



**Legislative Assembly
Province of Alberta**

No. 37

VOTES AND PROCEEDINGS

Third Session

Twenty-Fifth Legislature

Wednesday, April 30, 2003

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

Recognitions

Mr. Hutton, Hon. Member for Edmonton-Glenora: Isadore Burstyn for organizing the construction of the Holocaust memorial placed on the grounds of the Alberta Legislature at a ceremony commemorating Holocaust Memorial Day on April 29, 2003

Mr. Johnson, Hon. Member for Wetaskiwin-Camrose: Leaders of Tomorrow Awards recipients and nominees from the Wetaskiwin-Camrose constituency

Ms Blakeman, Hon. Member for Edmonton-Centre: Canadian Hepatitis C Activist Network

Mrs. Jablonski, Hon. Member for Red Deer-North on behalf of Mr. Coutts, Hon. Member for Livingstone-Macleod (Minister of Government Services): 100th anniversary of the Frank Slide

Mrs. O'Neill, Hon. Member for St. Albert: Octagon Club of Paul Kane High School and teacher Dale Smith for honouring St. Albert high school students at the 2003 Youth Appreciation Night on April 23, 2003

Mr. Danyluk, Hon. Member for Lac La Biche-St. Paul: Portage College sports and education fund-raiser dinners held in St. Paul and Lac La Biche on April 25 and 26, 2003

Mr. Mason, Hon. Member for Edmonton-Highlands: May Day movement and May Week, April 28 to May 10, 2003

Presenting Petitions

Dr. Pannu, Hon. Member for Edmonton-Strathcona, presented a petition from 126 Albertans requesting legislation enabling grandparents to maintain ongoing contact with their grandchildren.

Notices of Motions

Mr. Mason, Hon. Member for Edmonton-Highlands, gave oral notice of his intention to raise a purported question of privilege under Standing Order 15 regarding the decision of the Minister of Human Resources and Employment and all Government Members of the Standing Committee on Public Accounts to boycott the Public Accounts Committee meeting scheduled for April 30, 2003.

Tabling Returns and Reports

Hon. Mr. Zwozdesky, Minister of Community Development:

Letter dated April 30, 2003, from Hon. Mr. Zwozdesky, Minister of Community Development, to Fred Bradley, President, Crowsnest Historical Society, offering congratulations for assisting with the organization of the commemoration of the 100th anniversary of the Frank Slide

Sessional Paper 435/2003

Hon. Mr. Stelmach, Minister of Transportation:

Return to Order of the Assembly MR11, asked for by Mr. Bonner on March 10, 2003:

A copy of the Department of Transportation policy on its contract management process

Sessional Paper 436/2003

Mr. Lord, Hon. Member for Calgary-Currie:

Report, undated, entitled "For the Good of the People: Using Public-Private Partnerships to Meet America's Essential Needs" prepared by the National Council for Public-Private Partnerships

Sessional Paper 437/2003

National Council for Public-Private Partnerships web page article entitled “How Partnerships Work”

Sessional Paper 438/2003

Report, undated, entitled “Why Don’t They Understand?” prepared by Eugene A. Schiller, Deputy Executive Director, Southwest Florida Water Management District, outlining observations regarding state and local public-private partnerships

Sessional Paper 439/2003

Ms Blakeman, Hon. Member for Edmonton-Centre:

Letter, undated, from Bill Buckels, Secretariat, Canadian Hepatitis C Activist Network, to Hon. Mr. Klein, Premier, requesting May be declared Hepatitis C Awareness Month and May 1, 2003 be declared Hepatitis C Awareness Day

Sessional Paper 440/2003

Letter, undated, from Bill Buckels, Vice President, Hepatitis C United Resource Exchange, to the Legislative Assembly of Alberta, requesting support for the declaration of May as Hepatitis C Awareness Month and May 1, 2003 as Hepatitis C Awareness Day

Sessional Paper 441/2003

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

3 postcards signed by Antje A. T. Espinaco-Virseda, Pat Stryker, and Ian Mercer, all of Edmonton to Dr. Taft, Hon. Member for Edmonton-Riverview, expressing concern regarding a lack of education funding

