



**Legislative Assembly
Province of Alberta**

No. 16

VOTES AND PROCEEDINGS

First Session

Twenty-Third Legislature

Thursday, September 23, 1993

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

ROUTINE

Presenting Petitions

Ms Hanson, Hon. Member for Edmonton-Highlands-Beverly, presented a petition from 282 Albertans regarding the reinstatement of cuts made to social assistance.

Reading and Receiving Petitions

On request by Mr. Herard, Hon. Member for Calgary-Egmont, the following petition was read and received:

We pray that the Legislative Assembly urge the Government to provide ongoing support for the Alberta Adolescent Recovery Centre's cost-effective, therapeutically-effective drug/alcohol treatment programs.

Notices of Motions

Mr. Collingwood, Hon. Member for Sherwood Park, gave oral notice of his intention to move the following motion under Standing Order 40:

Be it resolved that the Legislative Assembly congratulate Professor David Schindler, Killam Memorial Professor of Ecology, University of Alberta, on receiving a Manning Award in recognition of his contribution to the fight against water pollution.

Tabling Returns and Reports

Hon. Mrs. McClellan, Minister responsible for the Wild Rose Foundation, pursuant to the Wild Rose Foundation Act, cW-7.8, s7(3):

Wild Rose Foundation, 1992-93 Annual Report

Sessional Paper 138/93

Hon. Mr. Jonson, Minister responsible for the Premier's Council on the Status of Persons with Disabilities, pursuant to the Premier's Council on the Status of Persons with Disabilities Act, cP-14.5, s7(2):

Premier's Council on the Status of Persons with Disabilities, Annual Report 1992-93

Sessional Paper 107/93

Hon. Mr. Jonson, Minister of Education:

Education in Alberta: Early Childhood Services to Grade 12, 1993-94 Budget and an Overview of Challenges in the 90s, September 14, 1993

Sessional Paper 622/93

Members' Statements

Mr. Renner, Hon. Member for Medicine Hat, made a statement regarding the expansion of Medicine Hat College.

Mr. Wickman, Hon. Member for Edmonton-Rutherford, made a statement regarding the Michener Park Residence located in his constituency.

Mr. Hierath, Hon. Member for Taber-Warner, made a statement regarding fiscal inequities among school districts.

Projected Government Business

Pursuant to Standing Order 7(5), Mr. Mitchell, Hon. Official Opposition House Leader, asked a question pertaining to the order of Government Business to be brought before the Assembly for the following week.

Hon. Mr. Day, Deputy Government House Leader, gave notice of projected Government Business for the week of September 27 to 30, 1993:

- Monday, September 27, 1993 Aft. - **Government Bills and Orders**
(Second Reading)
Bill 7, Alberta Energy Company Act
Repeal Act
Bill 8, School Amendment Act,
1992
Committee of the Whole
Bill 5, Financial Administration
Amendment Act, 1993
Eve. - **Committee of Supply**
Public Works, Supply and Services
- Tuesday, September 28, 1993 Aft. - **Government Bills and Orders**
Committee of the Whole
Bill 7, Alberta Energy Company Act
Repeal Act
Bill 5, Financial Administration
Amendment Act
Eve. - **Committee of Supply**
Energy
- Wednesday, September 29, 1993 Eve. - **Committee of Supply**
Health
- Thursday, September 30, 1993 Aft. - **Committee of Supply**
Municipal Affairs (designated)

Privilege

The Speaker made the following ruling:

A question of privilege was raised by the Member for Calgary-North West on Wednesday, September 22, 1993.

The Chair notes that proper notice of the question of privilege was given pursuant to Standing Order 15(2).

The facts giving rise to this question of privilege are these:

1. On Tuesday, September 21, 1993, the Member for Redwater rose in Committee of the Whole to apologize to the Chair and withdraw certain remarks he had made previously in Committee of Supply.
2. That being done, the Minister of Transportation and Utilities rose to ask if the Member for Redwater was prepared to apologize to him for remarks the Member for Redwater had made on the same occasion which the Minister felt impugned him.
3. After some debate over what the Member for Redwater said, what he might have meant and whether or not an apology was in order, the Chairman asked the Minister: "do you wish this referred to the Speaker, or are you satisfied now?"
4. The Minister replied: "Mr. Chairman, no, I wish the House to continue in its work, but I can assure the Hon. Member across the way that he has lost any road program for the next four years."
5. The Member for Edmonton-Gold Bar rose on a point of order and asked "Mr. Chairman, I'd just like to inquire if that last comment was made in jest. I'd like an answer."
6. The Minister replied: "Mr. Chairman, as we go year by year, we have to put in our priorities, and each year the Hon. Member will know whether I was jesting or not."
7. Approximately an hour later, at 5:25, the Minister rose and stated: "Mr. Chairman, this afternoon we've had some debate. The Hon. Member for Redwater and myself couldn't see eye to eye. Being a man of principle, I will withdraw any remarks I made in that regard."

On raising the question, the Member for Calgary-North West referred to Beauchesne, paragraph 99, which states, in its entirety:

Direct threats which attempt to influence Members' actions in the House are undoubtedly breaches of privilege. They do, however, provide serious problems for the House. They are often made anonymously and it is rarely possible for the House to examine them satisfactorily. The common practice today is to turn the responsibility for investigating them over to the ordinary forces of the law.

This paragraph contemplates threats against Members from persons outside of the House. This does not necessarily mean it is not relevant, but it has to be read in context.

The Member for Calgary-North West also cited Erskine May at page 126. That passage refers to a resolution of the English House of Commons made in the year 1733 which reads:

"That the assaulting, insulting, or menacing any Member of this House, in his coming to or going from the House or upon the account of his behaviour in Parliament, is a high infringement of the privilege of this House, a most outrageous and dangerous violation of the rights of Parliament and an high crime and misdemeanour."

