



**Legislative Assembly
Province of Alberta**

No. 34

VOTES AND PROCEEDINGS

Third Session

Twenty-Ninth Legislature

Tuesday, May 16, 2017

The Acting Speaker took the Chair at 10:00 a.m.

Government Bills and Orders

Committee of the Whole

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

(Assembly in Committee)

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

The following Bill was reported:

Bill 13 Securities Amendment Act, 2017 — Hon. Min. Ceci

Progress was reported on the following Bill:

Bill 11 Public Interest Disclosure (Whistleblower Protection) Amendment Act, 2017 — Hon. Ms Gray

Mr. Hinkley, Acting Chair of Committees, tabled copies of an amendment considered by Committee of the Whole on this date for the official records of the Assembly.

Amendment to Bill 11 (A1) (Hon. Member for Vermilion-Lloydminster) —
Agreed to

Sessional Paper 271/2017

Adjournment

On motion by Mr. Westhead, Hon. Member for Banff-Cochrane, that it be called 12:00 p.m., the Assembly adjourned at 11:56 a.m. until 1:30 p.m.

TUESDAY, MAY 16, 2017 — 1:30 PM

ROUTINE

Members' Statements

Mr. Malkinson, Hon. Member for Calgary-Currie, made a statement regarding Sunalta, a diverse, welcoming, and inclusive community in Calgary.

Mr. Loewen, Hon. Member for Grande Prairie-Smoky, made a statement regarding federal and provincial government actions and policies that do not support Albertans.

Mr. Fraser, Hon. Member for Calgary-South East, made a statement regarding how the Government is using Oral Question Period to further its key messages and to attack the opposition rather than answering questions that concern Albertans.

Mr. Dang, Hon. Member for Edmonton-South West, made a statement recognizing May 2017 as Asian Heritage Month, and regarding diversity and inclusiveness in Alberta.

Ms McKittrick, Hon. Member for Sherwood Park, made a statement regarding the success of the Boys and Girls Club of Strathcona County.

Mr. Hanson, Hon. Member for Lac La Biche-St. Paul-Two Hills, made a statement regarding the Government's inconsistent stance on property rights and the defeat of Bill 204, Protection of Property Rights Statutes Amendment Act, 2017.

Notices of Motions

Hon. Mr. Mason, Government House Leader, gave oral notice of the following motion:

Be it resolved that Bill 205, Advocate for Persons with Disabilities Act, be moved to Government Bills and Orders on the Order Paper.

Introduction of Bills (First Reading)

Oral notice having been given May 15, 2017:

Bill 14 An Act to Support Orphan Well Rehabilitation —Hon. Ms McCuaig-Boyd

Tabling Returns and Reports

Hon. Mr. Sabir, Minister of Community and Social Services, pursuant to the Protection Against Family Violence Act, cP-27, s19(2):

Family Violence Death Review Committee, 2015/2016 Annual Report
Sessional Paper 272/2017

Mr. van Dijken, Hon. Member for Barrhead-Morinville-Westlock:

Email message dated May 16, 2017, from Rick Morrill, Onoway Liquor, to Mr. van Dijken, Hon. Member for Barrhead-Morinville-Westlock, regarding the poor condition of Highway 777

Sessional Paper 273/2017

Mr. Hanson, Hon. Member for Lac La Biche-St. Paul-Two Hills:

Document, undated, entitled “Your Land, Your Rights,” prepared by Alberta’s NDP Opposition, relating to comments made by Mr. Hanson during his Member’s Statement on May 16, 2017

Sessional Paper 274/2017

Hon. Ms McCuaig-Boyd, Minister of Energy:

Letter dated April 12, 2017, from Hon. Ms McCuaig-Boyd, Minister of Energy, to Hon. Marc Garneau, Minister of Transport, Government of Canada, expressing Alberta’s ongoing interest in Canada’s draft crude oil tanker moratorium on British Columbia’s North Coast

Sessional Paper 275/2017

Dr. Swann, Hon. Member for Calgary-Mountain View:

Excerpt of an Alberta Health Services document dated September 28, 2016, responding to a FOIP request for records concerning Pure North S’Energy Foundation (Pure North)

