



**Legislative Assembly
Province of Alberta**

No. 51

VOTES AND PROCEEDINGS

Second Session

Twenty-Fourth Legislature

Tuesday, November 17, 1998

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

Presenting Petitions

Mr. Bonner, Hon. Member for Edmonton-Glengarry, presented a petition from 623 Albertans regarding Workers' Compensation Board Act benefits provided to Albertans whose spouses died in work-related accidents, and who subsequently lost benefits due to remarriage.

Mrs. Soetaert, Hon. Member for Spruce Grove-Sturgeon-St. Albert, presented a petition from 26 Spruce Grove and District Chamber of Commerce members requesting public consultations regarding the current CPP (Canada Pension Plan) and the discussion of alternatives.

Mrs. Soetaert, Hon. Member for Spruce Grove-Sturgeon-St. Albert, presented a petition from 190 Albertans regarding Workers' Compensation Board Act benefits provided to Albertans whose spouses died in work-related accidents, and who subsequently lost benefits due to remarriage.

Mr. Dickson, Hon. Member for Calgary-Buffalo, presented a petition from 999 Albertans expressing opposition to Bill 37, Health Statutes Amendment Act, 1998.

Mr. Dickson, Hon. Member for Calgary-Buffalo, presented a petition from 21 Albertans expressing opposition to Bill 37, Health Statutes Amendment Act, 1998.

Mr. White, Hon. Member for Edmonton-Calder, presented a petition from 50 Albertans regarding Workers' Compensation Board Act benefits provided to Albertans whose spouses died in work-related accidents, and who subsequently lost benefits due to remarriage.

Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, presented a petition from 3,758 Edmonton and area residents regarding that the east leg(s) of the inner ring loop at Highway 14 and 17th Street not be moved to the inner city.

Ms Paul, Hon. Member for Edmonton-Castle Downs, presented a petition from 457 Albertans regarding Workers' Compensation Board Act benefits provided to Albertans whose spouses died in work-related accidents, and who subsequently lost benefits due to remarriage.

Ms Leibovici, Hon. Member for Edmonton-Meadowlark, presented a petition from 199 Albertans regarding Workers' Compensation Board Act benefits provided to Albertans whose spouses died in work-related accidents, and who subsequently lost benefits due to remarriage.

Ms Barrett, Hon. Member for Edmonton-Highlands, presented a petition from 201 Albertans regarding Workers' Compensation Board Act benefits provided to Albertans whose spouses died in work-related accidents, and who subsequently lost benefits due to remarriage.

Mr. Zwozdesky, Hon. Member for Edmonton-Mill Creek, on behalf of Hon. Ms Calahasen, Minister without Portfolio Responsible for Children's Services, presented a petition from 44 Albertans expressing opposition to Bill 37, Health Statutes Amendment Act, 1998.

Notices of Motions

Pursuant to Standing Order 34(2)(a), Hon. Mrs. Nelson, Deputy Government House Leader, gave oral notice of the following Written Questions and Motions for Returns to be dealt with Wednesday, November 18, 1998:

Written Questions: Stand and retain their places.

Motions for Returns: Stand and retain their places.

Tabling Returns and Reports

Hon. Mr. Havelock, Minister of Justice and Attorney General:

Promoting Responsible Citizenship: Report to the Minister of Justice, submitted by MLA Committee Making Recommendations on Restructuring on Prisoner Voting in the Alberta Evidence Act, dated November 16, 1998

Sessional Paper 780/98

Hon. Mrs. McClellan, Minister of Community Development:

Information bulletin, dated November 17, 1998, entitled "Minister's Seniors Service Awards 1999 nominations forms available" with attached Minister's Seniors Service Awards 1999 Nomination Form

Sessional Paper 781/98

Letter dated November 17, 1998, from Hon. Mrs. McClellan, Minister of Community Development, to Wally Buono, Calgary Stampeders coach, offering congratulations on a successful 1998 season and offering best wishes for the upcoming Grey Cup Game

Sessional Paper 782/98

Hon. Mr. Lund, Minister of Environmental Protection:

Response to Written Question No. WQ17 asked for by Ms Carlson on March 4, 1998:

How many *Recreation Facility Sites* were offered for tender between *September 1, 1997* and February 3, 1998, where the operator takes over full responsibility for the operation; *on how many Recreation Facility Sites were tenders received*; what is the name of each location for which no suitable tenders were received (if any) and what *action is proposed or has been initiated for each Recreation Facility Site* for which no suitable tenders were received?

