



NATIONAL ASSEMBLY

FIRST SESSION

FORTIETH LEGISLATURE

Votes and Proceedings

of the Assembly

Wednesday, 21 November 2012 — No. 11

**President of the National Assembly:
Mr. Jacques Chagnon**

QUÉBEC

The Assembly was called to order at 9.45 o'clock a.m.

ROUTINE PROCEEDINGS

Statements by Members

Mr. Claveau (Dubuc) made a statement about the 20th anniversary of the Popote Mobile de La Baie community organization.

Mrs. Vallières (Richmond) made a statement about the 40th anniversary of the FADOQ in Valcourt.

Mr. Bergeron (Verchères) made a statement about the 100th anniversary of the Colonie des Grèves de Contrecoeur.

Mrs. Blais (Saint-Henri–Sainte-Anne) made a statement about the Judo-Monde organization.

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Mr. Schneeberger (Drummond–Bois-Francis) made a statement to congratulate William Dion on his Canadian university football record.

Mr. Gendron (Abitibi-Ouest) made a statement about Mélanie Pinard, distinguished 2012 "Tournez-vous vers l'excellence!" contest winner.

Mr. Morin (Côte-du-Sud) made a statement about the recipients of the Prix Hommage Aînés 2012 for the Chaudière-Appalaches and Bas-Saint-Laurent regions.

Mr. Gaudreault (Jonquière) made a statement to underline the National Day of Remembrance for Road Crash Victims.

Mr. Iracà (Papineau) made a statement to underline the "Un peu de chaleur pour 200 enfants du coin" fundraising campaign.

Mr. Traversy (Terrebonne) made a statement about the outstanding season of the Triades of the Cégep régional de Lanaudière.

At 9.58 o'clock a.m., Mr. Cousineau, Second Vice-President, suspended the proceedings for a few minutes.

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The proceedings resumed at 10.11 o'clock a.m.

Moment of reflection

Presenting Papers

Mrs. Maltais, Minister of Employment and Social Solidarity and Minister responsible for the Capitale-Nationale region, tabled the following:

The 2011-2012 annual report of the Commission de la capitale nationale du Québec;

(Sessional Paper No. 254-20121121)

The 2011-2012 annual management report of the Comité Entraide, including the financial statements for the fiscal year ended 31 December 2011;

(Sessional Paper No. 255-20121121)

The 2011-2012 activity report of the Commission des partenaires du marché du travail – Fonds de développement et de reconnaissance des compétences de la main-d'œuvre.

(Sessional Paper No. 256-20121121)

Mr. St-Arnaud, Minister of Justice, tabled the following:

The 2011-2012 annual management report of the Directeur des poursuites criminelles et pénales;

(Sessional Paper No. 257-20121121)

The 2011 annual activity report of the Direction de l'indemnisation des victimes d'actes criminels.

(Sessional Paper No. 258-20121121)

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Mrs. De Courcy, Minister of Immigration and Cultural Communities and Minister responsible for the Charter of the French language, tabled the following:

The 2011-2012 annual management report of the Ministère de l'Immigration et des Communautés culturelles;

(Sessional Paper No. 259-20121121)

The 2011-2012 annual management report of the Office québécois de la langue française, including the activity report of the Commission de toponymie;

(Sessional Paper No. 260-20121121)

The 2011-2012 annual management report of the Conseil supérieur de la langue française.

(Sessional Paper No. 261-20121121)

Mr. Bergeron, Minister of Public Security, tabled the following:

The 2011-2012 annual report of the Bureau de la sécurité privée.

(Sessional Paper No. 262-20121121)

Mr. President tabled a letter he had received from the Member for Gouin, on 20 November 2012, concerning the motion without notice she presented at the sitting of 15 November 2012 with regard to child support.

(Sessional Paper No. 263-20121121)

He gave a directive in reply to the questions asked by the Member for Gouin in her letter, regarding the final outcome of the motion she presented and the manner in which consent is to be expressed during Motions Without Notice.

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DIRECTIVE FROM THE CHAIR

First of all, we must not forget the procedure that prevails with regard to the presentation of motions without notice. Unanimous consent is necessary for the Assembly to discuss a motion without notice that a Member is allowed to present. This consent is ascertained once the Member has read his motion. The motion is read to inform the Assembly of its content before consent is given to discuss it. On this occasion, the role of the Chair is limited to verifying whether or not there is consent. Neither debate nor any comment whatsoever aiming to argue for or against consent is permitted. The Chair cannot allow negotiations that aim to obtain consent to take place on the floor of the House. These discussions must take place before the said motion without notice is presented.

