



**Legislative Assembly  
Province of Alberta**

No. 23

**VOTES AND PROCEEDINGS**

Second Session

Thirtieth Legislature

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Monday, June 1, 2020

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

**Ministerial Statements**

Hon. Ms Pon, Minister of Seniors and Housing, made a statement recognizing Seniors' Week.

Ms Hoffman, Hon. Member for Edmonton-Glenora, commented on the statement.

**Members' Statements**

Mr. Toor, Hon. Member for Calgary-Falconridge, made a statement recognizing all Albertans for the sacrifices they have made during the COVID-19 pandemic.

Ms Hoffman, Hon. Member for Edmonton-Glenora, made a statement regarding the Government's promise to fund public education.

Ms Issik, Hon. Member for Calgary-Glenmore, made a statement regarding Bill 15, Choice in Education Act, 2020.

Mr. Sabir, Hon. Member for Calgary-McCall, made a statement regarding Government policies for struggling small businesses during the COVID-19 pandemic.

Mr. Rehn, Hon. Member for Lesser Slave Lake, made a statement regarding Intergenerational Day and Seniors' Week.

Mr. Carson, Hon. Member for Edmonton-West Henday, made a statement regarding Government policies affecting renters during the COVID-19 pandemic.

Mr. Guthrie, Hon. Member for Airdrie-Cochrane, made a statement regarding the federal government's response to the COVID-19 pandemic.

Ms Renaud, Hon. Member for St. Albert, made a statement regarding National AccessAbility Week in Canada and Government policies affecting the disability community.

Mr. Yao, Hon. Member for Fort McMurray-Wood Buffalo, made a statement regarding the resiliency of Albertans during the COVID-19 pandemic.

## **Introduction of Bills (First Reading)**

Notice having been given:

Bill 18 Corrections (Alberta Parole Board) Amendment Act, 2020 — Hon. Mr. Schweitzer

## **Privilege – Media Briefing on Bill 15, Choice in Education Act, 2020**

Honourable Members, I am prepared to rule today on the question of privilege raised by the Official Opposition House Leader on May 28, 2020. I will apologize in advance for the lengthy ruling. I would like to start by reminding Members that a genuine question of privilege is a serious matter, and therefore, the raising of such a matter ought to be rare: House of Commons Procedure and Practice, third edition, page 141.

The Official Opposition House Leader submitted to my office on the morning of May 28, at 11:28 a.m., a notice that she intended to raise a question of privilege that afternoon. Members will know this is two minutes prior to the deadline for such notices under Standing Order 15(2). Normally, whether a Member has met the deadline for submitting their notice is dealt with as a preliminary matter in Speakers' rulings of this nature; however, in this circumstance, I must elaborate on what transpired last Thursday in relation to this procedure.

As I noted in my comments last Thursday afternoon, I was more than a little disappointed to learn that the Official Opposition had issued a media advisory at 10:31 a.m. that morning indicating that the NDP caucus intended to raise a question of privilege in the Assembly, nearly a full hour prior to informing my office. It is difficult to communicate my concern fully on this issue of notice being provided to the media prior to official notice being provided to the Speaker's office. I would start by emphasizing that it is a long-standing expectation for Members who raise a matter of privilege to provide notice to the Speaker first before anyone else receives such notice.

In the matter before the Assembly, there was ample opportunity for this to happen, yet it did not occur. Evidence of this was the press release that was sent at 10:31 a.m. on behalf of the Member. However, what is abundantly clear is that notifying the media about such a serious matter as a question of privilege before notifying the Speaker offends the dignity and the respect that should be accorded to the office of the Speaker and, indeed, this institution of parliament. What I will conclude is that this action shows blatant disrespect for the office of the Speaker. I will submit to the Assembly that some Members may not like the Speaker and some Members may not even respect the Speaker, but showing this level of disrespect to the office of the Speaker is not acceptable. I will, however, proceed with this ruling as though notice had been given in an appropriate fashion.

Having provided my caution in respect of this preliminary matter, I will now turn to the substance of the matter in question. On the afternoon of May 28, 2020, the Official Opposition House Leader presented arguments in support of her position that the Government committed a contempt of the Assembly. The facts presented by the Official Opposition House Leader were not disputed by the Government House Leader, that the Official Opposition was informed that the Government would no longer provide opposition Members with briefings in advance of Government Bills being introduced. Consequently, a previously scheduled briefing on Bill 15, Choice in Education Act, 2020, for opposition Members on the morning of May 28, 2020, was cancelled. However, the Official Opposition House Leader also indicated that the media did receive a briefing on this Bill prior to its introduction.