Sessional Paper 276/2017

Pamphlet, undated, entitled “Alberta, Code Violations: A summary of violations of the International Code of Marketing of Breastmilk Substitutes and subsequent relevant WHA Resolutions in 2011-2012,” prepared by the Alberta Breastfeeding Committee

Sessional Paper 277/2017

Letter dated May 15, 2017, from Jennifer Peddlesden, CBMG Political Action Committee, to Dr. Swann, Hon. Member for Calgary-Mountain View, regarding the International Code of Marketing of Breastmilk Substitutes and unethical baby formula marketing practices

Sessional Paper 278/2017

Letter dated April 18, 2017, from Dr. Swann, Hon. Member for Calgary-Mountain View, to Hon. Ms Hoffman, Deputy Premier, Minister of Health, requesting a review of advertising practices of pharmaceutical and baby formula companies
Sessional Paper 279/2017

Privilege – Conduct of the Minister of Children’s Services in the Assembly

I will at this point in time make a ruling on the point of privilege, which was raised by the House Leader for the Third Party on May 11, 2017. Honourable Members, on May 11 the House Leader for the Third Party raised a purported question of privilege with respect to statements made by the Minister of Children’s Services in Oral Question Period the previous day. He alleged that the Minister repeatedly delayed answering questions in this Assembly so that it could be shared first with the media. I have listened to the arguments with respect to this purported question of privilege, and I am now prepared to rule on this matter.

Dealing first with the procedural requirement under Standing Order 15(2), a Member wishing to raise a question of privilege must provide written notice containing a brief statement of the question to the Speaker and, where practicable, to any person whose conduct may be called into question, at least two hours before the opening of the afternoon sitting.

My office did receive a letter from House Leader for the Third Party on May 11 at 10:55 a.m., indicating he would be raising a question of privilege with respect to the Hon. Minister of Children’s Services later that afternoon. The letter does not indicate whether a copy was also provided to the Minister of Children’s Services or anyone else, nor is the basis for the purported question of privilege set out as required under Standing Order 15(2). Though my office did forward the notice to House Leaders, the onus as we move forward Honourable Members is on the Member raising the question to ensure that notice is provided to all parties involved.

The purpose of the notice requirement, in part, is to provide a Member implicated in a purported question of privilege with sufficient notice prior to the afternoon sitting to effectively respond to the allegation being raised, or to have another Member do so on their behalf. In this case all Members wishing to speak to this matter have been given the opportunity to prepare and make arguments, and I therefore find that the requirements under Standing Order 15(2) have been met. I would, however, urge all Members to keep in mind the purpose of the notice requirement, and I hope and would expect that it will be observed more carefully going forward.

As Members will know, when a purported question of privilege is raised in the Assembly it is the role of the Chair to determine whether there is a prima facie breach, in other words, whether there is a breach of privilege at first appearance. The House Leader for the Third Party indicated on May 11 that during Oral Question Period for the preceding day the Minister for Children's Services repeatedly refused to answer questions with respect to the child welfare system in Alberta and instead indicated she would share information with the media before giving it to Members. This refusal, he argued, prevented Members from discharging their duties as elected representatives and her actions were disrespectful to this Assembly.

The Minister of Justice and Solicitor General responded yesterday by referring to Beauchesne's, 6th Edition, at page 13, paragraph 31(10), which states that there is no precedent to justify the suggestion that Members are entitled as part of their parliamentary privilege to receive information ahead of the public. In short, the Government is expected to govern, and it is well within its rights to make announcements in public without first providing notice to this Assembly. The House Leader for the Official Opposition, for his part, noted that while the Government may not be required to provide answers to questions posed by the opposition, there may indeed be situations where a prima facie question of privilege could arise where a deliberate attempt is made to deny answers to an Honourable Member.

The statements made by the Minister of Children's Services that are at issue can be found starting at page 966 of Alberta Hansard for May 10, in which she states in response to the second main question from the Leader of the Official Opposition, "I will be speaking further to Albertans on this matter later this afternoon, but I want to remind Members that when people make statements without all the facts, inaccurate information is given to the public." In a following supplemental response, also found on page 966, the Minister again states: "I will be sharing more information about this matter this afternoon." Finally, in response to a question from the Member for Calgary-West, found at page 973, she states: "Mr. Speaker, again I will say that I am sharing more information for Albertans later this afternoon. I do want to continue to caution the Members of this House about making statements without the facts."

