



**Legislative Assembly  
Province of Alberta**

No. 62

## **VOTES AND PROCEEDINGS**

First Session

Twenty-Eighth Legislature

---

Thursday, October 31, 2013

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

### **Members' Statements**

Mrs. Sarich, Hon. Member for Edmonton-Decore, made a statement recognizing the 25th anniversary of St. Michael's Health Group Millennium Pavilion.

Ms Smith, Hon. Leader of the Official Opposition, made a statement regarding the Government's announcement on October 31, 2013, to strike a task force to seek input regarding Bill 28, Modernizing Regional Governance Act.

Mr. Goudreau, Hon. Member for Dunvegan-Central Peace-Notley, made a statement regarding the introduction of several pieces of legislation supporting the Government's commitment to building Alberta.

Ms Kennedy-Glans, Hon. Member for Calgary-Varsity, made a statement regarding a review of natural gas in Alberta currently being undertaken by the all-party Standing Committee on Resource Stewardship.

Mr. Lemke, Hon. Member for Stony Plain, made a statement regarding the Blueberry Bluegrass and Country Music Society Festival held in Stony Plain every August.

Dr. Brown, Hon. Member for Calgary-Mackay-Nose Hill, made a statement regarding the 200th anniversary of the War of 1812.

## Tabling Returns and Reports

Mr. Bilous, Hon. Member for Edmonton-Beverly-Clareview:

Petition signed by 615 Albertans urging the Government to immediately reverse harmful cuts to community access programs for persons with developmental disabilities

Sessional Paper 1026/2012-13

Mr. Eggen, Hon. Member for Edmonton-Calder:

Letter dated March 22, 2013, from Stephen Frank, Vice President, Policy Development and Health, Canadian Life and Health Insurance Association, Inc., to Michele Evans, Executive Director, Pharmaceutical Funding and Guidance, Alberta Health, submitting questions regarding the proposed new pharmacare program for Alberta

Sessional Paper 1027/2012-13

Ms Blakeman, Hon. Member for Edmonton-Centre:

Email message dated May 6, 2013, from Chris Ford of Edmonton to Hon. Ms Redford, Premier, expressing concern regarding a worker's right to refuse unsafe work and the treatment of a guard at the Edmonton Remand Centre who reported unsafe working conditions

Sessional Paper 1028/2012-13

Mr. Bikman, Hon. Member for Cardston-Taber-Warner:

Letter, undated, from Miles Pavka to the "Editor" proposing changes to the electoral boundaries in the Taber area

Sessional Paper 1029/2012-13

Letter, undated, from Burnell Bennett of Taber to Mr. Bikman, Hon. Member for Cardston-Taber-Warner, suggesting he should be able to vote in each of the two jurisdictions in which he owns land

Sessional Paper 1030/2012-13

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

Letter dated October 29, 2013, from Ms Cusanelli, Hon. Member for Calgary-Currie, to Hon. Mr. Zwozdesky, Speaker of the Legislative Assembly, requesting early Committee of the Whole consideration of Bill 206, Tobacco Reduction (Flavoured Tobacco Products) Amendment Act, 2012

Sessional Paper 1031/2012-13

## **Privilege – Public Advertising of a Bill**

While I have the floor, Honourable Members, I wish to comment on the point of privilege that was raised two days ago. I have given this matter considerable review, and I am prepared to now rule on the purported question of privilege raised by the Hon. Member for Lac La Biche-St. Paul-Two Hills two days ago in this Assembly. The purported question of privilege concerns information that was released about Bill 32, the Enhancing Safety on Alberta Roads Act, prior to its introduction in this Assembly, and the advertising that occurred with respect to that same Bill. In fact, the Bill was on notice and was printed in the early Order Paper that was published last Friday. That notice, is what I'm saying, was printed.

It was subsequently introduced in this Assembly during the afternoon session of October 29. At the outset I wish to note that the parliamentary requirements found in Standing Order 15(2) for bringing this purported question of privilege were met, since notice was received in my office at 11:24 a.m. on October 29, 2013. In short, this matter was raised at the earliest opportunity, and I was advised at least two hours prior to the commencement of that day's sitting.

Several points were outlined by the Member for Lac La Biche-St. Paul-Two Hills when he spoke on October 29 in this Assembly. Those points are in our recorded Hansard proceedings on page 2528, wherein he said amongst many other things the following:

We had seen a sign, obviously in the orange and blue colours, displayed publicly outlining Bill 32. We've seen press releases and public statements outlining the details of Bill 32. We know, of course, that Bill 32 was on the Order Paper yesterday, Mr. Speaker, and it was not yet introduced until earlier today.