When deferred consent is expressed, this can mean that consent for a debate is given, but that the latter will be held subsequently. In such a case, however, this must clearly be expressed, which was not the case in this particular case. Having failed to have obtained unequivocal consent, the Chair has no other option but to consider that there is no consent. In this regard, the Chair reiterates the importance of holding discussions prior to presenting a motion so as to avoid that these negotiations be held on the floor of the House. These negotiations must notably serve to establish, if necessary, the moment when the debate will be held, precisely to avoid any misunderstanding with regard to this matter.

The nature of the consent requested or granted must be clearly expressed to the Assembly. Consent sometimes includes conditions, such as, for instance: consent for the motion to be carried without debate, or for time limits on speeches, or for a limited number of speakers. The important thing is that Members know what they are consenting to. If there is failure to obtain clear consent, the Chair has no other choice but to indicate that there is no consent.

In conclusion, upon reading the exchanges that took place when the motion by the Member for Gouin was read, there appeared to be a will to postpone its adoption. The Member for Gouin and the House leaders are thus invited to continue their discussions to determine whether the said motion may again be presented and, if this is the case, it will not be counted in the three-sitting cycle during which the same independent Member may move only one motion.

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Mr. President gave a directive regarding the manner in which he intends to respond to the letters he had received from the Chief Government Whip and the Chief Opposition Whip on 15 and 16 November 2012 and which were tabled yesterday, concerning the presence of the Canadian flag in the Legislative Council Chamber.

DIRECTIVE FROM THE CHAIR

The following question arises from the letters addressed to the Chair by the Chief Government Whip and the Chief Opposition Whip: "Should the Canadian flag be removed from the Legislative Council Chamber at all times during parliamentary proceedings?".

In the 1980s and 1990s, the absence of the Canadian flag beside the President's chair in the National Assembly Chamber was raised on a few occasions. Each time, the National Assembly was required to rule on this matter, as motions on this issue had been presented. Similarly, for comparison, the National Assembly also ruled on a highly symbolic question by carrying, on 22 May 2008, a motion concerning the crucifix above the President's chair.

Hence, though the matter before the Chair does not concern the National Assembly Chamber but rather the Legislative Council Chamber, it appears nonetheless to be the same in nature. Like the aforementioned precedents, the Members themselves must decide on this matter. In pursuance of Standing Order 41, the Chair will therefore submit this matter to the Assembly for its decision.

This measure is exceptional. It is the first time that the Chair uses this Standing Order since the adoption of these Standing Orders in 1984. Furthermore, we were able to find precedents under the terms of Standing Order 70 of Geoffrion's Standing Orders, from which it originated.

By analogy with these precedents, and owing to the fact that this is a delicate matter, the Chair deems it necessary to allow the Members to reflect on the matter and discuss it amongst themselves. If no agreement has been reached by 9.00 o'clock a.m. on Wednesday, 28 November, the following matter will be submitted to the Assembly during Deferred Divisions at the sitting of Wednesday, 28 November: "THAT the Canadian flag be removed from the Legislative Council Chamber at all times during parliamentary proceedings".

Lastly, regardless of the outcome of this vote, the Assembly's decision should not have the effect of questioning the practice whereby the presence of the Canadian flag in the Legislative Council Chamber during political or government events is left up to the host of the event.

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Oral Questions and Answers

The Assembly proceeded to Oral Question Period.

By leave of the Assembly to set aside Standing Orders 53 and 59, Mr. Moreau (Châteauguay) tabled the following:

The excerpt from a document entitled "Liste du personnel politique", dated 31 October 2012.

(Sessional Paper No. 264-20121121)

Motions Without Notice

Mr. Dubé (Lévis), together with Mr. Bachand (Outremont), moved a motion concerning the Government's budget; this motion could not be debated for want of unanimous consent.

By leave of the Assembly to set aside Standing Order 185, Mrs. Proulx (Sainte-Rose), together with Mrs. Gaudreault (Hull), Mrs. St-Laurent (Montmorency) and Mrs. David (Gouin), moved:

THAT the National Assembly underline the International Day for the Elimination of Violence Against Women, next 25 November.

By leave of the Assembly, the motion was carried.

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By leave of the Assembly to set aside Standing Order 185, Mr. Hamad (Louis-Hébert), together with Mrs. Marois, Premier, Mrs. Roy (Arthabaska) and Mrs. David (Gouin), moved:

THAT the National Assembly congratulate the sixteen finalists of the Prix Reconnaissance of the Forum des jeunes de la fonction publique québécoise, whom we have the pleasure of welcoming in our gallery;

THAT it recognize the professional involvement and invaluable contribution of the under-35 age group in Québec's civil service, as well as the work of managers who value the participation and integration of young people within their respective departments and public agencies;

THAT it reiterate its pride in being able to count on the eagerness of this new generation of civil servants to address the challenges facing the Québec State, and to contribute to improving services to citizens.