Sessional Paper 783/98

Response to Written Question No. WQ18 asked for by Ms Carlson on March 4, 1998:

How many provincial recreation areas and provincial forest recreation areas were there as of January 1, 1994, and between January 1, 1994 and December 31, 1997, how many closed, how many were *divested to municipalities*, how many were *contracted or leased to private sector contractors, municipalities, community or other non-profit groups that kept them open to the public*, how many were *leased to community or other non-profit groups for exclusive use*, how many were still *operated directly by the Government* on December 31, 1997, and how many may be closed during 1998 if no operators are found?

Sessional Paper 784/98

Return to Order of the Assembly No. MR21 asked for by Ms Carlson on March 4, 1998:

A copy of all documents that record inspections by Alberta Environmental Protection of *the construction and operation of cell #2* at the Laidlaw Environmental Services (Ryley) Ltd. hazardous waste landfill from the start of construction until *February 1998*.

Sessional Paper 785/98

Return to Order of the Assembly No. MR22 asked for by Mrs. Soetaert on March 4, 1998:

A copy of *those portions of the agreement* between Alberta Environmental Protection and Information Systems Management Corporation (ISM) for ISM to manage the sale of Alberta recreational fishing and hunting licences *that are not protected under the Freedom of Information and Protection of Privacy Act*, as announced in a Government news release on September 4, 1997.

Sessional Paper 786/98

Return to Order of the Assembly No. MR23 asked for by Mrs. Soetaert on March 4, 1998:

A copy of *those portions of the proposal* received by Alberta Environmental Protection for the privatization of the sale of Alberta recreational fishing and hunting licences, from Information Systems Management Corporation, with whom the Department has entered into an agreement, *that are not protected under the Freedom of Information and Protection of Privacy Act*.

Sessional Paper 787/98

Hon. Dr. Taylor, Minister Responsible for Science, Research and Information Technology:

A Strategy for Information and Communications Technology in Alberta, CD ROM produced by ASRA (Alberta Science and Research Authority)

Sessional Paper 788/98

Hon. Mr. Kowalski, Speaker of the Legislative Assembly, requested Hon. Dr. Taylor to also provide the tabling in hard (print) format.

Hon. Dr. Oberg, Minister of Family and Social Services:

In Unison: A Canadian Approach to Disability Issues, A Vision Paper, produced by the Federal/Provincial/Territorial Ministers Responsible for Social Services

Sessional Paper 789/98

Hon. Mr. Smith, Minister of Labour:

Return to Order of the Assembly No. MR15 asked for by Ms Barrett on March 4, 1998:

Copies of all studies done by the Government on the direct and indirect effects on Alberta's workers and the provincial economy as a result of having the lowest *dollar* minimum wage in Canada.

Sessional Paper 790/98

Mr. Magnus, Chair, Council on Professions and Occupations, pursuant to the Occupational Therapy Profession Act, cO-2.5, s5(4):

Alberta Association of Registered Occupational Therapists (AAROT), Annual Report 1997-98

Sessional Paper 791/98

Ms Blakeman, Hon. Member for Edmonton-Centre:

250 postcards submitted by Albertans entitled "Keep Arts Festivals Alive in Alberta!", produced by the Alberta Arts Festivals Association (AAFA)

Sessional Paper 792/98

Ms Sloan, Hon. Member for Edmonton-Riverview:

Social Care Facilities Review Committee Act, cS-15, with attached letter to Ms Sloan, Hon. Member for Edmonton-Riverview, from Hon. Dr. Oberg, Minister of Family and Social Services, dated October 8, 1998, regarding a request into the medical protocols and procedures at the Hope Mission - Herb Jamieson Centre, and letter dated September 2, 1998, from Mr. Shariff, Chair, Social Care Facilities Review Committee

Sessional Paper 793/98

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

Consumers' Association of Canada (Alberta) November 16, 1998 press release regarding the release of the results of a provincial survey of patient charges for cataract surgery plus details of complaints

