee to investigate whether the privileges of the House have been breached or a contempt has occurred and report to the House.

The Chair was confronted by the question, raised by the Member for Edmonton-Glengarry, of whether the statements made by Edmonton-Glengarry are any more than the usual cut and thrust of debate? In answering this question, the Chair was guided by the following passage from Bourinot's *Parliamentary Procedure and Practice*, 4th edition, at page 50:

Any scandalous and libellous reflection on the proceedings of the House is a breach of the privileges of parliament, but the libel must be based on matters arising in the usual transaction of the business of the House. So, libels or reflections upon members individually have also been considered as breaches of privilege which may be censured or punished by the House; but it is distinctly laid down by all the authorities: "To constitute a breach of privilege such libels must concern the character or conduct of members in that capacity.

The Chair would also cite Maingot at page 213, as follows:

Abraham and Hawtrey's Parliamentary Dictionary, points out that "to constitute a breach of privilege a statement reflecting on the conduct of a Member in his capacity as a Member need not be true, but it must tend to lower the House in the eyes of the public."

There are actions which, while not directly in a physical way obstructing the House of Commons or the Member, nevertheless obstruct the House in the performance of its functions by diminishing the respect due it. As in the case of a court of law, the House of Commons is entitled to the utmost respect; thus, when someone publishes libellous reflections on the House, they will be treated as contempt of the House. Furthermore, reflections upon Members, the particular individuals not being named or otherwise indicated, are equivalent to reflections on the House.

Beauchesne paragraph 31(1), referred to by Edmonton-Glengarry, applies to allegations of facts. The Member is correct that disputes over facts do not give rise to a question of privilege. However, it is not the facts of this case which approach the threshold of privilege: it is the conclusion drawn by Edmonton-Glengarry on those facts that the two Ministers "interfered with the regular process of awarding contracts". It is because of this allegation, in light of these authorities, that the Chair finds that a *prima facie* case of privilege does exist with respect to the words spoken by the Member for Edmonton-Glengarry regarding both the Minister of Economic Development and Tourism and the Minister of Transportation and Utilities on May 4, 1994. That being the case, Standing Order 15(6) states that any Member may give notice, not later than the conclusion of the next sitting day of a motion, or motions, to deal with the matter further.

The Chair will make three observations which it regards as important in this matter.

First, it is the Chair's opinion that it would not be in order for the Assembly to constitute itself a court of appeal with respect to the decision of the Court of Queen's Bench in this matter. This is a matter of the greatest concern. Again, the matters dealt with by that Court are not relevant as to whether or not the words constituted an improper obstruction to the Member in performing his parliamentary work. To reiterate Maingot, the truth of the statement is not at issue: the issue is the impact of the statement on the Member's and the House's status in the eyes of the public.

Second, the Chair is aware that the matter of whether police investigation into the matter is warranted, given the findings of the Court has been referred, by the Government, to the Attorney-General of Saskatchewan. Even though the findings of the Attorney-General of Saskatchewan should not impact the issue of privilege, the Chair will express its concern that consideration of this matter by the Assembly concurrent with the investigation of this matter by the Attorney-General of Saskatchewan might tend to obscure and confuse the issues involved with privilege and with the issues involved in the investigation by the Attorney General of Saskatchewan. Certainly, a question of privilege is fundamental to the Assembly and the Assembly has every right to consider the matter whenever it sees fit. However, the Chair believes that the issue of privilege must be approached with great precision.

Third, it is important to the perception of this Assembly that the Chair should make it clear that the truth of allegations of wrongdoing by Members is not beyond the ability of the Assembly to examine as a possible question of privilege. In the proper circumstances, it is possible that the conduct or activities of any Member could amount to a contempt by obstructing the House in the performance of its functions by diminishing the respect due it. See for example May, 21st edition, page 119. However, the question of privilege presently placed before the Assembly, and the issue with which the Chair is required to deal, relates to the statement made by Edmonton-Glengarry.

