



**Legislative Assembly
Province of Alberta**

No. 46

VOTES AND PROCEEDINGS

Second Session

Twenty-Ninth Legislature

Tuesday, November 8, 2016

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

Government Bills and Orders

Second Reading

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

Bill 27 Renewable Electricity Act (\$) — Hon. Ms McCuaig-Boyd

A debate followed.

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

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

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

Debate continued on the referral amendment introduced by Mr. Panda, Hon. Member for Calgary-Foothills, on November 3, 2016, that the motion for Second Reading of Bill 25, Oil Sands Emissions Limit Act, be amended by deleting all the words after “that” and substituting the following:

Bill 25, Oil Sands Emissions Limit Act, be not now read a Second time but that the subject matter of the Bill be referred to the Standing Committee on Resource Stewardship in accordance with Standing Order 74.2.

Debate adjourned on the amendment, Mr. Loewen speaking.

Adjournment

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

TUESDAY, NOVEMBER 8, 2016 — 1:30 PM

ROUTINE

Members' Statements

MLA Cortes-Vargas, Hon. Member for Strathcona-Sherwood Park, made a statement regarding the work of the Foundation of Administrative Justice, a non-profit organization that provides training in administrative law and justice.

Mr. McIver, Hon. Leader of the Progressive Conservative Opposition, made a statement regarding a November 7, 2016, Government news release concerning jobs in Alberta.

MLA Drever, Hon. Member for Calgary-Bow, made a statement recognizing November 8, 2016, as Myeloma Awareness Day in Alberta.

Mr. Orr, Hon. Member for Lacombe-Ponoka, made a statement regarding how taxes and Government policies affect the work of charities and calling for charities to be exempted from the carbon levy.

Ms Jabbour, Hon. Member for Peace River, made a statement recognizing November 8, 2016, as National Aboriginal Veterans Day.

Mr. Nixon, Hon. Member for Rimbey-Rocky Mountain House-Sundre, made a statement regarding actions the Government has taken over the past year rather than focussing on a comprehensive jobs plan.

Introduction of Bills (First Reading)

Notice having been given:

Bill 29 Vital Statistics and Life Events Modernization Act — Hon. Ms McLean

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

Bill 30 Investing in a Diversified Alberta Economy Act (\$) — Hon. Mr. Bilous

Tabling Returns and Reports

Ms Luff, Hon. Member for Calgary-East:

Maclean's website article dated January 5, 2015, entitled "Stephen Harper: Oil's worst enemy," relating to comments made by Ms Luff during Second Reading debate of Bill 25, Oil Sands Emissions Limit Act, on November 7, 2016
Sessional Paper 337/2016

Hon. Mr. Bilous, Minister of Economic Development and Trade:

Report dated November 2016 entitled "Alberta Jobs Plan, Building an Economy for the Future," prepared by the Alberta Government
Sessional Paper 338/2016

Hon. Mr. Wanner, Speaker of the Legislative Assembly:

Letter dated November 8, 2016, from Hon. Mr. Mason, Government House Leader, to Hon. Mr. Wanner, Speaker of the Legislative Assembly, providing additional information regarding the purported question of privilege raised by Mr. Rodney, Hon. Member for Calgary-Lougheed, on November 3, 2016
Sessional Paper 339/2016

Privilege – Media Events and a News Release Concerning Bill 27, Renewable Electricity Act (\$)

Honourable Members, I am prepared to rule on the purported question of privilege that was argued yesterday. Before I deliver my ruling, I want to alert Members that although I did receive a statement from the Government House Leader shortly before the Assembly reconvened this afternoon, there is no new information or additional citations offered, and I want to assure Members that that information played no part in my ruling.

On November 3, the House Leader for the Third Party raised a purported question of privilege in regard to comments made by the Minister of Environment and Parks describing the Government's Renewable Electricity Program prior to the introduction of Bill 27 in this Assembly. Having heard the arguments with respect to this purported question of privilege and having carefully considered all of the information provided, I am now prepared to make my ruling.

To begin, Members will recall that the House Leader for the Third Party raised this question immediately following the introduction of Bill 27 on November 3, which can be found at page 1701 of Alberta Hansard. No objection was made to this approach; however, I would note that it is normally provided in writing at least two hours prior to the opening of the afternoon sitting, pursuant to Standing Order 15(2). This would have provided notice to all caucuses before the issue was discussed in this Assembly.