Sessional Paper 794/98

3 email messages dated November 16, 1998 from Albertans expressing opposition to Bill 37, Health Statutes Amendment Act, 1998

Sessional Paper 795/98

Ms Carlson, Hon. Member for Edmonton-Ellerslie:

77 letters from parents of Meyokumin School and the Meyokumin School Council expressing disappointment with the current level of public education funding

Sessional Paper 796/98

Mr. MacDonald, Hon. Member for Edmonton-Gold Bar:

Facsimile cover sheet dated July 4, 1997 from Forintek Canada Corporation, Western Laboratory, Canada's Wood Products Research Institute, to Alberta Labour regarding examination of four lodgepole pine shakes

Sessional Paper 797/98

Oral Question Period

During Oral Question Period, Mrs. MacBeth, Hon. Leader of the Official Opposition, tabled the following:

Calgary Sun newspaper article, dated September 24, 1994 entitled "Privatization Push: Hospitals, Schools Dinning's Targets"

Sessional Paper 798/98

Fact sheet dated January 12, 1998, entitled "Canadian Facts: Confidential" issued by Mr. Brian T. Digby, Executive Vice President, Marketing and Product Development, Alberta Treasury Branches, regarding Project Chinook

Sessional Paper 799/98

During Oral Question Period, Mr. Sapers, Hon. Member for Edmonton-Glenora, tabled the following:

Edmonton Journal newspaper article, dated October 25, 1998 entitled "ATB (Alberta Treasury Branches) chief sees merging with bank as an option"

Sessional Paper 800/98

Edmonton Journal newspaper article, dated April 30, 1997 entitled "Private firms inquire about taking over Treasury Branches"

Sessional Paper 801/98

Members' Statements

Mrs. Gordon, Hon. Member for Lacombe-Stettler, made a statement recognizing the long-standing community service of Des Cooper, Lacombe Fire Department Volunteer Fire Chief, upon his retirement.

Ms Olsen, Hon. Member for Edmonton-Norwood, made a statement as a member of the Métis Nation recognizing the Métis people of Alberta and thanking the members of the Métis Nation of Alberta for their organizing of Métis Week 1998, November 15-21, 1998.

Ms Haley, Hon. Member for Airdrie-Rocky View, made a statement recognizing constituents Bert and Alice Brown for community service efforts and offering congratulations to Alice as the 1998 Governor General's Award recipient in commemoration of the Persons case.

Speaker's Ruling — Question of Privilege, Hon. Minister of Transportation and Utilities and the Hon. Government House Leader

The Chair is prepared to rule on the purported questions of privilege debated yesterday, November 16, 1998. The events giving rise to the question of privilege arose during Question Period on April 29, 1998, the last day of the Spring Sitting, in relation to certain questions posed by the Hon. Member for Spruce Grove-Sturgeon-St. Albert to the Hon. Minister of Transportation and Utilities. Yesterday the Chair invited the Hon. Minister of Transportation and Utilities to state his question of privilege. The Hon. Government House Leader also raised a question of privilege in connection with the same statements raised by the Hon. Member for Spruce Grove-Sturgeon-St. Albert. The Chair then deferred ruling on the matter until this afternoon.

Given the fact that both purported questions of privilege stem from the same statements made by the Hon. Member for Spruce Grove-Sturgeon-St. Albert, the Chair will deal with both questions in a single ruling.

As a preliminary matter, the Chair finds that the questions of privilege raised by the Hon. Minister of Transportation and Utilities and by the Hon. Government House Leader were raised at the earliest opportunity and that sufficient notice was provided in accordance with Standing Order 15(2).

The Chair would like to highlight the statements that have given rise to these purported questions of privilege. On April 29, 1998, during Question Period, the Hon. Member for Spruce Grove-Sturgeon-St. Albert posed certain questions to the Hon. Minister for Transportation and Utilities. She stated her supplemental questions as follows on page 1810 of Hansard for that day:

First Supplemental: "Given that people are on the verge of blocking off highway 794 in protest, what is it going to take for the Minister to do the right thing? Make it safe. Plan it this year. How many deaths does it take? What's the magic number?"