During the item called Tabling Returns and Reports in our Daily Routine, that same Member tabled three documents related to his purported question of privilege and they are listed as Sessional Papers 1001, 1002, and 1003/2012-13. The first document is an article from the October 29, 2013, Sherwood Park News, entitled "Bill for playground zones announced." The second document is a picture of a coloured sign on what appears to be a wire fence, which contains the words, Building Alberta: Enhancing Safety on Alberta's Roads (Bill 32). The third document, entitled "School and playground zones could soon be harmonized," appears to be an article of some sort but no publication name and no source is immediately evident on the tabling. I have reviewed all of those documents very carefully.

In his notice of his purported question of privilege, which he read into the record two days ago in this Assembly and which is recorded at page 2528 of our Alberta Hansard, the Member for Lac La Biche-St. Paul-Two Hills alleged that, “the Government deliberately prevented the Members of the Legislative Assembly from fulfilling their duty and as such breached the rights of the Members of the Legislative Assembly and thereby committed a contempt.” The Chair interprets this statement to suggest that this Member’s ability to perform his duties was violated by the Government’s actions with respect to what occurred surrounding Bill 32 prior to its introduction in this House.

The Member for Lac La Biche-St. Paul-Two Hills and the Member for Edmonton-Strathcona both indicated that this matter could be characterized as a form of contempt. In a ruling that I made on May 29, 2012, and about which I will say more shortly, I cited the definition of “contempt,” as found on page 82 of House of Commons Procedure and Practice, second edition, and that definition, just to remind you all, reads as follows,

It is important to distinguish between a “breach of privilege” and a “contempt of Parliament.” Any disregard of or attack on the rights, powers, and immunities of the House and its Members, either by an outside person or body, or by a Member of the House, is referred to as a “breach of privilege” and is punishable by the House. There are, however, other affronts against the dignity and authority of Parliament which may not fall within one of the specifically defined privileges. Thus, the House also claims the right to punish as a contempt any action which, though not a breach of a specific privilege, tends to obstruct or impede the House in the performance of its functions; obstructs or impedes any Member or officer of the House in the discharge of their duties; or is an offence against the authority or dignity of the House, such as disobedience of its legitimate commands or libels upon itself, its Members, or its officers.

Of course, much of the discussion two days ago focused on former Speaker Kowalski’s finding of March 5, 2003, wherein he did find a prima facie case of privilege when the Government held a technical briefing on a Bill that was on the Order Paper but had not yet been introduced. That ruling is found on pages 303, 304, and 305 of Alberta Hansard for that day. It was a ruling, I should add, that followed closely the ruling of Speaker Milliken in the Canadian House of Commons on March 19, 2001, concerning a detailed briefing on a Bill which was on notice but had not yet been introduced in Parliament in Ottawa. Speaker Milliken found that there was a prima facie question of privilege in that case.

Both of these aforementioned rulings were raised and commented on extensively by Members in this Assembly two days ago. For everybody’s reference, Speaker Milliken’s ruling is discussed on page 85 of the House of Commons Procedure and Practice, second edition.

Of course, as part of my review since Tuesday I also noted that no one mentioned a later ruling made only 17 months ago in this Assembly concerning the same subject. In fact, it was my first ruling on a question of privilege, and it was delivered here on May 29, 2012. It can be found on pages 58 and 59 of Alberta Hansard for that day. In that case the Member for Edmonton-Strathcona raised a similar purported question of privilege concerning Bill 1, and she alleged that information about that Bill was provided to the media prior to the Bill's introduction in this Assembly, thereby constituting, in her opinion, a contempt of the Assembly.

An added element in that application was that opposition staff were denied entry to the press conference at which the information was provided. At that time and after a very thorough review of the facts and evidence available, I concluded that there was not a prima facie question of privilege. However, I also stressed the importance of ensuring that Members are the first to see proposed legislation in its final form before a Bill is disclosed to outside parties. That quote appears on page 58 of Alberta Hansard from May 29, 2012, and the key point there is: in its final form. At that time and also as with the case before us today, there was no factual basis to actually conclude that explicit and verbatim details or provisions of the Bill were disclosed. Accordingly, it was held that the Member's ability to perform her functions in that instance had not been impeded.

I would like to point out that not every statement about a Bill that is on notice will automatically lead to and qualify for a prima facie case of privilege. In fact, Speaker Milliken came to this same conclusion in a November 5, 2009, ruling concerning comments made by a federal Minister at a press conference. In that particular case, it was held and noted that the Minister had not disclosed details of a Bill yet to be introduced since he had only discussed in broad terms the policy initiative proposed in the Bill. Similarly, Speaker Milliken found there was no impact on a Member's ability to perform his or her duty in a parliamentary ruling that he made on March 22, 2011, which can be found at page 9113 of House of Commons debates for that day.

