



No. 12

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Votes and Proceedings

Procès-verbaux

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Thursday
April 1, 2010

Jeudi
1^{er} avril 2010

2nd Session,
39th Parliament

2^e session
39^e législature

PRAYERS
9:00 A.M.

PRIÈRES
9 H

ORDERS OF THE DAY

ORDRE DU JOUR

Debate was resumed on Government Order Number 4 on the amendment to the motion that this House approves in general the Budgetary Policy of the Government.

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

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

The House recessed at 10:15 a.m.

À 10 h 15, l'Assemblée a suspendu la séance.

10:30 A.M.

10 H 30

ORAL QUESTIONS

QUESTIONS ORALES

During "Oral Questions", as a result of disruptions, the Speaker ordered part of the West Public Gallery to be cleared.

Pendant la période des «Questions orales», comme il y des interruptions, le Président donne des directives pour évacuer une partie de la tribune ouest réservée au public.

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

On Tuesday, March 23, 2010, the Member for Oshawa (Mr. Ouellette) rose on a point of order to indicate that an announcement made in the March 8 Speech from the Throne had circumvented the parliamentary process. Specifically, the Member indicated that, despite the fact that Bill 242, which according to the Member deals with all-day kindergarten, is still before the Legislature, the Speech from the Throne announced that "starting this fall, full-day learning for four and five year olds will begin at schools across our province". The Government House Leader (Ms. Smith) made a written submission on the point.

On Thursday, March 25, 2010, the Member rose again, this time on a point of privilege, concerning the implementation of this programme, and the Government House Leader responded.

Having had an opportunity to review the Speech from the Throne, our Hansard, the materials provided by the Member for Oshawa, the written submission of the Government House Leader, and the relevant precedents and authorities, I will now rule on these matters.

Let me begin by confirming that the Speech from the Throne contains the statement quoted by the Member. In addition, at the time that this statement was read in the Chamber as part of the Speech from the Throne, the House had not passed Bill 242, which is entitled "An Act to amend the Education Act and certain other Acts in relation to early childhood educators, junior kindergarten and kindergarten, extended day programs and certain other matters". In today's *Orders and Notices Paper*, I note that the bill stands referred to the Standing Committee on Social Policy.

Members will know that the Speech from the Throne is a ceremonial occasion when the Lieutenant Governor typically outlines the government's view of the condition of the province and indicates what measures and programmes the government intends to implement. I have reviewed other Speeches from the Throne in recent Parliaments, and I note that they often contain declaratory announcements that are similar in tone to the one in the case at hand.

In addition, there was nothing procedurally deficient about the delivery of the Speech from the Throne. I therefore rule that the Member's concerns do not raise a matter of order.

I now turn to a consideration of the separate but related point of privilege raised by the same Member on March 25. According to the Member, members' privileges were circumvented when the government funded and distributed literature announcing the implementation of full-day learning for September, well before Bill 242 was introduced in this House; the Member objected that this literature did not mention that the implementation of this programme was contingent on a parliamentary process, in particular, the passage of legislation. The Member also requested that the Speaker review the authority by which the Ministry of Education can implement this programme before the passage of legislation.

My review of the relevant precedents and authorities reveals that Speakers normally address such a point of privilege as a matter of contempt, as opposed to a matter involving a breach of one of the specific privileges belonging to an individual member or to this House. Therefore, I will consider whether the concerns raised by the Member for Oshawa raise a matter of contempt.

I begin this exercise by referring to the February 22, 2005 Speaker's ruling mentioned by the Member for Oshawa. That ruling considered whether a government announcement was a matter of contempt in circumstances where the government had written letters on matters relating to education to various stakeholders; the government had also distributed a related press release and made an announcement that anticipated the introduction of a bill and a budgetary measure. The ruling contains the following statement:

The Minister appears to have made an announcement (outside the House) that anticipates a bill and a budgetary measure. But there is nothing wrong with anticipation *per se* – it happens a lot; the issue is whether the announcement goes further and reflects adversely on the parliamentary process.

I have also reviewed rulings from the period between 1997 and 2001, when Speaker Stockwell and Speaker Carr ruled on several allegations that the government of the day had taken some action that reflected adversely on the parliamentary process.

For example, on January 22, 1997, Speaker Stockwell ruled on government advertising that made definitive statements concerning the government's programme for reforms to municipal government. The advertising was distributed publicly on the same day that a bill implementing the reforms was introduced in the House. In ruling that a *prima facie* case of contempt was established, Speaker Stockwell made the following statement:

“[The ads] 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.”

