



No. 103

N° 103

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## **Votes and Proceedings**

## **Procès-verbaux**

Legislative Assembly  
of Ontario

Assemblée législative  
de l'Ontario

**Thursday**  
**October 5, 2006**

Morning and  
Daytime Meeting - Sessional Day 154

**Jeudi**  
**5 octobre 2006**

Séance du matin et  
de l'après-midi - jour de session 154

**2<sup>nd</sup> Session,**  
**38<sup>th</sup> Parliament**

**2<sup>e</sup> session**  
**38<sup>e</sup> législature**

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**PRAYERS**  
**10:00 A.M.**

Mr. McNeely moved,

Second Reading of Bill 139, An Act to make April 21 Climate Change Awareness Day.

A debate arising, at 11:00 a.m., further proceedings were reserved until 12:00 noon.

Ms. Horwath then moved,

Second Reading of Bill 111, An Act to amend the Workplace Safety and Insurance Act, 1997 with respect to occupational diseases and injuries of firefighters.

The question having been put on the motion for Second Reading of Bill 139, An Act to make April 21 Climate Change Awareness Day, it was declared carried and the Bill was accordingly read the second time and Ordered referred to the Standing Committee on General Government.

The question having been put on the motion for Second Reading of Bill 111, An Act to amend the Workplace Safety and Insurance Act, 1997 with respect to occupational diseases and injuries of firefighters, it was declared carried and the Bill was accordingly read the second time and Ordered referred to the Standing Committee on General Government.

**1:30 P.M.**

The Speaker delivered the following ruling:-

On September 25, 2006, the Member for Leeds-Grenville (Mr. Runciman) rose on a point of order concerning the circumstances surrounding the release of the 2005-2006 Public Accounts during the summer recess. The Member indicated that these circumstances amounted to a contempt of the House because the scrutiny and oversight function of the House and the Standing Committee on Public Accounts -- one of the pillars of the convention of responsible government -- was frustrated by the process surrounding the release of, and briefing on, the Public Accounts on August 24, 2006, a day when the House was not sitting.

The Member for Niagara Centre (Mr. Kormos) and the Minister of Finance (Mr. Sorbara) also spoke to the matter.

Having had an opportunity to review the Hansard for that day, the written submissions of the Member for Leeds-Grenville and of the Minister of Finance, the Standing Orders, and the parliamentary precedents and authorities, I am now ready to rule on the matter.

The Member for Leeds-Grenville argued that:

**PRIÈRES**  
**10 H**

M. McNeely propose,

Deuxième lecture du projet de loi 139, Loi visant à faire du 21 avril la Journée de sensibilisation aux changements climatiques.

À 11 h, la suite du débat est réservée jusqu'à midi.

Ensuite, M<sup>me</sup> Horwath propose,

Deuxième lecture du projet de loi 111, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail relativement aux maladies professionnelles et aux lésions des pompiers.

La motion portant deuxième lecture du projet de loi 139, Loi visant à faire du 21 avril la Journée de sensibilisation aux changements climatiques, mise aux voix, est déclarée adoptée et le projet de loi est en conséquence lu une deuxième fois et renvoyé au Comité permanent des affaires gouvernementales.

La motion portant deuxième lecture du projet de loi 111, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail relativement aux maladies professionnelles et aux lésions des pompiers, mise aux voix, est déclarée adoptée et le projet de loi est en conséquence lu une deuxième fois et renvoyé au Comité permanent des affaires gouvernementales.

**13 H 30**

... the Minister of Finance usurped the role and responsibilities of the broader membership of this Assembly and the membership of the Standing Committee on Public Accounts. Indeed, this instance interferes profoundly with the role of the Legislative Assembly and its officers in a system of responsible government.

Providing access to the Public Accounts to the media first to the exclusion of the elected members of this Assembly and denying elected members the same briefing afforded the media not only was unhelpful; it was a disrespectful offence to the authority and dignity of this House and represents contempt of this Legislature.

That is what the Member for Leeds-Grenville said.

Before considering whether a *prima facie* case of contempt has been established, I want to say a few words about the orderliness of what happened on August 24, 2006. On that day, the Public Accounts were filed with the Clerk's Office, pursuant to section 13(3) of the *Ministry of Treasury and Economics Act*, and Standing Order 39(a).