Sessional Paper 442/2003

Ms Carlson, Hon. Member for Edmonton-Ellerslie:

Document, undated, untitled, expressing concern regarding wildlife on public lands, prepared by Sundre Fish and Game

Sessional Paper 443/2003

Dr. Massey, Hon. Member for Edmonton-Mill Woods:

Document, undated, untitled, listing funding losses and per student operating grants for the years 1992/93 to 2002/03 at the University of Alberta and the University of Calgary

Sessional Paper 444/2003

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

Report dated October 9, 2002, entitled “Edmonton Police Service Perspective on Equitable Relationship” prepared by David Howatt, Edmonton Police Service, outlining provincially mandated police services and their associated costs

Sessional Paper 445/2003

Point of Privilege

The Speaker heard comments from Mr. Hutton, Mr. MacDonald, Hon. Mr. Hancock, Ms Carlson, and Mr. Horner concerning the purported question of privilege raised by Mr. Hutton on April 29, 2003.

Speaker's Ruling - Point of Privilege

The Chair is prepared to rule on the purported question of privilege raised by the Member for Edmonton-Glenora yesterday concerning the comments made by the Member for Edmonton-Gold Bar.

First, notice of the purported question of privilege was given by the Member for Edmonton-Glenora on the evening of Monday, April 28, found at page 1259 of Hansard. The Member also provided written notice to the Speaker's Office yesterday morning of his intention to raise a question of privilege. Accordingly, the notice requirements of Standing Orders 15(2) and (5) have been met. The Chair finds that this matter was raised in a timely fashion.

The subject of the purported question of privilege arises from the Member for Edmonton-Gold Bar's comments made on Monday at pages 1239 and 1240 of Hansard. In essence, the Member for Edmonton-Gold Bar's purported question of privilege was that the presence of a document in the possession of the Member for Edmonton-Glenora constituted a contempt of the Assembly. The Chair does not intend to discuss the contents of the document which is generally agreed to be objectionable. At pages 1243 and 1244 of Hansard for that day, the Chair held that there was no prima facie case of privilege.

The Chair wants to note that the Honourable Member for Edmonton-Glenora had no advance notice of the nature of the purported question of privilege. Nevertheless, he chose to have the matter decided on Monday. At page 1241 of Hansard he indicated that he found the document "repugnant and offensive." He said that "what I did with the document was throw it in the trash." Despite the Honourable Member's uncontroverted statement, there was no apology or retraction from the Member for Edmonton-Gold Bar.

In raising his question of privilege yesterday, the Member for Edmonton-Glenora argued that he felt "intimidated and harassed" by the Member for Edmonton-Gold Bar's comments. By extension, he is arguing that the words constituted an improper obstruction to him performing his parliamentary work, which is part of the classic test for a breach of privilege found at page 14 of Joseph Maingot's *Parliamentary Privilege in Canada* (2nd edition). Members may recall that on Monday afternoon prior to hearing the question of privilege from the Member for Edmonton-Gold Bar, the Chair specifically warned Members from making any allegations impugning the reputation or motives of a Member, yet here we are.

Members may recall recent incidents involving unparliamentary language of such a nature that have given rise to a purported question of privilege. The Chair refers to rulings on May 28, 2001 at page 806 of Hansard and April 17, 2002 at pages 762-763 of Hansard. In both those rulings the Chair quoted Maingot where he says the following at page 254:

“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.”

On April 17, 2002, although there was not a prima facie case of privilege, the Leader of the Official Opposition apologized and the Deputy Premier accepted the apology.

It is true that Marleau and Montpetit state at page 86 that “The unjust damaging of a Member’s good name might also be seen as constituting an obstruction.” The example they give is from a May 5, 1987 ruling by Speaker Fraser of the Canadian House of Commons where he ruled that the Honourable Otto Jelinek’s ability to function as a Member had not been impaired by certain allegations involving conflict of interest.