That was Speaker Stockwell in 1997. There are similarities to the case at hand. None of the materials complained of, and provided to me, by the Member for Oshawa refer to the passage of a bill, and therefore the role of the Legislature is not acknowledged or deferred to. However, this in itself has been a significant problem for me in preparing this ruling, for it is ultimately not clear that legislation is required to implement this programme. If the sanction of the Legislature is already in place through another statute or by delegated legislation, then the steps the government has taken to put full-day learning in place do not produce the same level of concern in me that the 1997 circumstances aroused in Speaker Stockwell, for in effect the House has already spoken and given prior authority for it to happen.

On the other hand, the House does have Bill 242 before it. On its face, Bill 242 seems to have the objective of establishing the necessary legal basis for this program to be fully implemented. A reading of the Bill, its explanatory notes and the Second Reading debate lead-off speech given by the Minister of Education and her Parliamentary Assistant, could certainly leave someone who is not an insider in the education system with the impression that the programme cannot be set up without the passage of Bill 242. It is therefore not surprising that, like me, the Member for Oshawa and perhaps many others are labouring under some confusion as to the necessity of Bill 242 to the programme's implementation, and whether or not the government will have the full statutory authority it requires until the legislative process has been completed and the bill passed. In other words, if the bill isn't needed, why has it been introduced and entitled in such a way as to suggest the opposite? I don't think that is an unfair question.

But to get that question properly answered would take a legal analysis of the legislation and statutes, something many previous Speakers have indicated in similar situations is not for the Speaker to undertake. I am left with the explanation provided by the Government House Leader. She has both written to me, and on March 25 addressed this matter orally in the House. She asserts that there is prior existing authority in the Education Act for the implementation and funding of full-day learning, and that while Bill 242 provides a fuller long-term framework for this program, the bill is not necessary to authorize it.

As the Speaker is always bound to respect the word of an honourable member of this Assembly, I have no reason not to accept the Government House Leader's contention in this regard.

I therefore rule that this matter raised by the Member for Oshawa does not amount to a *prima facie* case of contempt.

In closing however, I will tell the House that the Speaker is left feeling somewhat unsatisfied in this matter. When the government's legislative agenda is being actively carried out in the way all-day learning is currently being done across the Province, at the same time as this House is addressing a nominally connected bill, it certainly leaves some room for unwelcome ambiguity about the role of the Legislature. Surely it is not necessary to have to remind the Government that in our system it is they who are answerable to the Legislature, not the other way around.

I thank the Member for Oshawa for raising his concerns, and I thank the Government House Leader and the Third Party House Leader for their contributions.

The House recessed at 11:48 a.m.

À 11 h 48, l'Assemblée a suspendu la séance.

1:00 P.M.

13 H

INTRODUCTION OF BILLS

DÉPÔT DES PROJETS DE LOI

The following Bills were introduced and read the first time:-

Les projets de loi suivants sont présentés et lus une première fois:-

Bill 26, An Act to amend the Highway Traffic Act to require school vehicles in Ontario to be equipped with ignition interlock devices. Mr. Levac.

Bill 27, An Act to proclaim Peace Officers' Memorial Day and to honour peace officers who have died in the line of duty. Mr. Levac.

Bill 28, An Act to amend the Environmental Protection Act and the Highway Traffic Act to prevent littering with cigarette butts. Mr. Levac.

Projet de loi 26, Loi modifiant le Code de la route afin d'exiger que les véhicules scolaires en Ontario soient munis d'un dispositif de verrouillage du système de démarrage. M. Levac.

Projet de loi 27, Loi proclamant le Jour de commémoration des agents de la paix et rendant hommage aux agents de la paix décédés dans l'exercice de leurs fonctions. M. Levac.

Projet de loi 28, Loi modifiant la Loi sur la protection de l'environnement et le Code de la route afin d'interdire la pollution par les mégots. M. Levac.

PETITIONS

Petition relating to Elmvale District High School (Sessional Paper No. P-1) Mr. Wilson.

Petition relating to the new 13% sales tax (Sessional Paper No. P-4) Mr. Hardeman and Mr. Wilson.

Petition relating to supporting the Ombudsman having the power to probe decisions concerning the Children's Aid Societies (Sessional Paper No. P-7) Mr. Hardeman.

Petition relating to promoting the health of First Nations youth (Sessional Paper No. P-21) Mr. Dickson.

Petition relating to full day learning (Sessional Paper No. P-22) Mr. Kular.