The Official Opposition House Leader argued that the Government obstructed Members in conducting their parliamentary functions by providing information about Bill 15 to the media before its introduction and without offering Members of the Official Opposition a similar opportunity. It is on this basis that the Official Opposition House Leader argues that the Government committed a contempt.

The frequently cited definition of a contempt, found at page 289 of Erskine May's Treatise upon the Law, Privileges, Proceedings and Usage of Parliament, 25th edition, is as follows:

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or...obstructs or impedes any Member or officer of such House in the discharge of their duty, or which has a tendency, directly or indirectly, to produce such results, may be treated as a contempt even though there is no precedent of the offence.

Members may wish to review pages 80 to 83 of House of Commons Procedure and Practice, third edition, to further their understanding of the difference between privilege and contempt. Contempts do not fall within a specific category of privilege but are affronts against the dignity of the Assembly.

As noted at page 141 of House of Commons Procedure and Practice, both claims that a privilege has been infringed and that a contempt has been committed are raised by means of a question of privilege.

This is not the first time that issues of opposition Members' access to media briefings and premature disclosure of Bills have arisen in this Assembly. We have the benefit of several rulings of previous Speakers of this Assembly to which one may look for guidance.

I must start from the general principle that “there is no specific right to have the government brief Members on the content of a bill,” as was noted on December 2, 2014, by Speaker Zwozdesky at page 300 of Hansard for that day.

In that ruling, Speaker Zwozdesky did not find a prima facie case of privilege or contempt resulting from the Government providing a briefing to the media on a Bill but not providing a similar briefing at the same time to Members of the opposition.

However, Speaker Zwozdesky also went on to distinguish the facts of the case before him, in which the briefing was provided after the introduction of a Bill, and circumstances in which a briefing was provided when a Bill was on notice on the Order Paper but had not yet been introduced in the Assembly.

In a ruling by Speaker Kowalski dated March 5, 2003, the former Speaker did find that a prima facie contempt had been established in a case where information about the contents of a Bill on notice but not yet introduced had been provided by the Government at a briefing to which only media was invited. The facts in this case, however, included the leader of the third party being questioned by the media on information relating to the Bill prior to its introduction.

Speaker Kowalski relied on a ruling of the then House of Commons Speaker Milliken on March 19, 2001 in which he states at page 1840 of House of Commons Debates that “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 rule which the House plays and must play in the legislative affairs of the nation”.

Relying on Speaker Milliken's ruling, Speaker Kowalski concluded that while the Legislative Assembly of Alberta is not bound by decisions from the House of Commons, he was unable to hold that Members of the House of Commons were to be accorded greater respect and dignity than Members of this Assembly.

I note that Speakers of the House of Commons have addressed questions of privilege of this nature on numerous occasions, including as recently as March 10, 2020, when Speaker Rota, at page 1892 of House of Commons Debates, stated that the rule of the confidentiality of Bills prevents the revealing of “specific measures contained in a Bill at the time it is put on notice”.

Furthermore, in this Assembly on November 8, 2016, Speaker Wanner, at pages 1775 to 1776 of Hansard, applied a similar standard when he considered whether Government statements and materials contained specific details of a Bill on notice. However, in this case Speaker Wanner did not find that a prima facie case of contempt was established and concluded that only broad statements of policy had, in fact, been communicated, which did not impede Members of the Assembly in the discharge of their duties.

Turning back to the case at hand, while the Official Opposition House Leader stated in her arguments, which can be found at page 888 to 889 of Hansard for May 28, 2020, that “it is clear that members of the media had the opportunity to access the contents of the Bill prior to members of the Assembly,” she did not present any evidence that this had, in fact, occurred, nor did she provide examples of specific content of the Bill that was distributed, if any, at the briefing.

In fact, the Official Opposition House Leader did not provide any information about what took place at the briefing on Bill 15, nor did she communicate to the Assembly what happened through documentation tabled for all to access. In response, the Government House Leader stated at page 891 of Hansard that “the government has never shared the final form of a Bill with the media”.

On the question of whether the specific details of Bill 15 were disclosed during the media briefing, I am only able to rule on the evidence presented before me, and having no such evidence in this respect, I am unable to find that the Bill or any of its specific details were disclosed during the briefing.

