



**Legislative Assembly
Province of Alberta**

No. 40

VOTES AND PROCEEDINGS

Fourth Session

Twenty-Seventh Legislature

Thursday, November 24, 2011

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

Members' Statements

Mr. Elniski, Hon. Member for Edmonton-Calder, made a statement recognizing November 2011 as Movember, a campaign in support of prostate cancer initiatives.

Dr. Swann, Hon. Member for Calgary-Mountain View, made a statement regarding access to primary health care.

Mr. Xiao, Hon. Member for Edmonton-McClung, made a statement regarding the government support provided to schools in the Edmonton-McClung constituency.

Ms Calahasen, Hon. Member for Lesser Slave Lake, made a statement recognizing November 25, 2011, as the International Day for the Elimination of Violence Against Women, and the White Ribbon Campaign (Working to End Violence Against Women) from November 25 to December 6, 2011.

Mr. McFarland, Hon. Member for Little Bow, made a statement regarding the 2011 Remembrance Day service held at the Vulcan Royal Canadian Legion, Branch 21.

Mr. Sandhu, Hon. Member for Edmonton-Manning, made a statement regarding the Sikh community's donations to the Punjabi language program at the University of Alberta and the food bank.

Ms Notley, Hon. Member for Edmonton-Strathcona, made a statement regarding the high cost of post-secondary education in Alberta.

Introduction of Bills (First Reading)

Upon recommendation of His Honour the Honourable the Lieutenant Governor, and notice having been given:

Bill 27 Appropriation (Supplementary Supply) Act, 2011 (No. 2) (\$) — Hon. Mr. Horner

Tabling Returns and Reports

Ms Blakeman, Hon. Member for Edmonton-Centre, on behalf of Dr. Swann, Hon. Member for Calgary-Mountain View:

Position statement dated December 2009 entitled “Legal Blood Alcohol Concentration, ACICR Position on Lowering the Legal Blood Alcohol Concentration for Drivers” prepared by the Alberta Centre for Injury Control and Research

Sessional Paper 530/2011

Ms Blakeman, Hon. Member for Edmonton-Centre:

Letter dated November 23, 2011, from Linda Osinchuk, Mayor, Strathcona County, to Hon. Ms Redford, Premier, and Hon. Dr. Morton, Minister of Energy, expressing concern regarding Alberta Utilities Commission Decision 2011-436 (Heartland Transmission Project)

Sessional Paper 531/2011

Mr. Boutilier, Hon. Member for Fort McMurray-Wood Buffalo:

Excerpt from an Athabasca Advocate web site article, undated, entitled “Land use bills remain a contentious issue”

Sessional Paper 532/2011

Projected Government Business

Pursuant to Standing Order 7(6), Ms Blakeman, 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. Hancock, Government House Leader, gave notice of projected government business for the week of November 28 to December 1, 2011:

Monday, November 28	Eve.	- Government Bills and Orders
		Second Reading
		Bill 23

			<p>Committee of the Whole Bill 25, 26 And as per the Order Paper</p>
Tuesday, November 29	Aft.	-	<p>Government Bills and Orders Second Reading Bill 27</p>
			<p>Committee of the Whole Bill 23, 24 And as per the Order Paper</p>
	Eve.	-	<p>Government Bills and Orders Committee of the Whole Bill 24, 25 And as per the Order Paper</p>
Wednesday, November 30	Aft.	-	<p>Government Bills and Orders Committee of the Whole Bill 21, 25, 27 And as per the Order Paper</p>
	Eve.	-	<p>Government Bills and Orders Committee of the Whole Bill 21, 22, 25 Third Reading Bill 23, 24, 25, 26 And as per the Order Paper</p>
Thursday, December 1	Aft.	-	<p>Government Bills and Orders Third Reading Bill 21, 22, 26, 27 And as per the Order Paper</p>

Privilege - Government Document

Notice of the purported question of privilege was provided by the Member for Edmonton Highlands-Norwood to the Speaker's office on Monday, October 24, 2011, at 10:58 a.m. so the notice provision of Standing Order 15(2) was met. The notice was provided in the Assembly that day by the Member for Edmonton-Strathcona and was deferred until the Fall Sitting resumed on November 21 pursuant to Standing Orders 15(3) and (4).

