



**Legislative Assembly  
Province of Alberta**

No. 48

**VOTES AND PROCEEDINGS**

Third Session

Twenty-Sixth Legislature

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Wednesday, November 7, 2007

The Speaker took the Chair at 1:00 p.m.

**Members' Statements**

Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, made a statement expressing opposition to Bill 46, Alberta Utilities Commission Act.

Mr. Marz, Hon. Member for Olds-Didsbury-Three Hills, made a statement regarding the recent opening of the Torrington Community Wellness Centre.

Ms Calahasen, Hon. Member for Lesser Slave Lake, made a statement regarding the importance of influenza immunizations.

Mr. Lukaszuk, Hon. Member for Edmonton-Castle Downs, made a statement regarding a \$500,000 donation by Bell Canada to the Stollery Children's Hospital to implement an echocardiography telehealth outreach program.

Mr. Dunford, Hon. Member for Lethbridge-West, made a statement regarding an announcement by the Government to provide substantial funding for the construction of the West Lethbridge Centre which will house high schools from two different school divisions and a public library.

Dr. Swann, Hon. Member for Calgary-Mountain View, made a statement regarding the conflict in Darfur, Sudan.

## **Presenting Petitions**

Mr. Lukaszuk, Hon. Member for Edmonton-Castle Downs, presented a petition from 19 Edmonton and area residents urging the Legislative Assembly to pass Bill 45, Smoke-free Places (Tobacco Reduction) Amendment Act, 2007, and not dilute its contents so as to compromise the version approved at Second Reading, in order to address the enormous health, social, and financial implications of tobacco use in Alberta.

Ms Blakeman, Hon. Member for Edmonton-Centre, presented a petition from 280 Albertans urging the Government to ensure that the remuneration paid to employees working with people with disabilities is standardized across the sector, regardless of whether these workers are employed by government, community-based, or private providers; ensure these employees are fairly compensated and that their wages remain competitive with other sectors to reflect the valuable and crucial service they provide; improve employees' access to professional development opportunities (training and upgrading); and introduce province-wide service and outcomes-focussed level-of-care standards.

Mr. Dunford, Hon. Member for Lethbridge-West, presented a petition from 53 Albertans urging the Legislative Assembly to pass Bill 45, Smoke-free Places (Tobacco Reduction) Amendment Act, 2007, and not dilute its contents so as to compromise the version approved at Second Reading, in order to address the enormous health, social, and financial implications of tobacco use in Alberta.

Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, presented a petition from 26 Albertans urging the Government to launch a full public inquiry under the authority of the Public Inquiries Act into spying practices by the Alberta Energy and Utilities Board (AEUB) and the Minister of Energy's oversight role of the AEUB.

Mr. Rogers, Hon. Member for Leduc-Beaumont-Devon, presented a petition from 18 Edmonton and area residents urging the Legislative Assembly to pass Bill 45, Smoke-free Places (Tobacco Reduction) Amendment Act, 2007, and not dilute its contents so as to compromise the version approved at Second Reading, in order to address the enormous health, social, and financial implications of tobacco use in Alberta.

Mr. Hinman, Hon. Member for Cardston-Taber-Warner, presented a petition from 44 Albertans urging the Government to discard the Royalty Review Report and eliminate restructuring of the oil and gas royalties.

Mr. Hinman, Hon. Member for Cardston-Taber-Warner, presented a petition from 493 Albertans urging the Government to discard the Royalty Review Report and negotiate with the oil and gas producers of Alberta to develop a new system of oil and gas royalties.

## **Tabling Returns and Reports**

Mr. Backs, Hon. Member for Edmonton-Manning:

Program from an Alberta Council of Women's Shelters event entitled "Sheltering the Innocent: children, violence, and what we all can do to help" held in Edmonton on June 15, 2007

Sessional Paper 718/2007

Program from the third annual "Breakfast with the Guys" held in Edmonton on November 7, 2007

Sessional Paper 719/2007

Ms Blakeman, Hon. Member for Edmonton-Centre:

E-mail message dated September 6, 2007, from Kathleen Lowrey of Edmonton to Ms Blakeman, Hon. Member for Edmonton-Centre, expressing concern regarding a rent increase notice she received for her apartment and inquiring whether the increase was allowed

