



**Legislative Assembly  
Province of Alberta**

No. 2

## **VOTES AND PROCEEDINGS**

Third Session

Twenty-Ninth Legislature

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Monday, March 6, 2017

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

### **Members' Statements**

Mr. Coolahan, Hon. Member for Calgary-Klein, made a statement regarding \$7.8 million in funding from Genome Canada to support a project, led by John Wolodko from the University of Alberta and Alberta Innovates, Technology Futures, and Lisa Grieg from the University of Calgary, that aims to decrease microbial decay in pipelines.

Mr. Cooper, Hon. Member for Olds-Didsbury-Three Hills, made a statement regarding how the Government's fiscal policies and program spending are affecting Albertans and Alberta businesses.

Mr. McIver, Hon. Leader of the Progressive Conservative Opposition, made a statement regarding the Government's fiscal policies and questioning how the Government will pay for its proposed reduction in school fees.

Ms Miller, Hon. Member for Red Deer-South, made a statement regarding an event hosted by Ms Miller and Mrs. Schreiner, Hon. Member for Red Deer-North, celebrating the birthdays of local seniors, held at the Golden Circle Senior Resource Centre in Red Deer on March 4, 2017.

Mr. Shepherd, Hon. Member for Edmonton-Centre, made a statement recognizing February 22, 2017, as Pink Shirt Day, which supports bullying prevention programs.

Mr. van Dijken, Hon. Member for Barrhead-Morinville-Westlock, made a statement regarding Rainbow for the Future, a charitable organization in the Barrhead-Morinville-Westlock constituency, that works to improve the lives of people in Ethiopia, and seeking pledges for a fundraiser hockey game Mr. van Dijken will take part in, to be held on March 17 and 18, 2017.

### **Notices of Motions**

Dr. Swann, Hon. Member for Calgary-Mountain View, gave oral notice of his intention to move, pursuant to Standing Order 30, to adjourn the ordinary business of the Assembly to discuss a matter of urgent public importance, namely, the growing number of deaths resulting from the epidemic of opioid abuse in Alberta, including the use of fentanyl, which now constitutes a state of emergency.

### **Tabling Returns and Reports**

Mr. Clark, Hon. Member for Calgary-Elbow:

Report dated February 2017 entitled “Pathway to Prosperity,” prepared by the Alberta Party, relating to comments made by Mr. Clark during Oral Question Period on March 6, 2017

Sessional Paper 2/2017

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

Letter dated January 31, 2017, from Hon. Mr. Wanner, Speaker of the Legislative Assembly, to Hon. Jacques Chagnon, Président de l’Assemblée Nationale, Québec, expressing sympathy concerning the tragic shooting in Québec City on January 30, 2017, with attached response from Hon. Mr. Chagnon dated February 15, 2017

Sessional Paper 3/2017

### **Tablings to the Clerk**

Clerk of the Assembly on behalf of Hon. Ms Ganley, Minister of Justice and Solicitor General, pursuant to Standing Order 52.09(1):

Response to the Standing Committee on Resource Stewardship recommendations from the Final Report, Review of the Alberta Property Rights Advocate Office 2014 Annual Report

Sessional Paper 4/2017

## **Privilege – Allegations Made by the Hon. Member for Calgary-Elbow**

Honourable Members, I am prepared to rule on the purported question of privilege raised in December. The Government House Leader raised the purported question of privilege on December 12, 2016, during question period, immediately following the Member for Calgary-Elbow's second supplementary question that day. The Government House Leader gave oral notice under Notices of Motions later that day of his intention to raise a question of privilege under Standing Order 15 regarding supposed allegations made by the Member for Calgary-Elbow about the Minister of what was then Human Services.

The Government House Leader made arguments to support his purported question of privilege later that same afternoon. These comments can be found on page 2507 of Alberta Hansard from that day. The Member for Calgary-Elbow and the Official Opposition House Leader made their arguments on the following day, December 13. Their remarks are found on pages 2584 to 2586 of the December 13, 2016, edition of Alberta Hansard.

Honourable Members, since the purported question of privilege was raised and argued, I have taken time to review Alberta Hansard and the parliamentary authorities on the matter.

On December 12, the Member for Calgary-Elbow made a comment during the preamble to his second supplementary question, the substance of which is as follows: The Minister's "inaction means that whoever murdered Serenity is walking free today ..."

I will note that Alberta Hansard has recorded the Member saying "inaction" and not "negligence," as was suggested on December 12 by the Government House Leader, as indicated at page 2500 of Hansard for December 12, 2016.

In his arguments, the Government House Leader said that the Member for Calgary-Elbow made an inappropriate allegation against the Minister for what was then Human Services. The Government House Leader also raised concerns about the impact of the Member's comment as, in his view, "it places the Minister in a very, very difficult position and may in fact threaten his very safety." He argued that the statements "represent a direct interference in the ability of Members on this side of the House to do their job," which he submitted "must be treated as a contempt of parliament."