Second Supplemental: "My final question, Mr. Speaker: why do you put partisan politics ahead of the safety of people? Are the lives of the people in Westlock more important than the lives of the people in Sturgeon?"

The Hon. Minister of Transportation and Utilities asserted that his privileges as a Hon. Member of this Assembly were breached because the statements in the first supplementary question implied that he, as an Hon. Member of the Assembly and a Minister of the Crown, does not care about the lives of Albertans. The Minister also argued that the final supplementary question included a clear and explicit accusation which amounted to a libellous statement and is an insult against his reputation and integrity as a Hon. Member and as a Minister, and is also a breach of privilege or contempt pursuant to section 10 of the Legislative Assembly Act.

The thrust of the Hon. Government House Leader's argument is on the breach of the "corporate" privileges of the Assembly, namely, that the statements in question constitute a contempt of the Assembly because of their impact on the Members and the Assembly's status in the eyes of the public. He also argued that these statements insult the work of Members and diminish the respect due to the Assembly.

In opposition to the questions of privilege raised, the Official Opposition House Leader stated that the arguments raised do not establish that the Minister's rights have been breached in that he has not been prevented from doing his job. The Official Opposition House Leader also stated that although the statements in question were very direct, aggressive questions, the questions did not include any accusations. Finally, the Official Opposition House Leader cited Beauchesne's para. 31 for the principle that this matter amounts to a dispute as to allegation of facts and, therefore, does not fulfill the conditions of privilege.

The Chair's role is to determine whether a prima facie question of privilege exists.

Before reviewing the May 11, 1994 ruling which has been cited by both the Minister of Transportation and Utilities and the Hon. Government House Leader, the Chair would like to summarize the key characteristics of parliamentary privilege as stated by Maingot in *Parliamentary Privilege in Canada* (2nd ed.) at page 14:

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 Chair would also like to point out that a breach of privilege is associated with the special rights of a Member. As Maingot states at p. 224:

"...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."

Certainly, in reviewing the statements made on April 29, 1998 by the Hon. Member for Spruce Grove-Sturgeon-St. Albert, it is clear that these statements include allegations, impute motives and include inflammatory language, and are, therefore, definite grounds for a point of order pursuant to S.O. 23 (h), (i) and (j). The question is whether these statements go further than the usual cut and thrust of debate. In considering this question, the Chair notes that it is not the truth of the statements that is the issue, the question is whether the Member's statements have obstructed the ability of the House to perform its functions by diminishing the respect owed to both the Assembly and the work of the Members.

In making his arguments yesterday, the Minister quoted from Bourinot's 4th edition about libellous reflections on Members. It is always very, very interesting to review these authorities such as Bourinot which Members may know was last revised in 1916. In the Chair's reading of the relevant portion it appears that the examples refer to cases involving statements made by persons outside the House. The Chair would also note that Beauchesne's (6th edition) (paragraphs 64-70) refers to "Reflections on Members" but, like Bourinot, it seems to refer to statements made outside the House.

It is the responsibility of the House, and the Chair, to ensure that language used in the House complies with our rules on parliamentary language. As Maingot states on this point at 254-5:

Language spoken during a parliamentary proceeding that impugns the integrity of members would be unparliamentary and a breach of order contrary to the Standing Orders, but not a breach of privilege.

In comparing the statements of the Hon. Member for Spruce Grove-Sturgeon-St. Albert to the statements which gave rise to Speaker Schumacher's 1994 ruling, the Chair would note that in that instance there were substantive charges raised alleging interference in the awarding of contracts which amount really to a charge against a Member. As the Chair has noted, the statements of the Hon. Member for Spruce Grove-Sturgeon-St. Albert contain allegations and impute motives, but the Chair finds it difficult to place these in the same category as those made in 1994. It is most regrettable that the Hon. Member for Spruce Grove-Sturgeon-St. Albert made those rhetorical flourishes. A question of privilege is, as the Members noted yesterday in their arguments, a very serious matter. In order for a prima facie case to be established, it must be shown that there has been an interference or obstruction in either the Member's ability to perform his or her functions or the ability of the House to carry out its functions. This type of obstruction does not appear to have occurred. Rather, these statements, although clearly unparliamentary and inappropriate, appear to be of the nature that can arise during the heat of debate in Question Period.