The difficulty in this case is that if one dissects the comments from the Member for Edmonton-Gold Bar, there is not a specific phrase that is particularly unparliamentary. He accuses the Member for Edmonton-Glenora by association with the document. He states at page 1240 of Hansard for April 28, 2003:

“It is most inappropriate for hate propaganda to be floating around in this Assembly and in the parliamentary precincts, and it is most inappropriate for a Member of this Assembly to have possession of the same. Freedom of expression and speech does not give Members the right to be hateful.”

It appears to the Chair that the Member for Edmonton-Glenora’s case really relates to the Member for Edmonton-Gold Bar’s entire purported question of privilege which the Chair found not to be a prima facie question of privilege and expressed regret about it even being brought up. Frankly, the Chair found the innuendo odious.

Although the Member for Edmonton-Gold Bar did not directly say so, the conclusion one could draw from his purported question of privilege was that the Member for Edmonton-Glenora was, in some fashion, promoting discrimination. Despite the fact that any such notions were put to rest by the Member for Edmonton-Glenora, there was no apology forthcoming. Although the Member for Edmonton-Glenora has unmistakably clarified the record, the fact that he had to even address the issue is a matter of grave concern. There are few allegations that could be made against a Member that would be more damaging than that he or she was promoting or condoning discrimination. As the Chair has said over and over again, freedom of speech carries with it great responsibility. The events on Monday bring no honour to this Assembly, which is extremely regrettable, not just for the Chair, but for each and every Member of this Assembly.

The Chair will give the Honourable Member for Edmonton-Gold Bar one more chance to do the honourable thing and do a thorough apology.

Apology by Mr. MacDonald

Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, apologized for the fact that Mr. Hutton, Hon. Member for Edmonton-Glenora, was implicated in this matter and withdrew any remarks that in any way, shape, or form impugned the character of the Hon. Member for Edmonton-Glenora.

Speaker's Ruling

As the Chair did on April 17, 2002 at page 763 of Hansard, the Chair will quote from Speaker Schumacher's September 23, 1993 ruling where he said about what constitutes an apology:

“If a member intends to apologize for and withdraw any remark, whether as a result of a point of order or a question of privilege, the apology should be sincere and the withdrawal unequivocal.”

In light of this, is the apology offered by the Member for Edmonton-Gold Bar acceptable to the Member for Edmonton Glenora?

Mr. Hutton, Hon. Member for Edmonton-Glenora, stated he required an unconditional apology which he had not received.

Speaker's Ruling

All right then we shall proceed. The Chair finds that this is a very unusual situation where the incident that gave rise to this question of privilege was one Member complaining about documents in another Member's possession. While the Chair is not implying in the least any agreement to the document that was the subject of Monday's question of privilege, the Chair does not condone censorship in terms of what Members read. It is beyond dispute in the Chair's mind that the mere possession of a document hardly constitutes agreement or approval. Yet, this is precisely the impression left by the Member for Edmonton Gold Bar's comments on April 28, 2003. As the Chair has commented, there are few allegations that can be more detrimental to a Member's reputation than one of promoting or condoning discrimination. Furthermore, these allegations against the Member for Edmonton-Glenora have done nothing to raise the esteem of this Assembly in the eyes of the public.

The distinguishing feature of this question is that it is difficult to find a precise unparliamentary expression. It is the innuendo left by the entire speech.

The Chair finds it appropriate to quote from Maingot at 227 where the following reference is made to a report of the U.K. Select Committee on Parliamentary Privileges:

“In the final analysis, in areas of doubt, the Speaker asks simply:

Does the act complained of appear at first sight to be a breach of privilege, or to put it shortly, has the Member an arguable point? If the Speaker feels any doubt on the question, he should leave it to the House.”

This is the situation the Chair finds itself in. Accordingly, the Chair finds that there is a prima facie question of privilege. It is up to the Members of the Assembly to determine whether a case of breach of privilege is ultimately made out. Under Standing Order 15(6) any Member may give notice of a motion not later than the conclusion of the next sitting day. The Chair would strongly encourage Members to examine the traditions surrounding these motions.

Furthermore, the Chair would ask all Members to respect the process for addressing these matters in the House. It would be in keeping with parliamentary traditions and the respect owed this institution for comments to be made in this Assembly and its committees rather than outside it.