The Chair will have some comments later on the question of whether this matter was raised at the earliest opportunity as required under Standing Order 15(6).

The alleged facts giving rise to this purported question of privilege are involved so the Chair will attempt to summarize them concisely. In essence, the Member for Edmonton-Strathcona argued on November 21 at pages 1205-1207 of Alberta Hansard for that day, that the Member for Edmonton-Mill Creek deliberately misled the Assembly when he answered certain questions during Question Period on November 30, December 1, and December 2, 2010, almost a year ago. At that time the Member was Minister of Health and Wellness. Without replicating the Hansard excerpt for those days, the then Minister was responding to questions about a PowerPoint presentation dated July 2010 entitled "Alberta's Health Legislation: Moving Forward" and tabled in the Assembly on November 30, 2010, as Sessional Paper 450/2010. At the start of the Fall Sitting on October 24, 2011, the Member for Edmonton-Strathcona tabled an additional document, which appears to be a briefing for the Minister of Health and Wellness dated May, 2010 entitled "Minister's Report" and stands as Sessional Paper 486/2011. As the Chair understands it, the argument is that the May 2010 document was the source for the July 2010 document, as opposed to the source being views of Albertans as indicated by the then Minister on November 30, 2010, at page 1691 of Alberta Hansard for that day.

Deliberately misleading the Assembly is an extremely serious allegation which seldom satisfies the test for constituting a prima facie question of privilege. Many of the authorities were cited by the Member for Edmonton-Strathcona including the Chair's ruling of November 7, 2007, which includes references to several leading authorities. Briefly, deliberately misleading the Assembly is a form of contempt of the Assembly which is treated as a breach of parliamentary privilege. The test that has been adopted in this Assembly, and in the Canadian House of Commons, actually originated in New Zealand. The test as articulated by David McGee, former Clerk of the House of Representatives in New Zealand, is found in the 3rd edition of his book, *Parliamentary Practice in New Zealand* (2005) at pages 653-654:

"There are three elements to be established when it is alleged that a member is in contempt by reason of a statement that the member has made: the statement must, in fact, have been misleading; it must be established that the member making the statement knew at the time the statement was made that it was incorrect; and, in making it, the member must have intended to mislead the House..."

This test is also referred to in House of Commons Procedure and Practice (2nd edition) at page 86.

In this case and based on what the Member for Edmonton-Mill Creek said in this Assembly yesterday, the Chair does not believe that any of the three components have been met: it is not clear that the statement was misleading, it has not been established that the Member for Edmonton-Mill Creek knew the statement was incorrect, and there is certainly no evidence that he intended to mislead the Assembly.

Accordingly, the Chair finds that there is no prima facie question of privilege so that concludes this matter.

However, with respect to timeliness, the Chair would like to comment on what is apparent to anyone who has followed this purported question of privilege. First, the statements that are the subject of this application were made almost a year ago. Second, the questions at that time were related to the impact of a document from July 2010. This purported question of privilege relied on what was in a government briefing document from May 2010, nearly one-and-a-half years ago. The Chair wants to point out that an allegation of deliberately misleading the Assembly is one of the most serious matters that can be raised against a Member. Allegations of this nature are seldom made out. To do so would require clear and convincing evidence. To resurrect an issue from nearly one year ago based on documents from one-and-a-half years ago would have to be overwhelmingly persuasive evidence which is clearly not the case here.

Of course, the Chair cannot and would not and will not restrict the ability of Members to bring forward matters that affect their rights and immunities. However, the Chair would ask Members to carefully consider bringing forward matters that call into question the integrity of other Members when the evidence is less than convincing.

ORDERS OF THE DAY

Government Bills and Orders

Second Reading

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

Bill 23 Land Assembly Project Area Amendment Act, 2011 — Hon. Mr. Johnson

A debate followed.

Debate adjourned, Mr. Ouellette speaking.

Adjournment

Pursuant to Standing Order 4(2), the Assembly adjourned at 4:30 p.m. until Monday, November 28, 2011, at 1:30 p.m.

Hon. Ken Kowalski,
Speaker

Title: Thursday, November 24, 2011