Honourable Members, Joseph Maingot, on pages 230 to 231 of the second edition of his book *Parliamentary Privilege in Canada*, articulates the privileges and immunities of Members pertaining to freedom from obstruction, interference, and intimidation in their parliamentary duties. Maingot writes that:

Members are entitled to go about their parliamentary business undisturbed. The assaulting, menacing, or insulting of any Member on the floor of the House or while he is coming or going to or from the House, or on account of his behaviour during a proceeding in Parliament, is a violation of the rights of Parliament. Any form of intimidation ... of a person for or on account of his behaviour during a proceeding in Parliament could amount to contempt.

Maingot provides additional insights on page 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. Therefore, allegations of misjudgment, or mismanagement, or maladministration on the part of the minister in the performance of his ministerial duties do not come within the purview of parliamentary privilege.

Honourable Members, a very similar issue arose in this Assembly in 1998. On April 29, 1998, the then Member for Spruce Grove asked the following questions.

First supplementary:

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 supplementary:

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?

On November 16, 1998, the then Minister of Transportation and Utilities purported that his privileges as a Member of the Assembly were breached because the statements in the questions implied that he as a Member and a Minister of the Crown did not care about the lives of Albertans.

In his ruling on the purported question of privilege, Speaker Kowalski noted that it is the role of the Speaker to ensure that the language Members use complies with the rules of what is parliamentary language. But he added, quoting Maingot, second edition, on pages 254 and 255, that:

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.

Ultimately, Speaker Kowalski found that:

A question of privilege is ... 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 a 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.

Speaker Kowalski's ruling can be found on pages 1908 and 1909 of Alberta Hansard for November 17, 1998.

Honourable Members, I would also note two similar questions of privilege that were raised in this Assembly involving language that was allegedly unparliamentary. The first of these was raised on May 24, 2001. In his ruling on the matter, Speaker Kowalski found that the language used in a question posed by the Member for Edmonton-Highlands, the current Government House Leader, was likely unparliamentary, but it did not give rise to a valid question of privilege. That ruling can be found on pages 808 and 809 of the May 28, 2001, Hansard.

On April 19, 2007, an additional, similar purported question of privilege was raised, the basis for which is found on page 638 of Alberta Hansard for April 18, 2007. In his ruling, Speaker Kowalski quoted the passage from Maingot, which I have already noted and which states that language which impugns the integrity of a Member may be unparliamentary and a breach of order but is not a breach of privilege.

Furthermore, while Speaker Kowalski concluded that "it is unseemly to cast aspersions on Members," he ruled that there was no prima facie question of privilege. Speaker Kowalski's ruling is found on pages 679 and 680 of the April 19, 2007, edition of Alberta Hansard.

As were other Speakers, I am acutely aware that there must be a balance between the fundamental right of freedom of speech and the responsibility of Members to use language which befits the office of a Member of the Legislative Assembly of Alberta and which also complies with parliamentary rules and practices. In this instance, it could be argued that the language used was intemperate and unparliamentary. And it certainly caused disorder. Clearly, the remarks that the Member for Calgary-Elbow made could have been the subject of a point of order, but no point of order was raised.

As noted, the parliamentary authorities are clear. Uttering words that are unparliamentary is a breach of order but this is not enough to constitute a question of privilege. Furthermore, the standard applied in adjudicating a question of privilege in which it is purported that a Member has been obstructed in his or her duties is that the Member has been obstructed strictly in his or her capacity as a Member in his or her parliamentary work, not in his or her role as a Minister or caucus leader or other role.

I can find no evidence that the Member has been obstructed in such a way. Therefore, I can find no prima facie question of privilege.

And so I conclude by cautioning the Honourable Member – and all Honourable Members of this Assembly – to please be careful that the words they use conform to the parliamentary rules and practices. Do unto others and you would have them do unto you. I realize that rhetoric has become part of question period and debate, but Members must appreciate that the words they use should not lower the public's estimation of the Assembly.

This concludes the matter.

### **Motion for Adjournment for an Emergency Debate**

Dr. Swann, Hon. Member for Calgary-Mountain View, requested leave to move, pursuant to Standing Order 30, to adjourn the ordinary business of the Assembly to discuss a matter of urgent public importance, namely, the growing number of deaths resulting from the epidemic of opioid abuse in Alberta, including the use of fentanyl, which now constitutes a state of emergency.

A debate followed on urgency.

The Speaker ruled that the request for leave was in order. Leave being granted, the question was put to the Assembly. No Members opposed the question that the debate proceed. The Speaker called upon Dr. Swann, Hon. Member for Calgary-Mountain View, to speak to the matter.

A debate on the matter followed pursuant to Standing Order 30(5).

Mr. Rodney, Hon. Member for Calgary-Lougheed, requested and received the unanimous consent of the Assembly to waive Standing Order 3(1) to allow the Assembly to continue debate on this matter past 6:00 p.m. but not later than 6:30 p.m.

### **Adjournment**

The Assembly adjourned at 6:24 p.m. until Tuesday, March 7, 2017, at 10:00 a.m.

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Hon. Robert E. Wanner,  
Speaker

Title: Monday, March 6, 2017