



**Legislative Assembly  
Province of Alberta**

No. 53

## **VOTES AND PROCEEDINGS**

Fourth Session

Twenty-Third Legislature

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Thursday, May 23, 1996

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

### **Presenting Petitions**

Mr. White, Hon. Member for Edmonton-Mayfield, presented a petition from 972 Albertans regarding proposed changes to Highway 2 south of Red Deer.

### **Reading and Receiving Petitions**

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

We, the undersigned residents of Alberta, petition the Legislative Assembly to urge the Government of Alberta to treat Grade 1 to 12 students attending independent schools the same as public school students, in regard to instructional grant funding.

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

We, the undersigned residents of Alberta, petition the Legislative Assembly to urge the Government of Alberta to maintain Catholic school boards and to oppose any move to amalgamate Catholic and public school boards.

## Tabling Returns and Reports

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

Keyano College, Annual Report 1994-95

Sessional Paper 1147/96

Alberta College of Art and Design, Annual Report 1995

Sessional Paper 1148/96

Mr. Dickson, Hon. Member for Calgary-Buffalo:

Letter, dated May 16, 1996, from Doreen Spence, Canadian Indigenous Women's Resource Institute, to Hon. Mr. Klein, Premier, regarding the Human Rights Commission and letter dated June 28, 1993, from Hon. Mr. Klein, Premier, to Doreen Spence, Canadian Indigenous Women's Resource Institute, regarding her work for the re-election campaign of the Hon. Premier in Calgary-Elbow

Sessional Paper 1149/96

Letter, undated, from Georgia Black, Chair, Outreach Committee, Scarboro United Church, Calgary, to Mr. Dickson, Hon. Member for Calgary-Buffalo, regarding Bill 24, Individual's Right Protection Amendment Act, 1996

Sessional Paper 1150/96

Letter, dated May 17, 1996, from Martin Bell, Calgary, to Hon. Mr. Klein, Premier, regarding Bill 24, Individual's Right Protection Amendment Act, 1996

Sessional Paper 1151/96

Letter, dated May 16, 1996, from Kathy Fyfe, Executive Director, Epilepsy Association of Calgary, to Hon. Mr. Klein, Premier, regarding Bill 24, Individual's Right Protection Amendment Act, 1996

Sessional Paper 1152/96

Mr. Zwozdesky, Hon. Member for Edmonton-Avonmore:

Letter, dated May 6, 1996, from Marielis Zielke, President, German-Canadian Association of Alberta, to Hon. Mr. Klein, Premier, regarding the elimination of funding to Heritage Language Schools

Sessional Paper 1153/96

Letter to the editor, Edmonton Journal, May 21, 1996, from Rosemarie Nahnybida, Sherwood Park, regarding multiculturalism

Sessional Paper 1154/96

Mr. Sapers, Hon. Member for Edmonton-Glenora:

Letter, dated May 23, 1996, from Mr. Sapers, Hon. Member for Edmonton-Glenora, to Professor Peter Lown, Director, Alberta Law Reform Institute, clarifying that a document referred to in Oral Question Period May 22, 1996, by Mr. Mitchell, Hon. Leader of the Official Opposition, was attributed to the Alberta Law Reform Institute and should have been attributed to the Health Law Institute

Sessional Paper 1155/96

## **Ministerial Statements**

Hon. Mr. Cardinal, Minister of Family and Social Services, announced that May 25, 1996, is International Missing Children's Day.

Ms Hanson, Hon. Member for Edmonton-Highlands-Beverly, commented on the statement.

## **Members' Statements**

Mrs. Laing, Hon. Member for Calgary-Bow, made a statement regarding the move of the Grace Health Centre services to women to the Foothills Hospital site in Calgary-Bow.

Ms Carlson, Hon. Member for Edmonton-Ellerslie, made a statement regarding the duties of Members of the Legislative Assembly and the Government with respect to debate on Bill 24, Individual's Rights Protection Amendment Act, 1996, and on health care.

Ms Burgener, Hon. Member for Calgary-Currie, made a statement regarding health care restructuring and the needs of inner city Calgary.

## **Projected Government Business**

Pursuant to Standing Order 7(5), Mr. Bruseker, Official Opposition House Leader, asked a question pertaining to the order of Government Business to be brought before the Assembly for the following week.

Hon. Mr. Day, Government House Leader, gave notice that when the Assembly adjourns today it shall do so pursuant to Government Motion No. 15, passed April 3, 1996.