Section 13(3) of the *Ministry of Treasury and Economics Act* states that the Treasurer has 180 days after the fiscal year-end to submit the Public Accounts to the Lieutenant Governor in Council. (The Act does not empower the House or the Speaker to set the submission date within that 180-day time frame, or to conclude that the government should have selected a different submission date.) Under the Act, if the Assembly is in session on the day that the Public Accounts are ready to be laid before the Assembly, then the Lieutenant Governor in Council lays them before the Assembly; if, however, the Assembly is not in session when the Public Accounts are ready to be laid before the Assembly, then the Lieutenant Governor in Council makes them available to the public and lays them before the Assembly pursuant to a different procedure. In the case at hand, August 24 was not a day on which the House was sitting, but it was in session, and so only the "in session" procedure could be invoked on that day.

But how can the Public Accounts, or any document for that matter, be tabled on a day on which the House is not actually sitting? Standing Order 39 provides the answer to this question. It specifies a mechanism whereby such documents can be tabled, regardless of whether or not the day of tabling is a sitting day. That Standing Order reads as follows:

39. (a) Reports, returns and other documents required to be laid before the House by any Act of the Assembly or under any Standing Order or Resolution of the House, or that any minister wishes to present to the House, may be deposited with the Clerk of the House, whether or not on a Sessional day, and such report, return or other document shall be deemed for all purposes to have been presented to or laid before the House. A record of any such document shall be entered in the *Votes and Proceedings* on the day it is filed except that where it is filed on a day that is not a Sessional day, it shall be entered in the *Votes and Proceedings* of the next Sessional day.

(b) The minister concerned shall distribute copies of all reports to all members of the House and copies of any background material to the critics of the recognized Opposition Parties.

Standing Order 39(a), then, provides for the tabling of a document with the Clerk's Office, instead of in the House, and such a tabling is as valid as if it were done in the House. Therefore, when the Public Accounts were filed with the Clerk's Office on August 24, they became sessional paper no. 242, and this was duly noted at page 10 of the *Votes and Proceedings* for September 25, 2006, the first sessional day after the filing. In other words, the Public Accounts were properly tabled, and nothing was out of order. Indeed, since 1985, there have been five other occasions when the Public Accounts have been tabled pursuant to what is now Standing Order 39(a) on a day on which the House was not sitting; some of these tablings occurred during the summer recess or the intersession period.

It is important to understand the rationale for this Standing Order in the context of the Public Accounts. Standing Order 39(a) provides a mechanism for the government to comply with the *Ministry of Treasury and Economics Act*, to respect the Assembly's pre-eminent role in the consideration of the Public

Accounts, and to expedite the timely and official dissemination of this important document. Because it implicitly requires the Assembly to receive the Public Accounts officially before they are released to the public, this Standing Order effectively answers the very process concerns that were raised in the case at hand.

The Member for Leeds-Grenville, also made reference to a 2003 ruling (which can be found at pages 44 to 50 of the *Journals* for May 8, 2003) in which Speaker Carr found that a *prima facie* case of contempt was established in circumstances where the government presented a Budget document at a time when the Legislature stood prorogued. In both that incident and in the case at hand the events were preceded by the tabling of a financial document pursuant to Standing Order 39(a). That is where the similarity between the two incidents ends. In the 2003 ruling, Speaker Carr ruled: (a) that the government had indicated that the impugned process was motivated by a desire to have a direct conversation with the people of Ontario, (b) that the government appeared to be suggesting that parliamentary institutions and processes were interfering with the government's message to the people, (c) that the government's statements tended to reflect adversely on parliamentary institutions and processes, and (d) that there was widespread public criticism of the government's actions. The same cannot be said in the present case.

The process followed for the tabling of the Public Accounts is the same whether or not the House is actually sitting. There is no formal presentation of the document in the House when it is sitting and no expectation of such. The Minister in either case simply submits the requisite number of copies to the Clerk's Office and ensures their distribution to all Members thereby commencing the scrutiny process.

Turning now to the matter of the media briefing, Speakers have been reluctant to rule that media briefings are a matter of order or privilege. I refer Members to a ruling at page 268 of the *Journals* for November 17, 1993 when Speaker Warner ruled that no privilege was violated when a government body had not invited a Member to a media event, and that the Speaker has "no authority outside the precinct that would permit him or her to ensure that announcements are made in a certain fashion." In addition, at page 221 of the *Journals* for November 6, 2001, Speaker Carr referred to media briefings as an "external apparatus which precedes what occurs in this House."

While I concur with those rulings, I would also counsel that it is in the best interest of this institution and the citizens that we all serve when the representative function of Members is respected. As a matter of courtesy then, the government should in all cases make every effort to ensure that Members on both sides of the House are adequately briefed and informed.