However, I also note that the House Leader for the Third Party tabled three documents related to his purported question of privilege, which are marked as follows: Sessional Paper 331/2016, which is a printout of a Government of Alberta website detailing the Renewable Electricity Program; Sessional Paper 332/2016, which is a Government news release entitled “Renewable electricity plan to create jobs, spur investment;” and Sessional Paper 333/2016, which consists of a CBC News article under the headline “Renewable energy program to add 5,000 megawatts of capacity by 2030, says environment minister.” The House Leader for the Official Opposition also tabled two similar documents, marked as Sessional Papers 326/2016 and 327/2016.

Based on the documents tabled in this Assembly and the arguments presented from all sides, I understand the relevant facts of this matter to be as follows. Bill 27 appeared on notice in the Order Paper on November 2, 2016. The Bill was not introduced in this Assembly until the afternoon of November 3, 2016. In the period between when the Bill was put on notice and when it was introduced in the Assembly, the Minister for Environment and Parks made public statements about the Government’s Renewable Electricity Program to the media and at a conference in Calgary. In addition, the Government of Alberta issued a news release which also detailed the program.

As I understand it, the central argument raised by the House Leader for the Third Party is that the work of the Members of this Assembly was impeded as a result. It was impeded because information about Bill 27 was disclosed publicly by the Minister of Environment and Parks, as well as in the Government news release, while the Bill was still on notice but prior to First Reading. The House Leader for the Official Opposition further argued that public statements made by the Minister discussed the ability of the ISO, the Independent Systems Operator, to deliver programs that were contingent on elements contained in Bill 27, and presupposed decisions of this Assembly.

I would characterize this purported question as twofold. Were Members obstructed from carrying out their duties as a result of the statements made by the Honourable Minister and contained in the Government communications? And did such statements offend the dignity of this Assembly?

I want to clarify that the question being raised is properly termed a question of contempt, rather than a question of privilege, although I am advised that they are treated in much the same way. You may recall from my ruling on November 1, 2016, that the Assembly claims the right to punish, as a contempt, any action which, though not breach of a specific privilege, tends to obstruct or impede the Assembly or its Members in the performance of their functions or which offends the dignity of this Assembly. You will find a further elaboration of this principle in House of Commons Procedure and Practice, Second Edition, at page 82. I can tell you Honourable Members, I have read that document many times.

Speaker Zwozdesky addressed a similar question of contempt in his ruling of October 31, 2013, which you will find at page 2655 of Alberta Hansard for that day. In that case, a concern was raised about information that was released about a Bill that was on notice prior to its introduction in this Assembly, as well as a related Government advertisement. In coming to his decision, Speaker Zwozdesky noted the crucial difference between providing the text of a Bill or detailed contents to the media or any other outside entity prior to its introduction in this Assembly and a Minister making general statements about the policy initiatives contained in a Bill. There should be no question that all Members are entitled to see proposed legislation in its final form before a Bill is disclosed to outside parties, the key point being “in its final form.”

Not every statement about a Bill that is on notice will automatically lead to and qualify as a prima facie case of contempt. This approach was also applied by Speaker Kowalski in his ruling of March 5, 2003, at page 304 of Alberta Hansard for that day. Speaker Kowalski applied it with respect to a Government briefing provided to the media about a Bill which was on notice but that had not yet been introduced. In that case Speaker Kowalski found that a departmental briefing had in fact provided detailed information concerning the Bill and therefore constituted a prima facie contempt. But he went on to note that consultations on proposed legislation are not out of order, nor is the practice of sharing Bills with Members of the opposition before introduction.

Speaker Milliken of the House of Commons came to a similar conclusion in his ruling on November 5, 2009, which dealt with comments made by a federal Minister at a press conference. In that case he noted that the federal Minister had not disclosed the details of the Bill prior to First Reading by broadly discussing policy initiatives proposed in the Bill. While the House Leader for the Third Party argued that sharing information about Bill 27 circumvented the role of this Assembly in the legislative process, no allegation was made by any Member that the text of Bill 27 was provided to any outside party prior to its introduction in this Assembly. I would also note that there is nothing that I can see in the materials tabled by the House Leader for the Third Party or the Official Opposition House Leader which contains specific details of what was in Bill 27.

As noted by the Government House Leader in his arguments, the Government’s Renewable Electricity Program has been discussed in this Assembly and in public on numerous occasions, including policy statements made about implementing generation projects through auction.

After carefully reading Bill 27, I also note that the public comments made by the Minister of Environment and Parks, as well as statements included in the Government news release, do not contain any details of the text of Bill 27 in its final form. The information provided by the Government communicated only broad statements of policy and did not impede Members of this Assembly in the discharge of their duties. I can also see no evidence in the materials which would suggest the Government was presupposing the outcome of Bill 27 in this Assembly.