## **Speaker's Ruling — Question of Privilege, Hon. Member for Grande Prairie-Wapiti**

On Tuesday, May 21, 1996, the Hon. Member for Grande Prairie-Wapiti raised a question of Privilege. The basis for the question of Privilege is a letter dated May 17, 1996 that the Hon. Member for Grande Prairie-Wapiti received from the Hon. Member for Calgary-Buffalo. The Chair invited the Hon. Member for Grande Prairie-Wapiti to briefly state his question of Privilege and then the Chair deferred further discussion on the matter until yesterday, May 22, 1996, so as to allow the Hon. Member for Calgary-Buffalo to properly respond to the matter. The Hon. Member for Grande Prairie-Wapiti and the Hon. Member for Calgary-Buffalo presented their respective arguments yesterday. The Hon. Minister for Justice and the Hon. Member for Fort McMurray also spoke to the question of Privilege.

As a preliminary matter, the Chair finds that the matter was raised at the earliest opportunity and that sufficient notice was provided pursuant to Standing Order 15(2).

The letter from the Hon. Member for Calgary-Buffalo deals with an issue that was raised in the Assembly on May 16, 1996. On that day, the Hon. Member for Grande Prairie-Wapiti asked the Hon. Minister of Justice during Question Period whether the Minister would confirm that he would not bring forward legislation to protect convicted criminals as suggested by the Liberal Opposition. The Hon. Member for Calgary-Buffalo took exception to the question and raised it as a point of order. The Chair ruled that there was no point of order, only a point of clarification.

The matter did not, however, end there. On May 17, 1996, the Hon. Member for Calgary-Buffalo faxed a letter to the Hon. Member for Grande Prairie-Wapiti demanding an apology. The last two paragraphs of the Hon. Member for Calgary-Buffalo's letter are at the heart of the question of Privilege. Those two paragraphs read as follows:

"I respect your right of free speech but I cannot ignore your outrageous comments. I request that you forthwith apologize for the defamatory statements you made on May 16, 1996. Failure to do so will result in further action without notice to you. Please govern yourself accordingly."

The basis of the question of Privilege brought by the Member for Grande Prairie-Wapiti is that the letter is a threat and a form of intimidation.

In a technical sense, an obstruction or the attempted intimidation of a Member is considered to be a contempt of the House and not a breach of Privilege. However, since these matters are closely related, they are often considered to be a breach of Privilege.

The classic statement on contempt is found in Erskine May (21st. edition) at 115 where it is stated:

"Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such house in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt."

Griffith and Ryle, in their book *Parliament: Functions, Practice and Procedures* state the following at page 92:

"Such obstruction or impedance is essentially restricting freedom of speech in the House (for example by intimidation of those who might speak) or freedom of its proceedings."

Erskine May at 126 clearly states that:

"To molest Members on account of their conduct in Parliament is also a contempt."

Examples of molestation constituting contempt are "correspondence with Members of an insulting character in reference to their conduct in Parliament" and "threatening a Member with the possibility of trial at some future time for a question asked in the House."

Threatening a Member is clearly a contempt or a breach of Privilege in Alberta. Section 10(2)(b) of the *Legislative Assembly Act* lists as one of the acts that constitutes a contempt or a breach of Privilege

- (b) obstructing, threatening or attempting to force or intimidate a Member in any matter relating to his office.

One may think the references cited above contemplate threats made against Members only from persons outside of the Assembly. However, in the past this Chair has ruled that serious threats made by a Member against another Member are also forms of contempt. The Hon. Member for Fort McMurray stated that it would not be a breach of Privilege if, for example, one Member were to say to another Member "if you don't stop talking, I'll cut off another kilometre of pavement". The Hon. Member is incorrect on this issue. On September 23, 1993 (Hansard 463), the Chair ruled that threats made by a Minister about action that might be taken in response to another Member's statements or actions constituted a prima facie case of contempt. Of course, the matter did not proceed as the Minister withdrew his remarks.

The Hon. Member for Calgary-Buffalo stated that his letter was not intended as a threat that he would commence any action outside of the Assembly. Rather, it was only intended to put the Hon. Member for Grande Prairie-Wapiti on notice that the Hon. Member for Calgary-Buffalo would resort to whichever Standing Orders are available to allow him to challenge what he felt were false and misleading statements unless the Hon. Member for Grande Prairie-Wapiti apologized. If that is what the Hon. Member intended then he should have stated that clearly in his letter. Given that the Member had already raised a point of order, the Chair cannot imagine what further action could have been taken in the House. This reinforces the view that the reference to taking further action meant taking action outside of the Assembly. The Member for Grande Prairie-Wapiti believes that the words constituted a threat.

The Chair recognizes that there may be some ambiguity over what is meant by the words "failure to do so will result in further action" but this is fairly well known legal language which includes the possibility of initiating a court action. This is especially so when the author of the letter is a senior lawyer. As the Hon. Minister of Justice put it, the Hon. Member for Calgary-Buffalo's letter is a formal demand. It implies to any lawyer that further action will be taken, normally civil action.

