



**Legislative Assembly
Province of Alberta**

No. 21

VOTES AND PROCEEDINGS

Second Session

Twenty-Fifth Legislature

Tuesday, April 16, 2002

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

Members' Statements

Mrs. O'Neill, Hon. Member for St. Albert, made a statement regarding her respect for teachers and the teaching profession.

Mr. Maskell, Hon. Member for Edmonton-Meadowlark, made a statement regarding the resignation of Mikko Nissinen as Artistic Director of the Alberta Ballet and his accomplishments in that position.

Dr. Massey, Hon. Member for Edmonton-Mill Woods, made a statement regarding the Alberta Teachers' Association's Safe and Caring Schools Project in their efforts to promote violence prevention.

Mrs. Jablonski, Hon. Member for Red Deer-North, made a statement congratulating Alberta Juno Award winners Jann Arden, Carolyn Dawn Johnson, Oscar Lopez, and members of Nickelback, Chad Kroeger, Mike Kroeger, Ryan Peake, and Ryan Vikedal.

Presenting Petitions

Mr. Mason, Hon. Member for Edmonton-Highlands, presented a petition from 115 Albertans requesting the Government not delist services, raise health care premiums, introduce user fees or further privatize health care.

Tabling Returns and Reports

Hon. Mr. Dunford, Minister of Human Resources and Employment, pursuant to the Architects Act, cA-44, s6(4):

Alberta Association of Architects, 2001 Annual Report
Sessional Paper 245/2002

Ms Carlson, Hon. Member for Edmonton-Ellerslie:

Letter dated February 12, 2002, from Dennis Knelsen of Sherwood Park to Hon. Mr. Klein, Premier, expressing opposition to the prohibition of the use of off-highway vehicles in the “west country”
Sessional Paper 246/2002

2 letters, the first dated February 15, 2002, from Don Iwaschuk of Edson and the second dated January 17, 2002, from Marcus Lyon of Okotoks to Ms Carlson, Hon. Member for Edmonton-Ellerslie, both expressing opposition to the prohibition of off-highway vehicles in the Bighorn Recreation Area
Sessional Paper 247/2002

Letter dated January 4, 2002, from Duane Papke, Sunset Guiding and Outfitting Inc., to Hon. Mr. Klein, Premier, expressing opposition to the use of off-highway vehicles in the Bighorn Recreation Area and expressing support for the use of off-highway vehicles in restricted, less environmentally-sensitive areas
Sessional Paper 248/2002

3 letters dated February 5, 2002, from Tamaini Snaith, Shirley Bray, and Nigel Douglas of Calgary to Ms Carlson, Hon. Member for Edmonton-Ellerslie, requesting the Bighorn Wildland Recreation Area be designated as a wildland park
Sessional Paper 249/2002

Ms Blakeman, Hon. Member for Edmonton-Centre:

E-mail message dated April 10, 2002, from Deborah Evans, Acting Executive Director, Canadian Cancer Society, Alberta/NWT Division, to Ms Blakeman, Hon. Member for Edmonton-Centre, expressing opposition to the dissolution of the Community Lottery Boards and outlining how the program has supported cancer education and patients
Sessional Paper 250/2002

Letter dated April 9, 2002, from Doug Easterbook, President, and Shirley Anne, Director, Communications and Development, Storybook Theatre, to Mr. Lord, Hon. Member for Calgary-Currie, expressing concerns regarding, and opposition to, the dissolution of the Community Lottery Boards
Sessional Paper 251/2002

Letter dated April 15, 2002, from Karen Pirie, Co-Chair, Board of Directors, Women's Centre, to Ms Blakeman, Hon. Member for Edmonton-Centre, requesting support for the reinstatement of the Community Lottery Boards
Sessional Paper 252/2002

Letter dated April 3, 2002, from Shauna Kennedy, Production Coordinator, Emmedia, to Hon. Mr. Klein, Premier, expressing opposition to the closure of the Calgary Community Lottery Board and requesting the decision be reversed
Sessional Paper 253/2002

Letter dated April 15, 2002, from Danielle French of Okotoks to Ms Blakeman, Hon. Member for Edmonton-Centre, expressing concerns regarding the dissolution of the Community Lottery Boards
Sessional Paper 254/2002

Dr. Taft, Hon. Member for Edmonton-Riverview:

E-mail message dated April 15, 2002, from Todd Tanasichuk of St. Paul to Dr. Taft, Hon. Member for Edmonton-Riverview, requesting that Hon. Mrs. Nelson, Minister of Finance, make an apology to all Catholic Albertans regarding her recent comments made concerning Bishop Henry
Sessional Paper 255/2002

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

Petition signed by 13 Albertans expressing concerns regarding, and opposition to, the Government's public emergency declaration forcing teachers back to work
Sessional Paper 256/2002