By leave of the Assembly, a debate arose thereon.

The debate being concluded, the motion was carried.

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By leave of the Assembly to set aside Standing Order 84.1 and pursuant to Standing Order 146, Mr. Traversy, Deputy Government House Leader, moved:

THAT, within the framework of the examination of Bill 8, An Act to amend various legislative provisions concerning municipal affairs, the Committee on Planning and the Public Domain hold special consultations on 28 and 29 November 2012, and that, for this purpose, it hear the following groups:

Union des municipalités du Québec (UMQ)
Fédération québécoise des municipalités (FQM)
Communauté métropolitaine de Montréal
Communauté métropolitaine de Québec

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Chief Electoral Officer (DGE)
Ville de Québec
Association des directeurs généraux des municipalités du
Québec (ADGMQ)
Association des directeurs municipaux du Québec (ADMQ)
Commission municipale du Québec (CMQ)
Barreau du Québec
Ville de Montréal

THAT a period of 12 minutes be set aside for opening statements;

THAT the time set aside for the party forming the Government and for the party forming the Official Opposition for opening statements be of 5 minutes each and the time set aside for the Second Opposition Group be of 2 minutes;

THAT the presentation by each group last no longer than 10 minutes and the exchange with the Committee members last no longer than 50 minutes;

THAT the time set aside for the party forming the Government be of 22 minutes and the time set aside for the opposition Members be of 28 minutes;

THAT a period of 12 minutes be set aside for closing statements allocated in the same manner as for the opening statements;

THAT the Minister of Municipal Affairs, Regions and Land Occupancy be a member of the said Committee during its proceedings with respect to this order of reference.

By leave of the Assembly, the motion was carried.

Notices of Proceedings in Committees

Mr. Traversy, Deputy Government House Leader, convened the following Committee:

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- the Committee on Institutions, to conclude its public hearings within the framework of special consultations on Bill 2, An Act to amend the Election Act in order to limit elector contributions to \$100 and to revise public financing of political parties.

Mr. Cousineau, Second Vice-President, gave the following notices:

- the Committee on Public Finance shall hold a deliberative meeting to inform the Members on the activities and operation of the Committee and to organize its proceedings;
- the Committee on Culture and Education shall hold a deliberative meeting to inform the Members on the activities and operation of the Committee and to organize its proceedings;
- the Committee on Planning and the Public Domain shall hold a deliberative meeting to inform the Members on the activities and operation of the Committee and to organize its proceedings.

Information on the Proceedings of the Assembly

Mr. Bédard, Government House Leader, raised a point of order concerning the motion presented by Mrs. James (Nelligan) and placed on the *Order Paper and Notices* of 21 November 2012, under Business Standing in the Name of Members in Opposition.

Mr. President heard arguments from all sides regarding the receivability of this motion before taking this matter under advisement.

At 12.09 o'clock p.m., at the request of Mr. Bédard, Government House Leader, Mr. President suspended the proceedings until 3.00 o'clock p.m.

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The proceedings resumed at 3.04 o'clock p.m.

ORDERS OF THE DAY

Mr. President gave a ruling on the point of order raised by the Government House Leader concerning the receivability of the motion by Mrs. James (Nelligan) to be discussed during Business Standing in the Name of Members in Opposition.

RULING FROM THE CHAIR

It is important to assert that the Assembly has the power to hear ministers on matters falling within their jurisdiction. This is one of the prerogatives of the legislative power to exercise control over the executive power and its management of the Government's actions. This power is enshrined in section 4 of the *Act respecting the National Assembly*.

This power of surveillance and control may be carried out in various ways, both in the Assembly and in the parliamentary committees.

Standing Order 146 stipulates that the Assembly may refer any matter to a committee for its examination. Moreover, Standing Order 164 provides for the procedure regarding requests for the appearance of ministers by parliamentary committees.

Hence, committees have the possibility of summoning ministers within the framework of a mandate. Incidentally, in our research on the matter, we were able to find cases in which committees had deemed it useful for their proceedings to summon ministers to successfully carry out the order of reference by the Assembly.

Other cases indicate that in the motion for referral to committee, the Assembly had included that a particular minister was required to take part in the committee for the mandate to be carried out. This is indeed the case regarding a few motions that we found and that were moved in the same context as today, that is, during Business Standing in the Name of Members in Opposition. These examples illustrate the fact that the Assembly may order a committee to hear a minister on a given matter and that this is within its powers.

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Indeed, it is important to recall that a characteristic of our parliamentary system concerns the principle of ministerial responsibility. Under this concept, the Government must make certain that it has the confidence of the House at all times in order to continue to govern. Ministers are therefore responsible for their actions before the Assembly, which has the power to demand accountability.