Accordingly, the Chair does not find that there has been a prima facie case for a breach of privilege. However, the Chair is rather disheartened by the unparliamentary language used in these statements and is very disappointed that the Hon. Member did not use the opportunity provided her yesterday afternoon to comment on the matter. The Chair would like to make it clear to all Members that comments of this nature are inappropriate and will not be allowed. These type of statements certainly diminish the respect and dignity owed to this Assembly and will not be permitted. Under the circumstances, would the Hon. Member for Spruce Grove-Sturgeon-St. Albert now wish to do the honourable thing and clarify her remarks.

Mrs. Soetaert, Hon. Member for Spruce Grove-Sturgeon-St. Albert, retracted her statements that could be construed as a personal attack on the Minister.

ORDERS OF THE DAY

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:

Bill 216 Citizens' Initiative Act — Mr. Ducharme

A debate followed.

Pursuant to Standing Order 8(2)(b), debate adjourned, Hon. Dr. Taylor speaking.

Motions Other Than Government Motions

513. Moved by Mrs. Soetaert on behalf of Mr. Gibbons:

Be it resolved that the Legislative Assembly urge the Government to develop a system of stable and predictable funding arrangements with municipalities; clarify roles and responsibilities between provincial and local governments; develop an appropriate accountability framework; and determine the infrastructure priorities required to ensure sustained economic and human development within our local communities.

A debate followed.

Pursuant to Standing Order 8(4), the question being put, the motion was defeated.

At 4:26 p.m. the Deputy Speaker requested and received the unanimous consent of the Assembly to waive Standing Order 8(2) to proceed to Government Motions.

Government Motions

32. Oral notice having been given Monday, November 16, 1998, Hon. Mrs. Nelson, on behalf of Hon. Mr. Havelock, moved the following motion:

Be it resolved that the following changes to the following Committees be approved by the Assembly:

On the Special Standing Committee on Members' Services, that Mr. Gibbons replace Ms Olsen

On the Select Standing Committee on Legislative Offices, that Ms Olsen replace Mr. Sapers

On the Select Standing Committee on Public Accounts, that Mr. Sapers replace Mr. Zwozdesky

On the Select Standing Committee on Alberta Heritage Savings Trust Fund, that Mr. Bonner replace Mr. Zwozdesky

The question being put, the motion was agreed to unanimously.

- 33.** Oral notice having been given Monday, November 16, 1998, Hon. Mrs. Nelson, on behalf of Hon. Mr. Havelock, moved the following motion:

Be it resolved that the Legislative Assembly concur in the Report of the Select Special Chief Electoral Officer Search Committee and recommend that Mr. O. Brian Fjeldheim be appointed as Chief Electoral Officer for the Province Alberta.

A debate followed.

The question being put, the motion was agreed to unanimously.

- 34.** Oral notice having been given Monday, November 16, 1998, Hon. Mrs. Nelson, on behalf of Hon. Mr. Havelock, moved the following motion:

Be it resolved that, when the Assembly adjourns to recess the Fall sitting of the Second Session of the 24th Legislature, it shall stand adjourned until a time and date, as determined by the Speaker after consultation with the Lieutenant Governor in Council.

A debate followed.

The question being put, the motion was agreed to.

Adjournment

On motion by Hon. Mrs. Nelson, Deputy Government House Leader, that it be called 5:30 p.m., the Assembly adjourned at 5:22 p.m. until 8:00 p.m.

TUESDAY, NOVEMBER 17, 1998 — 8:00 P.M.

Government Bills and Orders

Second Reading

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

Bill 44 Tax Statutes Amendment Act, 1998 — Hon. Mr. Day

Bill 46 Securities Amendment Act, 1998 — Hon. Mr. Day

Bill 47 Protection from Second-hand Smoke in Public Buildings Amendment Act,
1998 — Ms Fritz

Adjournment

On motion by Hon. Mr. Hancock, Deputy Government House Leader, the Assembly adjourned at 10:00 p.m. until Wednesday, November 18, 1998, at 1:30 p.m.

Hon. Ken Kowalski,
Speaker

Title: Tuesday, November 18, 1998