Sessional Paper 720/2007

Mr. MacDonald, Hon. Member for Edmonton-Gold Bar:

Letter dated July 25, 2007, from Hon. Mr. Knight, Minister of Energy, to Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, responding to Mr. MacDonald's letter dated July 9, 2007, concerning the CO<sub>2</sub> Projects Royalty Credit Program

Sessional Paper 721/2007

Letter dated October 31, 2007, from Hon. Mr. Stelmach, Premier, to Mr. MacDonald, Hon. Member for Edmonton-Gold Bar, responding to Mr. MacDonald's recent letter concerning security policies at the Alberta Energy and Utilities Board

Sessional Paper 722/2007

Mr. Mason, Hon. Leader of the New Democrat Opposition:

Graph from the Report of the Alberta Royalty Review Panel entitled "Oil Sands and Offshore/Heavy Oil Projects Combined Ownership and Government Share (Undiscounted)"

Sessional Paper 723/2007

Mrs. Mather, Hon. Member for Edmonton-Mill Woods:

Letter dated October 30, 2007, unsigned, from Shirley Reid and Janet Bowes, both of the CFUW AB (Canadian Federation of University Women Alberta) Council, to Hon. Ms Tarchuk, Minister of Children's Services, commenting on the Government's draft guidelines entitled "Nutrition of Children and Youth in Child Care, Schools, and Recreation Facilities"

Sessional Paper 724/2007

E-mail message, undated, from Tom Evans to Hon. Ms Evans, Minister of Employment, Immigration and Industry, requesting the Government implement all the recommendations made by the Royalty Review Panel

Sessional Paper 725/2007

E-mail message dated November 4, 2007, from Tracy Dunham of Edmonton to Mrs. Mather, Hon. Member for Edmonton-Mill Woods, expressing concern regarding homelessness in Alberta

Sessional Paper 726/2007

Letter dated October 30, 2007, from Terri Calder, President, Calgary Preschool Teachers' Association, to Mrs. Mather, Hon. Member for Edmonton-Mill Woods, commenting on the Government's proposed Child Care Licensing Regulations

Sessional Paper 727/2007

## **Point of Privilege**

The Chair and Table Officers have considered the arguments advanced by the Official Opposition House Leader on Monday and Tuesday afternoons in support of her purported question of privilege alleging that the Minister of Energy deliberately misled the Assembly in statements he made to the Assembly on April 30, 2007, concerning royalties. We have also considered the arguments made by the Minister of Energy in response to the purported question of privilege.

With respect to the preliminaries, there was proper notice given by the Official Opposition House Leader under Standing Order 15(2). The Speaker's office received the notice on Friday, November 2, 2007, at 10:40 a.m., so the two hour requirement has been met.

Another important component in a question of privilege is whether the matter was raised at the earliest opportunity. When she was arguing this point on Monday, November 5, found at page 1791 of Alberta Hansard for that day, the Honourable Member provided references supporting her view that the question had been raised at the earliest opportunity and that while the Official Opposition believed the Minister's statements to be misleading at the time, they required the alleged confirmation found in the Auditor General's Annual Report released Tuesday, October 2.

The Member referred to numerous purported questions of privilege from Manitoba concerning the issue of "earliest possible opportunity." The Chair researched this point and discovered that all the purported questions of privilege from Manitoba shared one other thing in common: they were all found not to be prima facie questions of privilege. To continue to the substance of the issue, the Chair finds that the matter was raised at the earliest opportunity.

From the Member's statements, the essence of the purported question of privilege is what the Minister said in this Assembly on April 30, 2007, namely, that "there is nothing in any of those documents that would indicate to anybody that we have not collected a fair share of royalties for Albertans."

According to the Honourable Member for Edmonton-Centre, the issue is whether this statement was deliberately misleading so as to constitute a contempt of the Assembly.

As the Chair has indicated when allegations of deliberately misleading the Assembly have arisen before, these are very serious allegations. The Chair commented extensively on the origins and background to such charges in rulings found in Alberta Hansard for November 24, 2003, at pages 1803-4 and February 19, 2003, at pages 18-19 to mention only the most recent cases.

These purported questions of privilege allow Members to allege that someone is deliberately misleading the Assembly which is something they could not say in the ordinary course of debate under our rules of debate.