Once the powers of the Assembly have been established, they must be reconciled with the prohibition of bringing into question the conduct of a Member other than by a motion and the rule whereby a Member cannot refuse to accept another Member's word. In fact, these are two major fundamental principles that are not antithetical.

As provided for in Standing Order 315, any Member who wishes to impugn the conduct of some other Member acting in that capacity must make a motion for this purpose. This is a fundamental rule that is justified by the fact that a Member may not use his constitutional privilege of freedom of speech in the Assembly to impugn the conduct of a colleague. However, to question a minister with regard to an act accomplished in his capacity as a member of the Executive Council is not prohibited in the Assembly. On the contrary, ministers are held accountable with regard to the conduct of their government activities. Indeed, we should not confuse the prohibition to question the conduct of a Member of the Assembly acting in that capacity and the accountability required of ministers with regard to acts carried out within the framework of their ministerial duties.

As for the rule stating that a Member may not refuse to take another Member at his word, this must also be observed by Members in order to avoid their constantly stating that other Members are not telling the truth. However, because a minister makes a statement or answers a question on a matter does not mean that Members may not question him again on these facts or that they may not further investigate a given matter. Arriving at any other conclusion would undermine the fundamental role of controller of the government's action that has been entrusted to the Assembly.

In light of all the foregoing, it appears then that the motion placed on the Order Paper by the Member for Nelligan must be declared receivable.

However, it is important to insist on the fact that to declare that the motion is receivable must in no way be seen as a possibility to go against the provisions of the Standing Orders that provide a framework for Members' right to speak.

Within the framework of the debate on the motion by the Member for Nelligan, as well as during subsequent committee proceedings, should the motion be carried, impugning the conduct of the minister or refusing to take him at his word will not be tolerated. The Members who will take part in this committee's proceedings must always keep in mind that the mandate in question is one of strict parliamentary control.

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Business Standing in the Name of Members in Opposition

Mrs. James (Nelligan) moved:

THAT the National Assembly instruct the Committee on Transportation and the Environment to shed light on the events of last 24 October concerning the action taken by the Minister of Sustainable Development, Environment, Wildlife and Parks with regard to the independent public body known as the Bureau d'audiences publiques sur l'environnement (BAPE);

THAT, for this purpose, the Committee hear the Minister of Sustainable Development, Environment, Wildlife and Parks as soon as possible, as well as any person it shall deem necessary to summon without compromising the independence of the BAPE;

THAT the presentation by the Minister of Sustainable Development, Environment, Wildlife and Parks last no longer than 10 minutes and the exchanges with the Committee members last no longer than 120 minutes;

THAT the presentation by each of the other speakers last no longer than 10 minutes and the exchanges with the Committee members last no longer than 50 minutes;

THAT the Committee report to the Assembly no later than Friday, 7 December 2012, unless the Committee decides otherwise;

Lastly, that this motion become an order of the Assembly.

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Following a meeting with the House leaders, Mr. Ouimet, Third Vice-President, informed the Assembly of the allocation of speaking time for the proceedings with respect to this motion: 10 minutes shall be allotted to the mover of the motion for her reply; approximately 33 minutes shall be allotted to the parliamentary group forming the Government; approximately 30 minutes 30 seconds shall be allotted to the parliamentary group forming the Official Opposition; approximately 11 minutes 30 seconds shall be allotted to the Second Opposition Group; 5 minutes shall be allotted to the independent Members. Within this framework, any time not used by the independent Members or by any of the parliamentary groups shall be redistributed among the parliamentary groups in proportion to their representation in the Assembly. Lastly, individual addresses shall not be limited.

The debate arose thereon.

The debate being concluded, the question was put on this motion; a recorded division was thereupon demanded.

At the request of Mr. Traversy, Deputy Government House Leader, the division was deferred until Routine Proceedings on the next sitting day.

Government Bills

Passage in Principle

Mr. Gendron, Minister of Agriculture, Fisheries and Food, moved, —That Bill 4, An Act to amend the Act to regularize and provide for the development of local slaughterhouses, do now pass in principle.

After debate thereon, the motion was carried and Bill 4 was accordingly passed in principle.

Mr. Gendron, Minister of Agriculture, Fisheries and Food, moved that Bill 4 be referred for clause-by-clause consideration to the Committee on Agriculture, Fisheries, Energy and Natural Resources.

The motion was carried.

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Mr. Gendron, Minister of Agriculture, Fisheries and Food, moved the adjournment of the Assembly until Thursday, 22 November 2012, at 9.45 o'clock a.m.

The motion was carried.

Accordingly, at 5.22 o'clock p.m., Mrs. Poirier, First Vice-President, adjourned the Assembly until Thursday, 22 November 2012, at 9.45 o'clock a.m.

JACQUES CHAGNON

President