E-mail message from Phillip H. Walker of Edmonton to Members of the Legislative Assembly regarding comments made by Hon. Mrs. Nelson, Minister of Finance, concerning Reverend Henry, Bishop of Calgary, and demanding Mrs. Nelson's resignation
Sessional Paper 257/2002

Dr. Pannu, Hon. Member for Edmonton-Strathcona:

Letter dated March 21, 2002, from Diana Williams, President, Canadian Federation of University Women, Lethbridge Club, to Dr. Pannu, Hon. Member for Edmonton-Strathcona, expressing concerns regarding the public education system and opposition to Bill 12, Education Services Settlement Act
Sessional Paper 258/2002

Mr. Mason, Hon. Member for Edmonton-Highlands:

Document, undated, entitled "Message for Deputy Ministers to share with their staff" regarding Bill 12, Education Services Settlement Act
Sessional Paper 259/2002

Rev. Abbott, Hon. Member for Drayton Valley-Calmar:

Copy of a petition signed by 444 Albertans requesting changes to the Mental Health Act, with several related attachments, prepared by the Schizophrenia Society of Alberta Legal Review Action Committee

Sessional Paper 260/2002

Mrs. Ady, Hon. Member for Calgary-Shaw:

E-mail message dated April 16, 2002, from Lynn Berry, Chair, South Calgary High School Steering Committee, to Mrs. Ady, Hon. Member for Calgary-Shaw, expressing opposition to the suspension of capital projects funding for the South Calgary High School

Sessional Paper 261/2002

E-mail message dated April 16, 2002, from Mark McMillan, South Calgary High School Youth Committee, to Mrs. Ady, Hon. Member for Calgary-Shaw, expressing the need for a high school in south Calgary

Sessional Paper 262/2002

Hon. Mr. Kowalski, Speaker of the Legislative Assembly:

Letter dated April 15, 2002, from Dr. Nicol, Hon. Leader of the Official Opposition, to Hon. Mr. Kowalski, Speaker of the Legislative Assembly, requesting that Dr. Nicol's second supplemental question to his third main question asked on April 15, 2002, be withdrawn

Sessional Paper 263/2002

Speaker's Ruling - Point of Privilege - Contempt

The Chair is prepared to rule on the purported question of privilege raised by the Official Opposition House Leader and Member for Edmonton Ellerslie. In a nutshell, the Honourable Member alleges that the Government is in contempt of the Assembly for not complying with the terms of section 42 of the Financial Administration Act concerning certain arrangements about the Swan Hills waste treatment plant.

Notice was given by the Member last Thursday, April 11, 2002, after the first set of questions by the Leader of the Official Opposition on this subject. As Members should know, questions of privilege must be raised at the earliest opportunity. The Member followed the procedure in Standing Order 15(5) which provides a question of privilege may be raised "after the words are uttered or the events occur giving rise to the question."

Frankly, the Chair cannot see what there was in the responses by the Premier or the Minister of Finance on that day giving rise to a question of privilege as opposed to the previous day but, in light of my ruling, it is not of much consequence.

In support of her application that day, the Honourable Opposition House Leader tabled some material concerning the financial activities surrounding the Government's involvement with the plant. She also tabled a page from the book by Marleau and Montpetit, *House of Commons: Procedure and Practice* concerning contempt.

Yesterday, the Minister of Finance provided some information on the plant and disputed the Member's interpretation of section 42 of the Act indicating that the section had not been breached.

At a minimum, for there to be a *prima facie* question of privilege, there would have to be some link to the proceedings of the Assembly to demonstrate how a Member's rights were interfered with. While there was much attention devoted to the financial arrangements of the plant, there was not much authority cited as to how the complaint would constitute a contempt.

The Chair will not read the entire section 42 of the Financial Administration Act but subsection (2) requires there to be specific authorization by legislation or regulation before entering into a joint venture, partnership or giving a loan or purchasing shares.

Subsection (3) restricts a member of Executive Council from introducing in the Assembly an appropriation Bill or estimates that would involve the Crown entering into any of the relationships the Chair just mentioned without specific authorization.

Clearly, the Chair is being asked to give a legal ruling on this matter. It is not a matter of procedure but rather a matter of deciding whether the Crown has met its legal obligations. The authorities are quite clear that it is not the Chair's role to interpret legislation that does not involve the procedures of the Assembly. Beauchesne's paragraph 31(9) states: "The failure of the Government to comply with the law is not a matter for the Speaker but should be decided by the courts." The Chair would also refer Members to Joseph Maingot's book, *Parliamentary Privilege in Canada* (2nd edition) at page 180.

As Speaker Fraser said in the House of Commons on February 5, 1992 at page 6,426 of Debates, "Speakers do not interpret or enforce matters of statutory law."

Of course there is an exception when the statute refers to the procedures in the Assembly but that is not the case here.

