



**Legislative Assembly
Province of Alberta**

No. 42

VOTES AND PROCEEDINGS

Second Session

Twenty-Ninth Legislature

Tuesday, November 1, 2016

The Speaker took the Chair at 10:00 a.m.

Government Motions

22. Moved by Hon. Ms Ganley on behalf of Hon. Mr. Mason:

Be it resolved that, pursuant to Standing Order 3(9), the Second Session of the 29th Legislature 2016 Fall Sitting of the Assembly be extended beyond the first Thursday in December until such time as, or when, the Government House Leader advises the Assembly that the business for the sitting is concluded and at such time the Assembly stands adjourned.

The question being put, the motion was agreed to.

23. Moved by Hon. Ms Ganley on behalf of Hon. Mr. Mason:

Be it resolved that, notwithstanding Standing Order 3(6), the only constituency week for the 2016 Fall Sitting shall be held the week of November 14, 2016, with the Assembly reconvening on Monday, November 21, 2016.

A debate followed.

The question being put, the motion was agreed to.

24. Moved by Hon. Ms Ganley on behalf of Hon. Mr. Mason:

Be it resolved that on Thursday, November 3, 2016, the morning sitting of the Assembly stand adjourned at 10:45 a.m.

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 21 Modernized Municipal Government Act — Hon. Ms Larivee

A debate followed.

Debate adjourned, Mr. Hanson speaking.

Adjournment

Pursuant to Standing Order 4(2.1), the Assembly adjourned at 12:00 p.m. until 1:30 p.m.

TUESDAY, NOVEMBER 1, 2016 — 1:30 PM

ROUTINE

Members' Statements

Mrs. Schreiner, Hon. Member for Red Deer-North, made a statement regarding the 2019 Canada Winter Games to be held in Red Deer from February 15 to March 3, 2019, and thanking the 2019 Canada Winter Games Board of Governors for their dedication and leadership.

Mr. Hunter, Hon. Member for Cardston-Taber-Warner, made a statement congratulating Mr. Glen Motz, the Conservative Party of Canada candidate, on his recent victory in the Medicine Hat-Cardston-Warner federal by-election and regarding the opposition to New Democrat Party values in that constituency.

Mr. Fraser, Hon. Member for Calgary-South East, made a statement regarding power companies returning power purchase agreements to the balancing pool, and the benefits power companies have provided Albertans over the past many years.

Ms Kazim, Hon. Member for Calgary-Glenmore, made a statement regarding Making Treaty 7, a theatrical performance presented by the Making Treaty 7 Cultural Society, held in Calgary from September 28 to 30, 2016.

MLA Loyola, Hon. Member for Edmonton-Ellerslie, made a statement recognizing November 1, 2016, as Day of the Dead, a Latin American tradition focused on ancestors and highlighting the importance of history through familial and personal relationships (some remarks made in Spanish).

Mr. Yao, Hon. Member for Fort McMurray-Wood Buffalo, made a statement regarding the importance of building new seniors' housing in the Fort McMurray area and asking the Government to support completion of the proposed Willow Square project.

Introduction of Bills (First Reading)

Notice having been given:

Bill 25 Oil Sands Emissions Limit Act — Hon. Ms Phillips

Tablings to the Clerk

Clerk of the Assembly on behalf of Hon. Ms Phillips, Minister of Environment and Parks and Minister Responsible for the Climate Change Office:

Responses to questions raised by Mr. Loewen, Hon. Member for Grande Prairie-Smoky, Dr. Swann, Hon. Member for Calgary-Mountain View, and Mr. Clark, Hon. Member for Calgary-Elbow, on May 3, 2016, Ministry of Environment and Parks, 2016-2017 Main Estimates debate

Sessional Paper 318/2016

Privilege – Radio Ads Concerning Bill 20, Climate Leadership Implementation Act

I mentioned the issue yesterday about giving a last point for the question of privilege which originated on June 6, 2016. I have now had an opportunity to consider the comments made by the Official Opposition House Leader, which can be found on page 1572 in the Hansard for yesterday. I have also been attentive to arguments made in the Assembly during the Spring Sitting and in written submissions, and I am now prepared to provide my ruling on this matter.