In making his case, the Hon. Member for Calgary-Buffalo also referred to Joseph Maingot's text on Parliamentary Privilege in Canada, and in particular a passage on page 13 which reads as follows:

"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)."

The Hon. Member suggests that what this passage says is that a threat to a Member for what he says in debate from another Member is not a point of Privilege, but only a point of order. In the Chair's view, it says just the opposite - that behaviour such as threatening a Member for what he says in debate is an example of a breach of Privilege and not merely an expression of public opinion.

The Chair is rather disheartened by this whole matter, especially since this Assembly recently dealt with a similar issue involving an individual outside this Assembly who threatened to bring legal action against the Leader of the Official Opposition for comments made in the Assembly. The Chair also finds repugnant the whole idea of Members writing to other Members to complain about what was said in the House. If a Member has a valid objection to what is said then raise a point of order. Matters arising in the House should be settled in the House. In this instance, there can be no excuse that the Hon. Member for Calgary-Buffalo is not well-versed on the subject of Privilege. After reviewing all the material and arguments, the Chair finds that the letter written by the Hon. Member for Calgary-Buffalo constituted a threat to the Hon. Member for Grande Prairie-Wapiti which amounts to a contempt.

Accordingly the Chair finds that there is a prima facie question of Privilege. Pursuant to Standing order 15(6), if the Speaker rules that there is a prima facie case of breach of Privilege, any Member may give notice of a motion to deal with the matter further. But the Chair would also add that a complete and unequivocal apology by the Hon. Member will invariably close the matter without the necessity of doing anything further.

Mr. Dickson, Hon. Member for Calgary-Buffalo, apologized for the letter in question.

## **ORDERS OF THE DAY**

### **Government Bills and Orders**

#### **Third Reading**

On the motion that the following Bill be read a Third time and passed:

Bill 24 Individual's Rights Protection Amendment Act, 1996 — Hon. Mr. Mar

A debate followed.

Hon. Mr. Evans moved adjournment of the debate, which was agreed to.

**19.** Moved by Hon. Mr. Day:

Be it resolved that the debate on Third reading of Bill 24, the Individual's Rights Protection Act, 1996, shall not be further adjourned.

The question being put, the motion was agreed to.

On the motion that the following Bill be read a Third time and passed:

Bill 24 Individual's Rights Protection Amendment Act, 1996 — Hon. Mr. Mar

A debate followed.

Mrs. Soetaert, Hon. Member for Spruce Grove-Sturgeon-St. Albert, moved that the motion be amended by striking out everything after the word "that" and substituting the following:

Bill 24 Individual's Rights Protection Amendment Act, 1996, not be read a Third time because the Government has not demonstrated that the legislation will protect human rights for all Albertans or promote and maintain multiculturalism in the province.

Debate continued (on amendment).

During debate Mr. Bracko, Hon. Member for St. Albert, filed the following:

Guardian article, entitled "No Place for Little Girls"

Sessional Paper 1156/96

Memo from Hon. Mr. Day to all Members of the Legislative Assembly with attached poem on the occasion of him becoming a grandfather

Sessional Paper 1157/96

Debate continued (on amendment).

Pursuant to Government Motion No. 19 and Standing Order 21(2), at 5:35 p.m. the question was immediately put on the amendment to Bill 24, Individual's Rights Protection Amendment Act, 1996, which was defeated. The names being called for were taken as follows:

For the amendment: 16

Abdurahman	Kirkland	Sekulic
Bracko	Leibovici	Soetaert
Collingwood	Mitchell	White
Dickson	Percy	Zariwny
Henry	Sapers	Zwozdesky
Hewes		

Against the amendment: 38

Amery	Gordon	McFarland
Beniuk	Haley	Mirosh
Brassard	Havelock	Renner
Burgener	Herard	Rostad
Calahasen	Hierath	Shariff
Cardinal	Hlady	Smith
Clegg	Jacques	Stelmach
Coutts	Jonson	Taylor
Day	Laing	Thurber
Doerksen	Langevin	West
Forsyth	Lund	Woloshyn
Friedel	Magnus	Yankowsky
Fritz	Mar	

Pursuant to Government Motion No. 19 and Standing Order 21(2), at 5:47 p.m. the question was immediately put on the motion for Third of Bill 24, Individual's Rights Protection Amendment Act, 1996, which was agreed to.

The following Bills were read a Third time and passed:

Bill 24 Individual's Rights Protection Amendment Act, 1996 — Hon. Mr. Mar

Bill 39 Environmental Protection and Enhancement Amendment Act, 1996 — Mr. Hlady



## **Adjournment**

Pursuant to Standing Order 3(2) and Government Motion No. 15 agreed to by the Assembly April 3, 1996, the Assembly adjourned at 5:51 p.m.

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Title: Thursday, May 23, 1996