Finally, I note that unlike the circumstances on which the March 5, 2003 ruling of Speaker Kowalski was based, the Official Opposition House Leader did not present any evidence indicating that she or any other Members were placed in a similar position to the facts of Speaker Kowalski’s ruling, being that they received inquiries from the media or the public about the Bill prior to its introduction.

In a ruling dated March 22, 2011, Speaker Milliken of the House of Commons considered the case of early disclosure of information pertaining to Government estimates. Speaker Milliken considered whether there was specific evidence to suggest that a Member had been impeded in the performance of their functions. Speaker Milliken subsequently determined that there was no such evidence before him, and while also considering that assurances had been given by the Minister that appropriate steps would be taken to prevent future disclosures of information, he did not find that a prima facie case of contempt had been established.

In closing, while I acknowledge the Official Opposition’s desire to access technical briefings from the Government and recognize that these briefings may assist a Member in gaining knowledge about a Bill, based on the evidence before me and established precedents I do not find that a prima facie contempt has been established in this case.

If the Government wants to offer media briefings to which opposition Members are not invited, it is within their purview to do so. If the briefing occurs while the Bill is on notice but prior to its introduction, specific details of the Bill are not to be disclosed.

As Speaker Kowalski found in a ruling dated April 27, 2009, which can be found at page 824 of Hansard for that day, “allowing or not allowing a Member to attend a media briefing does not constitute an impediment or obstruction to the Member performing his or her parliamentary duties.” In this respect, I would emphasize that the Speaker exercises no control over who may or may not attend a briefing on a Bill provided by the Government.

I wish to offer a final thought, specifically for the Government’s consideration. I understand that at one time the long-standing practice of the Government was to provide briefings on Bills only after their introduction in the Assembly. As such, if this practice were to be adopted, the issues that arose in this case would obviously be avoided going forward. To ensure that all Members’ rights are respected, technical media briefings in which the specific contents of a Bill are discussed must occur after the Bill’s introduction in the Assembly.

The matter is now closed.

## **ORDERS OF THE DAY**

### **Public Bills and Orders Other Than Government Bills and Orders**

#### **Second Reading**

The following Bill was read a Second time and referred to Committee of the Whole:

Bill 201 Strategic Aviation Advisory Council Act — Mr. Gotfried

### **Motions Other Than Government Motions**

**502.** Moved by Mr. Rowswell:

Be it resolved that the Legislative Assembly urge the Government to recognize the cultural importance of rodeo and its related agricultural events.

A debate followed.

The question being put, the motion was agreed to.

## **Government Bills and Orders**

### **Second Reading**

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

Bill 4 Fiscal Planning and Transparency (Fixed Budget Period) Amendment Act,  
2020 — Hon. Mr. Toews

A debate followed.

Debate adjourned.

### **Adjournment**

The Assembly adjourned at 6:00 p.m. until 7:30 p.m.

MONDAY, JUNE 1, 2020 — 7:30 P.M.

## **Government Bills and Orders**

### **Second Reading**

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

Bill 15 Choice in Education Act, 2020 — Hon. Min. LaGrange

A debate followed.

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

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

Bill 16 Victims of Crime (Strengthening Public Safety) Amendment Act, 2020 —  
Hon. Mr. Schweitzer

A debate followed.

Ms Gray, Hon. Member for Edmonton-Mill Woods, moved that the motion be amended by deleting all of the words after “that” and substituting the following:

Bill 16, Victims of Crime (Strengthening Public Safety) Amendment Act, 2020,  
be not now read a Second time but that the subject matter of the Bill be referred  
to the Standing Committee on Families and Communities in accordance with  
Standing Order 74.2.

Sessional Paper 165/2020

A debate followed on the amendment.

Hon. Mr. Shandro moved adjournment of the debate on the amendment, which was agreed to.

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

Bill 4 Fiscal Planning and Transparency (Fixed Budget Period) Amendment Act, 2020 — Hon. Mr. Toews

A debate followed.

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

The following Bill was read a Second time and referred to Committee of the Whole:

Bill 7 Responsible Energy Development Amendment Act, 2020 — Hon. Mrs. Savage

Pursuant to Standing Order 3(1.2), Hon. Mr. Schweitzer, Deputy Government House Leader, advised the Assembly that there would be no morning sitting on June 2, 2020.

## **Adjournment**

Pursuant to Standing Order 3(1.2) and on motion by Hon. Mr. Schweitzer, Deputy Government House Leader, the Assembly adjourned at 1:25 a.m. Tuesday, June 2, 2020, until 1:30 p.m.

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Hon. Nathan M. Cooper,  
Speaker