Again, this resolution clearly contemplates threats to Members made by persons outside of the House. Again, this does not necessarily invalidate it, but it does limit its application.

In the ensuing debate, several Hon. Members made a number of points for which the Chair is grateful.

It seems to the Chair that two questions have to be answered:

First, do the Minister's words to the Member for Redwater constitute a breach of privilege? and,

Second, was the Minister's withdrawal later that day sufficient to dispose of the matter?

The powers, privileges and immunities of parliaments have been settled since 1704. No new privileges may be added to this list. Parliament may only expound and apply the law of privilege as it exists. After an extensive review of the powers, privileges and immunities of parliament, the Chair finds that these words as spoken by a Member of the Assembly do not fall under any of these powers, privileges or immunities.

The Chair has considered whether the words spoken are a contempt. The classic statement of a contempt is from Erskine May, at page 115:

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his 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 for the offence.

Threats of this kind are an extremely serious matter. There is no doubt that the implication by a Minister that action might be taken with respect to another Member's words or actions, could have the effect of inhibiting freedom of speech in this Chamber.

Such threatening words could constitute a contempt. It would be up to the Committee on Privileges and Elections to decide. However, in this case, the Minister withdrew his remarks.

This raises the issue of apologies and withdrawals. On the matter of apology, Maingot, Parliamentary Privilege in Canada, says at page 228, under the heading "Where a Member is the subject of a Question of Privilege":

An apology by the offending member will invariably close the matter without the necessity of putting the matter to a vote.

Erskine May, at page 140, notes that even where a Member has been found guilty of a breach of privilege,

... in consequence of the full and ample apology he had offered to the House, or that having regard to his withdrawal of the expressions complained of, it would not proceed any further in the matter.

The Chair has not found a prima facie breach of privilege in this case. Had it done so however, the Chair imagines that the withdrawal offered by the Minister, an hour after the words were spoken, would be, at best, just barely enough to close the matter. An apology should be timely.

If a Member intends to apologize for and withdraw any remark, whether as a result of a point of order or a question of privilege, the apology should be sincere and the withdrawal unequivocal. The Oxford Dictionary defines "apology" as:

a regretful acknowledgement of an offence or failure; an assurance that no offence was intended.

If an apology is in order, then the honourable thing to do, the courageous thing to do, is to apologize in a straightforward way. The Chair feels that, during this incident, two Members fell short of the standard in their apologies or withdrawals. What good is an apology, or a withdrawal, if no one can be sure if there was, in fact, an apology or withdrawal?

Members are human and subject to all the emotions that come with that territory: anger and pride are two that come to mind. Sometimes this job seems to require that we be superhuman in controlling our anger and our pride and in exercising good judgment and we just have to do it. If we fail, we must make amends.

Finally, there is the issue of the rule against anticipation when there is an outstanding question of privilege. Speaker Carter dealt with this exact issue on April 22, 1993 (Hansard, page 2335). Beauchesne 410(14) states "Questions should not anticipate an Order of the Day." The privilege issue was held to constitute an Order of the Day, since notice had been given. There is also an issue of sub judice. If the matter was to be referred to the Committee on Privileges and Elections, it would not be appropriate for the Assembly to risk in any way prejudicing the deliberations of that Committee.

The Chair has left the matter of the timeliness of the question of privilege to the last. It seems to the Chair that this question could have been raised when it happened. There is an argument that it was necessary to wait for the blues to confirm what was said. Members must be diligent in raising matters of privilege at the earliest opportunity. That being the case, and since the Chair ruled on this question on other grounds, the Chair decided not to bar the question on the basis that it was not raised at the earliest possible time.

Clarification of Privilege Ruling

Earlier today, the Chair made a ruling on a question of privilege raised by the Member for Calgary-North West.

The Chair would like to clarify a statement made in that ruling.

At one point the Chair stated:

The Chair has not found a prima facie breach of privilege in this case. Had it done so however, the Chair imagines that the withdrawal offered by the Minister, an hour after the words were spoken, would be, at best, just barely enough to close the matter. An apology should be timely.

This statement was neither intended nor correct. What the Chair wanted to say was:

The withdrawal offered by the Minister, an hour after the words were spoken would, at best, be just barely enough to close the matter. An apology should be timely.

The ruling was, in essence, that a prima facie case of contempt did exist. However, the ruling was that the Minister's withdrawal was sufficient, but barely sufficient, to close the matter, based on the authorities cited in the ruling.

The Chair regrets any confusion which may have resulted.

Motions Under Standing Order 40

Mr. Collingwood, Hon. Member for Sherwood Park, requested and received the unanimous consent of the Assembly for consideration of the following motion:

Be it resolved that the Legislative Assembly congratulate Professor David Schindler, Killam Memorial Professor of Ecology, University of Alberta, on receiving a Manning Award in recognition of his contribution to the fight against water pollution.

A debate followed.

The question being put, the motion was agreed to unanimously.

ORDERS OF THE DAY

Committee of Supply

(Day 8 of Main Estimates Consideration – Designated)

(Assembly in Committee)

According to Order, the Assembly resolved itself into Committee of Supply.

And after sometime spent therein, the Speaker resumed the Chair and Mr. Clegg reported as follows:

Mr. Speaker:

The Committee of Supply has had under consideration certain resolutions of the Department of Education, reports progress thereon, and requests leave to sit again.

The question being put, the report and the request for leave to sit again were agreed to.

Adjournment

On motion by Hon. Mr. Day, Deputy Government House Leader, that it be called 5:30 p.m., the Assembly adjourned at 5:23 p.m. until Monday, September 27, 1993, at 1:30 p.m.

Title: Thursday, September 23, 1993