Honourable Members, you all will have had an opportunity to see questions of privilege argued in the Assembly and rulings delivered. As has been indicated on numerous occasions, questions of privilege are of a serious nature, not to be taken lightly. These questions are dealt with under our Standing Order 15.

The Official Opposition House Leader met the procedural requirement of that Standing Order to provide notice of the question at least two hours prior to the commencement of the afternoon sitting by providing notice to my office at 11:03 a.m. on June 6. I also confirm that June 6 was the first opportunity available to the House Leader in raising this matter before the Assembly, as he indicated he had not heard the radio ad in question until the preceding Thursday afternoon.

I understand the facts of this matter to be as follows. Radio advertisements from the Government of Alberta were aired on at least one Alberta radio station as early as Thursday, June 2. The radio ad discussed the Government's Climate Leadership Plan and went on to explain that "the transition will be made easier with energy efficient programs and cash rebates for households that need them." The ad then directed listeners to the website climate.alberta.ca. At the time the ad heard by the Official Opposition House Leader aired, Bill 20, Climate Leadership Implementation Act, had not completed Committee of the Whole consideration.

The Government House Leader did not dispute the accuracy of the verbatim content of the ad as recited by the Official Opposition House Leader. I would also add that the Government House Leader was afforded the opportunity to comment on the climate.alberta.ca website, the contents of which were filed as Sessional Paper 217/2016. The website discusses, among other things, how starting on January 1, 2017, "the carbon levy will be applied to fuels at a rate of \$20/tonne" and how the levy will be increased in 2018 to \$30 per tonne. The website goes on to discuss how the levy will reinvest in the Alberta economy and how it will affect Alberta families and businesses.

At this juncture it should be pointed out that technically the matter before us now is a purported contempt of the Legislative Assembly. As noted at pages 82 and 83 of House of Commons Procedure and Practice, second edition, and I quote:

There are ... affronts against the dignity and authority of Parliament which may not fall within one of the specifically defined privileges. Thus, the House also claims the right to punish, as a contempt, any action which, though not a breach of a specific privilege, tends to obstruct or impede the House in the performance of its functions; obstructs or impedes any Member or officer of the House in the discharge of their duties; or is an offence against the authority or dignity of the House, such as disobedience of its legitimate commands or libels upon itself, its Members, or its officers. ... In that sense, all breaches of privilege are contempts of the House, but not all contempts are necessarily breaches of privilege.

While the Official Opposition House Leader made an argument that the matter at hand also constituted a question of privilege in that the actions of the Government were an attempt to influence the vote or actions of him or other Members, of this I have not been convinced. I am persuaded by the Government House Leader's argument that Members were not prevented from doing their duty as a result of the information contained within the ads. Therefore, I will proceed to consideration of the matter solely as a purported contempt of the Assembly.

This is not the first time during this Legislature that this particular variety of purported contempt has been raised. On November 2, 2015, a ruling was cited by the Official Opposition House Leader in his arguments on June 6. That ruling can be found at pages 400 and 401 of Hansard for that day, and concerned a news release issued prior to the delivery of the Budget Address. Members may recall that I did not find a prima facie question of privilege in that case, but I did caution the Government not to prejudge the actions of the Assembly or its committees in the future.

On a matter similar to the one that I ruled on last November, a prima facie question of privilege was found by Speaker Zwozdesky on December 2, 2013. In that ruling, which concerned brochures published by the Government at that time, Speaker Zwozdesky made reference to prior rulings from the federal House of Commons and the Legislative Assembly of Ontario, which are likewise relevant to the matter under consideration today. Members will note that an important factor in determinations on these matters has been whether Speakers have previously cautioned governments of the day on their activities in what may be a well-intentioned attempt at informing the public but in fact prejudices a decision of the Assembly or its committees.