Notice of Motion Under Standing Order 15(6)

Hon. Mr. Hancock, Government House Leader, gave oral notice of his intention to move that the matter of the question of privilege raised on April 28, 2003 by Mr. Hutton, Hon. Member for Edmonton-Glenora, regarding comments made by Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, on April 28, 2003, be referred to the Standing Committee on Privileges and Elections, Standing Orders and Printing.

Point of Privilege

Mr. Mason, Hon. Member for Edmonton-Highlands, raised a purported question of privilege under Standing Order 15 regarding the decision of the Minister of Human Resources and Employment and all Government Members of the Standing Committee on Public Accounts to boycott the Public Accounts Committee meeting scheduled for April 30, 2003.

The Speaker heard from Hon. Mr. Hancock, Ms Blakeman, Hon. Mr. Dunford, and Mr. Shariff.

Speaker’s Ruling - Point of Privilege

The Chair wants to deal with this matter now. For the record, the Honourable Member provided notice to the Speaker’s Office this morning of his intention to raise his purported question of privilege relating to events that transpired this morning in relation to the Standing Committee on Public Accounts, so the requirements of Standing Order 15(2) have been met. I think I received notification around 10:00 a.m., 10:30 a.m., or something to that effect.

It has been cited now by several Members, but as all Members may be aware, there are a host of authorities on the procedure for raising as a question of privilege matters that arise in or from standing committees, and it's very, very clear. The Chair would like to refer the Members to Beauchesne's 6th edition at paragraph 107, where it clearly states that business of committees must be dealt with in committees, Marleau and Montpetit House of Commons Procedure and Practice at pages 128 and 129, and of course our own Standing Order 62(3). The bottom line is that there first must be a report by the committee before the House will address the question of privilege arising in the committee.

Now, having said that, this morning there was not a meeting of the committee, which makes the purported question of privilege akin to the situation of a tree falling in the forest and there being no one there to hear it.

Recently the Chair was in fact anticipating such things happening so has spent some time reviewing such rulings, so I had this available when it did arise this morning. On November 27, 2002, the Speaker of the House of Commons said this about a purported question of privilege about what went on in a committee at page 1950 of the Commons Debates for that day:

“In the present case the Speaker has been asked to reach into the proceedings of the committee to overturn something that was done there. Such requests have occurred on many occasions in the past and previous Speakers have, without exception, resisted the temptation to intervene.”

On numerous occasions in the past there have been issues that have arisen out of committee, Committee of Supply, or some other committee that the request was either the Deputy Speaker or the Deputy Chairman of Committees or others have said “well, we think it should come back into the Assembly and you should deal with it.” I have consistently looked at them and said “No. That remains the business of the committee, and that's where it should be dealt with.”

So there is no prima facie case of privilege. However, the Speaker wants to encourage all Members to work to ensure that the Public Accounts Committee continues its important work and sincerely hopes that a meeting will be scheduled according to the routine schedule, which presumably would be next Wednesday morning at 8:30 a.m.

ORDERS OF THE DAY

Committee of Supply (Day 16 — 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. Klapstein 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, 2004, for the Department and purposes indicated:

Children's Services

\$701,824,000 Operating Expense and Equipment/Inventory Purchases

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 5:17 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.

WEDNESDAY, APRIL 30, 2003 — 8:00 P.M.

Committee of Supply (Day 17 — Main Estimates)

(Assembly in Committee)

And after some time spent therein, the Deputy Speaker assumed the Chair and Mr. Lougheed 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, 2004, for the Department and purposes indicated:

Transportation

\$924,118,000 Operating Expense and Equipment/Inventory Purchases

\$372,080,000 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 Bills were reported:

Bill 10 Health Information Amendment Act, 2003 — Hon. Mr. Mar

Bill 12 Financial Sector Statutes Amendment Act, 2003 — Mr. Magnus

Bill 20 Alberta Municipal Financing Corporation Amendment Act, 2003 —
Mr. Hlady

Adjournment

On motion by Hon. Mr. Hancock, Government House Leader, the Assembly adjourned at 10:37 p.m. until Thursday, May 1, 2003, at 1:30 p.m.

Hon. Ken Kowalski,
Speaker

Title: Wednesday, April 30, 2003