The nature of this offence in the Parliament of the United Kingdom, is set out in Erskine May, 23rd edition at page 132:

"The Commons may treat the making of a deliberately misleading statement as a contempt. In 1963, the House resolved that in making a personal statement which contained words which he later admitted not to be true, a former Member had been guilty of a grave contempt."

The reference is to the notorious Profumo affair which Members of a certain age will recall.

As the Chair has noted before, there is really a two part test to be met in these types of contempt applications. The Canadian House of Commons committee studying the allegation that a former Minister of National Defence had deliberately misled the House with respect to troops in Afghanistan in 2002 used the same test. The Chair should note that in that case, the Eggleton affair, even though the Speaker of the House of Commons found there to be a prima facie question of privilege, the committee found that the Minister had not deliberately misled the House.

The test adopted by the House committee, and in previous rulings by this Chair, is articulated by David McGee in his book *Parliamentary Practice in New Zealand* (2nd edition) where the Clerk of the New Zealand House of Representatives states at page 491:

"There are two ingredients to be established when it is alleged that a member is in contempt on this ground: the statement must, in fact, have been misleading; and it must be established that the member making the statement knew at the time the statement was made that it was incorrect and that, in making it, the member intended to mislead the House."

In this case, the Opposition House Leader alleges that the statement by the Minister of Energy that "there is nothing in any of those documents that would indicate to anybody that we have not collected a fair share of royalties for Albertans," is misleading and that the Minister intended to mislead the House.

The Chair cannot agree with either point. The Minister was referring to documents that he had tabled in the Assembly on April 16, 2007, as Sessional Paper 250/2007. The Minister indicated yesterday in the Assembly that some of the missing pages from the reports tabled can be found in his Department's library. Accordingly, they can be reviewed and evaluated.

The Minister's statement was clearly subjective when he referred to "a fair share of royalties." The Assembly held a special debate on this issue of royalties on Monday and the Chair thinks that any fair observer would be hard-pressed to say there was any agreement on what constitutes "a fair share" of royalties.

Accordingly, if the Chair does not objectively view the Minister's statement as necessarily misleading, there is no reason to examine whether it was "deliberately misleading."

It was interesting to the Chair that the Member raising this purported question of privilege referred to the Auditor General's report as the basis for the allegation that the Minister deliberately misled the Assembly. While the Auditor General, as an Officer of the Legislature, performs important work for Members, his views on policy do not supplant the views of those who have been chosen by the people of Alberta to represent them.

Accordingly, the Chair does not find there to be a prima facie question of privilege and that concludes the matter.

## **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.

The following Bills were reported:

Bill 13 Access to the Future Amendment Act, 2007 — Mr. Rodney

Bill 37 Tobacco Tax Amendment Act, 2007 — Hon. Dr. Oberg

Bill 45 Smoke-free Places (Tobacco Reduction) Amendment Act, 2007 — Hon. Mr. Hancock

The following Bill was reported with some amendments:

Bill 8 Vital Statistics Act — Mr. VanderBurg

Progress was reported on the following Bill:

Bill 36 Alberta Corporate Tax Amendment Act, 2007 — Mr. Rogers

Dr. Brown, Acting Chair of Committees, tabled copies of all amendments considered by Committee of the Whole on this date for the official records of the Assembly.

Amendment to Bill 45 (Hon. Member for Edmonton-Centre) — Defeated  
Sessional Paper 728/2007

Amendment to Bill 45 (Hon. Member for Edmonton-Centre) — Defeated  
Sessional Paper 729/2007

Amendment to Bill 8 (Hon. Minister of Health and Wellness) — Agreed to  
Sessional Paper 730/2007

### **Second Reading**

The following Bills were read a Second time and referred to Committee of the Whole:

Bill 38 Government Organization Amendment Act, 2007 — Ms DeLong

Bill 40 Personal Directives Amendment Act, 2007 — Mrs. Jablonski on behalf of  
Hon. Mrs. Ady

### **Adjournment**

On motion by Hon. Mr. Zwozdesky, Deputy Government House Leader, that it be called 6:00 p.m., the Assembly adjourned at 5:57 p.m. until Thursday, November 8, 2007, at 1:00 p.m.

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Hon. Ken Kowalski,  
Speaker

Title: Wednesday, November 7, 2007