Turning to the case before us today, there is no allegation and indeed there is no proof that the actual Bill, Bill 32, in its final form, was provided to the media or to any outside entity prior to its introduction in this Assembly two days ago; neither was any evidence found in that respect.

Now, with respect to the advertising aspect of this situation, it is difficult to conclude on the basis of a picture of one sign that the Government had disregarded the Assembly's role in passing legislation. The fact that the sign refers to Bill 32, rather than the specific name of the act, could be taken as a further indication that the Minister was not treating the proposals a fait accompli. The Minister of Transportation did note that the news release issued by the Government was prefaced with the words "if passed." However, that news release was not tabled. Accordingly, the Chair does not find that there is a sufficient factual basis to find that the actions of the Minister constitute a contempt of this Assembly. In other words, the physical letter of the law has not been broken, but, I submit, the spirit of the law has been negatively affected.

In the Chair's view, this matter should not have even arisen in the first place. The rulings of previous Speakers as well as my own ruling regarding similar matters clearly stand for the proposition that the Assembly is entitled to be the first to know the detailed contents of a Bill in its final form after it has been placed on notice.

Although the activities of the Government in this case did not amount to a prima facie question of privilege, I want to caution all Members to remember this. If there are future briefings when a Bill is on notice in this Assembly, it will likely not be long before a different result and a different ruling ensues. Furthermore, in my view, any pre-advertising about the nature of a Bill must be undertaken very, very cautiously, if it is undertaken at all, so as to not create any impression that the contents of the Bill are already law when the Assembly has not even seen the Bill yet, much less debated it and passed it.

In this respect, Members may wish to examine the decision of the Ontario Speaker in 1997 when the government of the day advertised a certain Bill as if it had already been passed. In this respect, please visit Ontario Hansard of January 22, 1997, at pages 6441 through 6443. Finally, I would ask that Ministers in particular review the commitments made in previous years, notably in 2003 and last year on May 28, about not disclosing the final form contents of Bills on notice, about embargoed briefings, and about ensuring that opposition caucuses are briefed.

The Chair does not want to create an impression that the restriction on providing information about Bills on notice has been reduced. I merely wish to note that, whether by design or accident, the information provided by the Member raising the question of privilege did not meet the standard necessary for a finding of a prima facie question of privilege in the case before us today.

Your Speaker and this entire Assembly would no doubt be highly comforted if the Government House Leader or someone on the Government side was able to provide even greater assurance that the role and authorities of this Assembly will continue to be strictly respected and that the priority of Members to be first to learn of the final contents of any Bills when they are placed on notice will also be respected. By following this expectation, Members will not be put in the awkward position of feeling that they were being denied information that has been provided to others. If one is wondering about which principles apply to a situation like this in the future, one can look to former Speaker Kowalski's March 5, 2003, ruling at page 304 of Alberta Hansard, where he quotes Speaker Millikenn's 2001 ruling in relation to the federal context, but which should not be too hard to translate into the Alberta context.

The convention of the confidentiality of Bills on notice is necessary, not only so that Members themselves may be well informed, but also because of the pre-eminent role which the House plays and must play in the legislative affairs of the nation.

The Chair sincerely hopes that we will not have to visit or revisit this issue again in the near future. This case is now closed.

## ORDERS OF THE DAY

### Government Bills and Orders

#### Second Reading

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

Bill 31 Protecting Alberta's Environment Act (\$) — Hon. Mrs. McQueen

A debate followed.

Mr. Bilous, Hon. Member for Edmonton-Beverly-Clareview, on behalf of Mr. Mason, Hon. Member for Edmonton-Highlands-Norwood, moved that the motion be amended by deleting all the words after "that" and substituting the following:

Bill 31, Protecting Alberta's Environment Act, be not now read a Second time because the Legislative Assembly believes that the Bill fails to provide for unbiased, effective and accountable independent monitoring in a comprehensive manner, which includes consultation with the full range of affected groups.

A debate followed on the amendment.

Debate adjourned on the amendment, Ms Blakeman speaking.

#### Adjournment

Pursuant to Standing Order 4(2), the Assembly adjourned at 4:30 p.m. until Monday, November 4, 2013, at 1:30 p.m.

---

---

Hon. Gene Zwozdesky,  
Speaker

Title: Thursday, October 31, 2013