Pursuant to the Standing Order 15(6), I find that there is no prima facie question of contempt with respect to this matter.

Finally, as I have noted before, a question of privilege, as I understand and continue to learn, is one of the most serious matters that can be raised in this Assembly. I would encourage Members to carefully consider the facts of a purported breach of privilege, as well as past rulings made in this Assembly, before raising such issues. And let me also add, Honourable Members, that I want to caution the Government again with respect to being more attentive to these kinds of announcements in the future.

ORDERS OF THE DAY

Government Bills and Orders

Second Reading

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

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

Debate continued on the referral amendment introduced by Mr. Panda, Hon. Member for Calgary-Foothills, on November 3, 2016, that the motion for Second Reading of Bill 25, Oil Sands Emissions Limit Act, be amended by deleting all the words after “that” and substituting the following:

Bill 25, Oil Sands Emissions Limit Act, be not now read a Second time but that the subject matter of the Bill be referred to the Standing Committee on Resource Stewardship in accordance with Standing Order 74.2.

The question being put, the amendment was defeated. With Hon. Mr. Wanner in the Chair, the names being called for were taken as follows:

For the amendment: 16

Aheer	McIver	Rodney
Drysdale	Nixon	Schneider
Fildebrandt	Orr	Smith
Hanson	Panda	Taylor
Hunter	Pitt	Yao
MacIntyre		

Against the amendment: 39

Anderson (Leduc-Beaumont)	Gray	McPherson
Bilous	Hinkley	Miller
Carson	Horne	Miranda
Connolly	Kazim	Nielsen
Coolahan	Kleinsteuber	Phillips
Cortes-Vargas	Larivee	Piquette
Dach	Loyola	Sabir
Dang	Luff	Schmidt
Drever	Malkinson	Schreiner
Eggen	Mason	Shepherd
Feehan	McCuaig-Boyd	Sweet
Ganley	McKitrick	Turner
Goehring	McLean	Westhead

Hon. Ms Ganley moved adjournment of the debate, which was agreed to.

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)

The following Bill was taken under consideration:

Bill 24 Forest and Prairie Protection Amendment Act, 2016 — Hon. Mr. Carlier

Mr. Drysdale, Hon. Member for Grande Prairie-Wapiti, moved the Bill be amended as follows:

- A. Section 12 is amended, in the proposed section 23, by adding the following after subsection (2):
 - (3) A forest officer shall notify the person referred to in subsection (1) whether the fire control plan is satisfactory within 14 days of the date the forest officer received the fire control plan.
- B. Section 17 is amended, in the proposed section 32(2.1), by adding “for a period not exceeding 365 days or any extended period that the Minister may authorize” after “secure an area of land or premises”.

The question being put, the amendment was defeated. With Ms Jabbour at the Table, the names being called for were taken as follows:

For the amendment: 14

Drysdale	MacIntyre	Rodney
Fildebrandt	McIver	Schneider
Hanson	Nixon	Taylor
Hunter	Orr	Yao
Loewen	Pitt	

Against the amendment: 38

Anderson (Leduc-Beaumont)	Gray	McPherson
Bilous	Hinkley	Miller
Carson	Horne	Miranda
Connolly	Kazim	Nielsen
Coolahan	Kleinstauber	Phillips
Cortes-Vargas	Larivee	Piquette
Dach	Loyola	Sabir
Dang	Luff	Schmidt
Drever	Malkinson	Schreiner
Eggen	Mason	Shepherd
Feehan	McCuaig-Boyd	Sweet
Ganley	McKitrick	Westhead
Goehring	McLean	

And after some time spent therein, the Deputy Speaker assumed the Chair.

Progress was reported on the following Bill:

Bill 24 Forest and Prairie Protection Amendment Act, 2016 — Hon. Mr. Carlier

Mr. S. Anderson, 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 24 (A1) (Hon. Member for Grande Prairie-Wapiti) —
Defeated on division

Sessional Paper 340/2016

Amendment to Bill 24 (A2) (Hon. Member for Lacombe-Ponoka) —
Adjourned

Sessional Paper 341/2016

Adjournment

On motion by Hon. Ms Ganley, Minister of Justice and Solicitor General, the Assembly adjourned at 5:57 p.m. until Wednesday, November 9, 2016, at 9:00 a.m.

Hon. Robert E. Wanner,
Speaker

Title: Tuesday, November 8, 2016