The Member for Leeds-Grenville also indicated that "[a]ccess to the briefing meant access to the Public Accounts" and "[d]enied access to the briefing meant denied access to the Public Accounts." However, Members were all provided with copies of the Public Accounts in the manner in which they always receive them at the time of tabling. The release of the Public Accounts during the adjournment does not pre-empt, prevent or impede the usual Public Accounts process. In fact, since the Public Accounts have been tabled earlier than in many previous years, that process can now commence earlier.

For these reasons, I find that a *prima facie* case of contempt has not been established.

I thank the Member for Leeds-Grenville, the Member for Niagara Centre and the Minister of Finance for their views on this matter. I also thank the Member for Leeds-Grenville and the Minister of Finance for their helpful written submissions.

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## INTRODUCTION OF BILLS

The following Bill was introduced and read the first time:-

Bill 144, An Act to amend the Legislative Assembly Act respecting severance for members who resign. Mr. Kormos.

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## DÉPÔT DES PROJETS DE LOI

Le projet de loi suivant est présenté et lu une première fois:-

Projet de loi 144, Loi modifiant la Loi sur l'Assemblée législative en ce qui a trait à l'allocation de départ des députés en cas de démission. M. Kormos.

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**PETITIONS**

Petition relating to ensuring the re-development of Highway 26 is completed immediately (Sessional Paper No. P-12) Mr. Wilson.

Petition relating to establishing an evening bus route for the Simcoe Muskoka Catholic School Board (Sessional Paper No. P-20) Mr. Wilson.

Petition relating to forming a special legislative committee on Pension Reform (Sessional Paper No. P-43) Ms. Horwath.

Petition relating to endorsing the Frederick Banting Homestead Preservation Act (Sessional Paper No. P-95) Mr. Wilson.

Petition relating to identity theft (Sessional Paper No. P-113) Mr. Ruprecht.

Petition relating to refraining from cutbacks or cancellations to the provincial fish hatchery program (Sessional Paper No. P-130) Mr. Levac.

Petitions relating to supporting the Fair Access to Regulated Professions Act, 2006 (Sessional Paper No. P-202) Mr. Kular, Mr. Qaadri and Mr. Racco.

Petition relating to stopping repairs, securing funding and constructing a new facility for St. Paul's Elementary School (Sessional Paper No. P-207) Mr. Wilson.

Petition relating to not passing Bill 43 (The Clean Water Act) until proper funding and amendments are in place (Sessional Paper No. P-222) Ms. Scott.

Petition relating to enacting a minimum standard of 3.5 hours of nursing care for each nursing home resident per day (Sessional Paper No. P-228) Mr. Kormos.

**PÉTITIONS****ORDERS OF THE DAY**

A debate arose on the motion for Third Reading of Bill 14, An Act to promote access to justice by amending or repealing various Acts and by enacting the Legislation Act, 2005.

After some time, pursuant to Standing Order 9, the motion for the adjournment of the debate was deemed to have been made and carried.

The House then adjourned at 6:00 p.m.

**ORDRE DU JOUR**

Il s'élève un débat sur la motion portant troisième lecture du projet de loi 14, Loi visant à promouvoir l'accès à la justice en modifiant ou abrogeant diverses lois et en édictant la Loi de 2005 sur la législation.

Après quelque temps, conformément à l'article 9 du Règlement, la motion d'ajournement du débat est réputée avoir été proposée et adoptée.

À 18 h, la chambre a ensuite ajourné ses travaux.

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le président

**MIKE BROWN**

Speaker

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**SESSIONAL PAPERS PRESENTED  
PURSUANT TO STANDING ORDER 39(a)**

**DOCUMENTS PARLEMENTAIRES  
DÉPOSÉS CONFORMÉMENT À L'ARTICLE  
39 a) DU RÈGLEMENT**

Licence Appeal Tribunal / Tribunal d'appel en matière de permis, Annual Report 2005-2006 (No. 272) (Tabled October 5, 2006).

Ontario Motor Vehicle Industry Council, Annual Report 2005 (No. 273) (Tabled October 5, 2006).

Real Estate Council of Ontario, Annual Report 2005-2006 (No. 274) (Tabled October 5, 2006).

Travel Industry Council of Ontario, Annual Report 2006 (No. 275) (Tabled October 5, 2006).

Vintners Quality Alliance Ontario, Annual Report 2006 (No. 276) (Tabled October 5, 2006).

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