Notice of Motion Under Standing Order 15(6)

Mr. Decore, Hon. Leader of the Official Opposition, gave oral notice of his intention to move that the matter of the finding of a prima facie case of breach of privilege, on May 11, 1994, be referred to the Standing Committee on Privileges, Elections, Standing Orders and Printing to be dealt with in an expeditious manner and secondly, that that Committee be given adequate financial and human resources to allow the Committee to hear the necessary witnesses, to have those witnesses placed under oath, and to have the necessary legal counsel available to pursue the issue.

ORDERS OF THE DAY

Written Questions

The following Written Question was ordered to stand:

Q201.

Motions for Returns

The following Motions for Returns were ordered to stand:

M202, M203, M204, M205, M206, M207, M208, M209, M210, M211.

Public Bills and Orders

Other Than Government Bills and Orders

Second Reading

On the motion that the following Bill be now read a Second time and referred to Committee of the Whole:

Bill 211 Economic Strategy Act – Mr. Bruseker

A debate followed.

Pursuant to Standing Order 8(5)(a)(i), the question being put, the motion was defeated.
The names being called for were taken as follows:

For the motion: 24

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|-------------|-----------|-------------------|
| Abdurahman | Hanson | Percy |
| Beniuk | Henry | Sapers |
| Bracko | Hewes | Sekulic |
| Bruseker | Kirkland | Soetaert |
| Carlson | Leibovici | Taylor (Redwater) |
| Chadi | Massey | Van Binsbergen |
| Collingwood | Mitchell | Zariwny |
| Dickson | Nicol | Zwozdesky |

Against the motion: 42

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|-----------|-----------|-------------------------------|
| Ady | Gordon | McFarland |
| Amery | Haley | Mirosh |
| Black | Havelock | Oberg |
| Burgener | Herard | Renner |
| Calahasen | Hierarth | Severtson |
| Cardinal | Hlady | Smith |
| Day | Jacques | Sohal |
| Dinning | Jonson | Stelmach |
| Doerksen | Kowalski | Tannas |
| Dunford | Laing | Taylor (Cypress-Medicine Hat) |
| Evans | Lund | Thurber |
| Fischer | Magnus | Trynchy |
| Forsyth | Mar | West |
| Friedel | McClellan | Woloshyn |

On the motion that the following Bill be now read a Second time and referred to Committee of the Whole:

Bill 212 Whistleblower Protection Act – Mr. Dickson

A debate followed.

Mr. Dunford, Hon. Member for Lethbridge-West, moved adjournment of the debate, which was agreed to.

Adjournment

On motion by Hon. Mrs. Black, Deputy Government House Leader, that it be called 5:30 p.m., the Assembly adjourned at 5:25 p.m. until 8:00 p.m.

WEDNESDAY, MAY 11, 1994 – 8:00 P.M.

Government Bills and Orders

Second Reading

On the motion that the following Bill be now read a Second time and referred to Committee of the Whole:

Bill 20 Regional Health Authorities Act – Mr. Lund

Debate continued on the amendment introduced by Mr. Collingwood, Hon. Member for Sherwood Park, on Tuesday, May 10, 1994, which read as follows:

that Bill 20, the Regional Health Authorities Act, be not now read a second time because the Assembly finds that passage of this Bill would result in a two-tiered health care system because the Bill allows for the implementation of user fees and a voucher system.

Debate continued (on amendment).

The question being put, the amendment was defeated.

Debate continued.

The question being put, the motion was agreed to.

On the motion that the following Bill be now read a Second time and referred to Committee of the Whole:

Bill 30 Environmental Protection and Enhancement Amendment Act, 1994 –
Hon. Mr. Evans

A debate followed.

Mr. Zwozdesky, Hon. Member for Edmonton-Avonmore, moved adjournment of the debate, which was agreed to.

The following Bills were read a Second time and referred to Committee of the Whole:

Bill 20 Regional Health Authorities Act – Mr. Lund

Bill 22 Maintenance Enforcement Amendment Act, 1994 – Mr. Amery

Bill 32 Fuel and Tobacco Tax Statutes Amendment Act, 1994 – Hon.
Mr. Dinning

Adjournment

On motion by Hon. Mrs. Black, Deputy Government House Leader, the Assembly adjourned at 10:22 p.m. until Thursday, May 12, 1994 at 1:30 p.m.

Stanley S. Schumacher, Q.C.,
Speaker

Title: Wednesday, May 11, 1994