While the arguments made with respect to this matter have touched upon several different points, I find that the central issue being raised by this purported question is whether the dignity of the Assembly was offended as a result of the Minister's statements indicating she would share information about the child welfare system outside of this Assembly before providing it to Members.

As I have done previously, I will start by clarifying that the question being raised in this case is properly called a contempt, which is a form of a question of privilege. Speaker Zwozdesky commented on a somewhat similar question of contempt in connection with the disclosure of information in his ruling of November 7, 2013, which can be found at page 2845 of Alberta Hansard for that day. In that case, a concern was raised about a Government press release that was provided to select reporters detailing a decision to increase funding to post-secondary educational institutions. The former Member for Lac La Biche-St. Paul-Two Hills argued that selectively giving information to journalists, but otherwise refusing to make the information public prevented Members from discharging their duties both inside and outside of the Assembly.

In his decision Speaker Zwozdesky noted that Governments are at liberty to share information in whatever way they wish, provided that it is done within the rules and conventions of this House. The Government is not required to inform Members prior to a news conference or a policy announcement, despite the fact that it may be difficult for the opposition to respond and to comment. This is not necessarily a form of contempt.

Speaker Levac of the Ontario Legislative Assembly came to a similar conclusion on June 9, 2016, which can be found at page 9998 of Ontario Hansard, in response a question of privilege raised with respect to the Government's proposed climate change action plan. It was argued that the release of the plan to the media before its announcement or tabling in the House amounted to a contempt.

Noting that Ontario has no procedural rule requiring notice be given to the Assembly prior to the Government making a policy announcement, Speaker Levac found that a prima facie case of contempt could not be established.

In so ruling he emphasized the important role of the Legislative Assembly and its claim to be the first recipient of major announcements. Referencing his November 2, 2009, ruling, Speaker Levac stated:

I and my predecessors have repeatedly conveyed our deep concern about how these types of extra-parliamentary announcements erode the stature of Parliament. Speakers have repeatedly implored governments to consider the impact of this erosion and how it damages the reputation of the foundation institution of this province . . . In an ideal world where the legitimate and historic role of the Legislative Assembly, and specifically of the loyal opposition, were given first consideration, I expect that what a previous Speaker referred to as these types of 'administrative discourtesies' would not arise.

Returning to the matter at hand, while I must find there is no prima facie question of contempt with respect to this matter, I am troubled a bit by the suggestion that a Minister would be answering Members' questions at a media event instead of in this Assembly. Although there may not be a rule under which the Government is obligated to provide important and timely information to Members before disclosing it outside of this Assembly, it is a principle of responsible government that the Executive Branch is accountable to this Assembly.

It is incumbent upon all Members to respect our system of parliamentary democracy and demonstrate respect for this institution. Declining to share significant information in this place diminishes the reason we come together, and I would encourage Ministers of the Government to carefully consider the important role of this Assembly when deciding when to share information.

While Oral Question Period may not be the best forum to communicate complex and often sensitive policy decisions, I also want to note that Ministers have other means of providing information to this Assembly, such as Ministerial Statements, and I would encourage them to do so when appropriate.

I hope all Members carefully consider my comments today. This matter is now concluded.

ORDERS OF THE DAY

Government Bills and Orders

Committee of the Whole

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

(Assembly in Committee)

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

Progress was reported on the following Bill:

Bill 11 Public Interest Disclosure (Whistleblower Protection) Amendment Act, 2017 — Hon. Ms Gray

Mr. Hinkley, Acting Chair of Committees, tabled copies of an amendment considered by Committee of the Whole on this date for the official records of the Assembly.

Amendment to Bill 11 (A2) (Hon. Member for Calgary-Mountain View) —
Defeated

Sessional Paper 280/2017

Third Reading

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

Bill 8 An Act to Strengthen Municipal Government — Hon. Mr. S. Anderson

A debate followed.

Ms Kazim moved adjournment of the debate, which was agreed to.

Adjournment

On motion by Hon. Mr. Mason, Government House Leader, that it be called 6:00 p.m., the Assembly adjourned at 5:27 p.m. until Wednesday, May 17, 2017, at 9:00 a.m.

Hon. Robert E. Wanner,
Speaker

Title: Tuesday, May 16, 2017