I note the following passage from the Ontario ruling of January 22, 1997, where at page 1420 of Hansard Speaker Stockwell stated the following when considering a ministry pamphlet discussing the Government of Ontario's program for reforming municipal governance in Metropolitan Toronto:

In my opinion, [the claims in the brochure] convey the impression that the passage of the requisite legislation was not necessary or was a foregone conclusion, or that the Assembly and the Legislature had a pro forma, tangential, even inferior role in the legislative and law-making process, and in doing so, they appear to diminish the respect that is due to this House. I would not have come to this view had these claims or proposals – and that is all they are – been qualified by a statement that they would only become law if and when the Legislature gave its stamp of approval to them ... It is not enough for yet another Speaker to issue yet another warning or caution in circumstances where the wording and circulation of the pamphlet appear on their face to cross the line. I say in all candour that a reader of that document could be left with an incorrect impression about how parliamentary democracy works in Ontario, an impression that undermines respect for parliamentary institutions.

It's clear from the radio ad and the information presented on the website that the Government communications concerning Bill 20 discuss the Bill as if it had already been passed into law when, in fact, the Bill was still under consideration in Committee of the Whole. It shows disrespect to the legislative process to presume that the passage of a Bill in the form in which it was introduced in the Assembly is a foregone conclusion. There must be a balance and timeliness between the Government's need to communicate information about its policies and programs to Albertans and the role of the Legislative Assembly to consider and debate any legislation required to implement in these programs. While the Government may certainly communicate its initiatives to the public through advertisements or online information, the distinction between the Executive and the Legislative branches of government must be respected.

I have concluded that the content of the radio advertisement as well as the Government website, from which an excerpt was tabled on June 6, 2016, as Sessional Paper 217/2016, contained statements presenting the Government's program concerning the carbon levy and associated rebates as fact, when in actuality they were contingent upon passage of Bill 20 in the Assembly. The website outlines what the carbon levy and the rebates will do and contains no qualification that this is subject to the approval of the Legislature.

I have no doubt that the Government had good intentions in advising Alberta of the provisions and future impact of Bill 20, but at the time the relevant radio ads aired, the Bill had not yet passed through all the necessary stages in the Assembly. There are ways in which information can be communicated without presuming a decision of the Assembly. Members may note, for example, in my ruling of November 2, 2015, at page 400 of Hansard for that day, I drew all Members' attention to the choice of language by the Minister of Finance during the delivery of the Budget Address, wherein he noted that the Government would be proposing a salary freeze for Cabinet Ministers and MLAs. Although a news release issued at the same time as the Budget Address was more ambiguous, one might say that the use of the word "propose" in the address itself was the saving grace for the Government with respect to that question of privilege raised on October 28, 2015.

I noted the Government House Leader's argument that the changes respecting the carbon levy and associated rebates were framed as part of the overall Climate Leadership Plan. This bears some similarity to the brochure referenced in Speaker Zwozdesky's December 2, 2013, ruling, which was titled the Building Alberta Plan. Nonetheless, in that case the content was deemed to prejudge decisions of the Assembly and its committees.

In this case, pursuant to the Standing Order 15(6), I find that there is a prima facie question of privilege, which may be called a question of contempt, as the dignity of this Assembly was offended by the actions of the Government in publicizing certain aspects of Bill 20 and presuming its passage prior to the Bill making its way through the legislative process.

Hon. Mr. Bilous, Deputy Government House Leader, apologized to the Assembly and the Speaker declared the matter closed.

ORDERS OF THE DAY

Government Bills and Orders

Second Reading

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

Bill 24 Forest and Prairie Protection Amendment Act, 2016 — Mrs. Schreiner on behalf of Hon. Mr. Carlier

A debate followed.

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

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

Bill 21 Modernized Municipal Government Act — Hon. Ms Larivee

A debate followed.

Debate adjourned, Mr. Smith speaking.

Adjournment

Pursuant to Standing Order 4(2), the Assembly adjourned at 6:00 p.m. until Wednesday, November 2, 2016, at 9:00 a.m.

Hon. Robert E. Wanner,
Speaker