Petition relating to the Ring of Fire (Sessional Paper No. P-24) Mr. McMeekin.

Petition relating to supporting the Water Opportunities Act (Sessional Paper No. P-26) Mr. Levac.

Petition relating to supporting the Guns and Gangs program (Sessional Paper No. P-27) Mr. Ramal.

Petition relating to water filtration systems (Sessional Paper No. P-28) Mr. Moridi.

Petition relating to illegal guns in bars (Sessional Paper No. P-42) Mr. Colle.

Petition relating to violence on public transit (Sessional Paper No. P-43) Mr. Ruprecht.

Petition relating to the Eglinton LRT line (Sessional Paper No. P-44) Mr. Colle.

PÉTITIONS

PRIVATE MEMBERS' PUBLIC BUSINESS

Mr. Levac moved,

Second Reading of Bill 5, An Act to establish a bill of rights for pupils with diabetes.

A debate arising, further proceedings were reserved until the end of the time allotted for Private Members' Public Business.

Mr. Ruprecht then moved,

AFFAIRES D'INTÉRÊT PUBLIC ÉMANANT DES DÉPUTÉS

M. Levac propose,

Deuxième lecture du projet de loi 5, Loi établissant une charte des droits pour les élèves diabétiques.

Un débat s'ensuit; la suite de la discussion est renvoyée à la fin du temps imparti pour les affaires d'intérêt public émanant des députés.

Ensuite, M. Ruprecht propose,

Second Reading of Bill 7, An Act to amend the Consumer Reporting Act.

A debate arising, further proceedings were reserved until the end of the time allotted for Private Members' Public Business.

Mr. Ramsay then moved,

That, in the opinion of this House, the Legislative Assembly of Ontario calls upon the Federal Minister of Transport to issue a directive to the Canada Post Corporation to amend the Consumers' Choice Program to allow the delivery of unaddressed mail sent by Provincial Members of Parliament and Municipal Councillors, as is the case with Federal Members of Parliament.

A debate arising and the time allotted for consideration of Private Members' Public Business having expired, the Acting Speaker (Mr. Wilson) proceeded to put all questions.

The question having been put on the motion for Second Reading of Bill 5, An Act to establish a bill of rights for pupils with diabetes, it was declared carried and the Bill was accordingly read the second time and Ordered referred to the Standing Committee on Social Policy.

The question having been put on the motion for Second Reading of Bill 7, An Act to amend the Consumer Reporting Act, 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 Mr. Ramsay's Resolution Number 15, it was declared carried.

Mr. Phillips moved, That the House do now adjourn.

The question, having been put on the motion, was declared carried.

Deuxième lecture du projet de loi 7, Loi modifiant la Loi sur les renseignements concernant le consommateur.

Un débat s'ensuit; la suite de la discussion est renvoyée à la fin du temps imparti pour les affaires d'intérêt public émanant des députés.

Ensuite, M. Ramsay propose,

La motion portant deuxième lecture du projet de loi 5, Loi établissant une charte des droits pour les élèves diabétiques, mise aux voix, est déclarée adoptée et le projet de loi est en conséquence lu une deuxième fois et renvoyé au Comité permanent de la politique sociale.

Un débat s'ensuit; comme le temps réservé à l'étude des affaires d'intérêt public émanant des députés est expiré, le président par intérim, M. Wilson procède aux mises aux voix.

La motion portant deuxième lecture du projet de loi 7, Loi modifiant la Loi sur les renseignements concernant le consommateur, 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, mise aux voix, sur la résolution numéro 15 de M. Ramsay est déclarée adoptée.

M. Phillips propose que l'Assemblée ajourne les débats maintenant.

Cette motion, mise aux voix, est déclarée adoptée.

The House then adjourned at 4:20 p.m.

À 16 h 20, la chambre a ensuite ajourné ses travaux.

le président

STEVE PETERS

Speaker

PETITIONS TABLED PURSUANT TO STANDING ORDER 39(a)

Petition relating to maintaining existing levels of child care services and supporting an Early Learning Program (Sessional Paper No. P-9) (Tabled April 1, 2010) Mr. Leal.

**SESSIONAL PAPERS PRESENTED
PURSUANT TO STANDING ORDER 40**

**DOCUMENTS PARLEMENTAIRES
DÉPOSÉS CONFORMÉMENT À
L'ARTICLE 40 DU RÈGLEMENT**

Certificate pursuant to Standing Order 108(f)(1) re intended appointments dated April 1, 2010 (No. 34) (Tabled April 1, 2010).