Likewise, it is not the Chair's role to rule on the legality of the contents of the estimates in terms of whether they comply with statutory preconditions. That too is a question of law.

Accordingly, there is no *prima facie* question of privilege.

Point of Privilege

The Speaker advised that Dr. Nicol, Hon. Leader of the Official Opposition, was away on official business and would not be in the Assembly today to respond to the purported point of privilege raised the previous day by the Hon. Deputy Premier.

Pursuant to Standing Order 15(4), the Speaker then invited Hon. Mrs. McClellan, Deputy Premier, to make comments on the issue.

The Speaker also heard from Mr. Mason.

ORDERS OF THE DAY

Government Bills and Orders

Unanimous Consent - Standing Order 58(4)

Hon. Mr. Stevens, Deputy Government House Leader, requested and received the unanimous consent of the Assembly to waive Standing Order 58(4) to allow the afternoon's consideration of the estimates for the Department of Sustainable Resource Development to go beyond two hours, with the vote on those estimates to take place no later than 5:15 p.m., or sooner if no one wished to speak.

Committee of Supply (Day 9 — Main Estimates)

According to Order, the Assembly resolved itself into Committee of Supply.

(Assembly in Committee)

And after some time spent therein, the Acting Speaker assumed the Chair and Mr. Maskell reported as follows:

Mr. Speaker:

The Committee of Supply has had under consideration certain resolutions, reports as follows, and requests leave to sit again:

Resolved that a sum not exceeding the following be granted to Her Majesty for the fiscal year ending March 31, 2003, for the Department and purposes indicated:

Sustainable Resource Development

\$184,476,000 Operating Expense and Capital Investment

Mr. Speaker, I would like to table copies of documents tabled by Ms Carlson, Hon. Member for Edmonton-Ellerslie, during Committee of Supply consideration of the Estimates of the Department of Sustainable Resource Development:

Letter dated January 21, 2002, from Tom Felt of Ferintosh to Hon. Mr. Klein, Premier, Ms Carlson, Hon. Member for Edmonton-Ellerslie, Dr. Pannu, Hon. Member for Edmonton-Strathcona, Hon. Mr. Cardinal, Minister of Sustainable Resource Development, Hon. Dr. Taylor, Minister of Environment, Hon. Mr. Lund, Minister of Infrastructure, and Bob Fessenden, Deputy Minister, Sustainable Resource Development, expressing opposition to the prohibition of off-highway vehicles in the Bighorn Recreation Area

Sessional Paper 264/2002

2 letters dated January 26, 2002, from Inga Witzler and Horst H. Witzler of Fallis, and 1 letter dated January 24, 2002, from J. Green of Calgary to Hon. Mr. Klein, Premier, expressing concern regarding the prohibition of motorized vehicles in wildland parks

Sessional Paper 265/2002

Letter dated February 5, 2002, from Margaret A. Main of Calgary to Ms Carlson, Hon. Member for Edmonton-Ellerslie, expressing support for the prohibition of motorized recreational vehicles in the Bighorn Wildland Area and requesting it be designated as a wildland park

Sessional Paper 266/2002

The question being put, the report and the request for leave to sit again were agreed to.

Adjournment

On motion by Hon. Mr. Hancock, Government House Leader, it was agreed at 5:15 p.m. that when the Assembly reconvened at 8:00 p.m. it would be in Committee of Supply and the Acting Speaker left the Chair.

TUESDAY, APRIL 16, 2002 — 8:00 P.M.

Committee of Supply (Day 10 — Main Estimates)

(Assembly in Committee)

And after some time spent therein, the Deputy Speaker assumed the Chair and Mr. Johnson reported as follows:

Mr. Speaker:

The Committee of Supply has had under consideration certain resolutions, reports as follows, and requests leave to sit again:

Resolved that a sum not exceeding the following be granted to Her Majesty for the fiscal year ending March 31, 2003, for the Department and purposes indicated:

Infrastructure

\$847,109,000 Operating Expense and Capital Investment

The question being put, the report and the request for leave to sit again were agreed to.

Government Bills and Orders

Committee of the Whole

According to Order, the Assembly resolved itself into Committee of the Whole, and the Deputy Speaker left the Chair.

(Assembly in Committee)

And after some time spent therein, the Deputy Speaker resumed the Chair.

The following Bill was reported:

Bill 11 Energy Information Statutes Amendment Act, 2002 — Mr. Strang

Second Reading

On the motion that the following Bill be now read a Second time:

Bill 23 Municipal Government Amendment Act, 2002 — Mr. VanderBurg

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

Adjournment

On motion by Hon. Mr. Hancock, Government House Leader, the Assembly adjourned at 10:47 p.m. until Wednesday, April 17, 2002, at 1:30 p.m.

Hon. Ken Kowalski,
Speaker

Title: Tuesday, April 16, 2002