



No. 49

N° 49

Votes and Proceedings

Procès-verbaux

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Tuesday
May 8, 2012

Mardi
8 mai 2012

1st Session,
40th Parliament

1^{re} session
40^e législature

PRAYERS
9:00 A.M.

PRIÈRES
9 H

ORDERS OF THE DAY

Second Reading of Bill 75, An Act to amend the Electricity Act, 1998 to amalgamate the Independent Electricity System Operator and the Ontario Power Authority, to amend the Ontario Energy Board Act, 1998 and to make complementary amendments to other Acts.

Debate resumed and after some time the House recessed at 10:15 a.m.

ORDRE DU JOUR

Deuxième lecture du projet de loi 75, Loi modifiant la Loi de 1998 sur l'électricité pour fusionner la Société indépendante d'exploitation du réseau d'électricité et l'Office de l'électricité de l'Ontario, modifiant la Loi de 1998 sur la Commission de l'énergie de l'Ontario et apportant des modifications complémentaires à d'autres lois.

Le débat reprend et après quelque temps, à 10 h 15, l'Assemblée a suspendu la séance.

10:30 A.M.

10 H 30

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

On Monday April 23, 2012, the Member for Parry Sound–Muskoka (Mr. Miller) rose on a point of privilege concerning a remark made by the Deputy Premier (Mr. Duncan) in response to a question placed by the Member for Newmarket–Aurora (Mr. Klees) during the previous Thursday's Question Period about the Ornge file. Specifically, the Member for Parry Sound–Muskoka indicated that the Minister had implied that he was not impartial in fulfilling his duties as Chair of the Standing Committee on Public Accounts, which was looking into the Ornge file.

The Minister's remarks came several days after an April 2 Twitter message by the Premier's former social media coordinator which, according to the Member for Parry Sound–Muskoka, impugned his character, damaged his reputation, sought to intimidate him, inferred that he could not impartially perform his duties as Chair of the Committee, and interfered with his duties as Chair of that Committee.

The Member for Timmins–James Bay (Mr. Bisson) and the Government House Leader (Mr. Milloy) also spoke to this matter. Having had an opportunity to review the relevant Hansard, the information in the notice provided by the Member for Parry Sound–Muskoka, and the relevant procedural authorities, I am now prepared to rule on the matter.

The remarks by the Deputy Premier were made during an exchange on April 19 with the Member for Newmarket–Aurora concerning whether the Premier, Deputy Premier and Kelly Mitchell of Pathway Group would be appearing before the Standing Committee on Public Accounts. The Deputy Premier said the following:

That motion that I referred to to call Mr. Mitchell to committee was in fact a government motion, and the Conservative Chair of the committee deferred dealing with it until next week. I don't want to offend the sensibilities of the Chair or the House. I won't use some language, but it appears as though they won't want him at committee. Will you agree here and now to unanimous consent to call him immediately?

These remarks were unfortunate. Although not an outright accusation that the Chair of the Public Accounts Committee was not acting impartially, they certainly were of a nature such that a listener could believe he or she was being invited to draw this conclusion. Had the remarks been clearly heard I have no doubt they would have been found to be unparliamentary and required to be withdrawn.

In the House, the ability of the Speaker to act in the interests of all members, to maintain order and decorum, and to protect the rights and privileges of all members is derived from an implicit trust in the Speaker's impartiality and neutrality in the Chair and in all his other responsibilities. In many ways, the Chairs of the Standing Committees might rightly be considered the Speaker's designates when they preside over a subset of members in a committee.

This brings me to one of the arguments made by the Government House Leader when he responded to this point of privilege, to the effect that the various protections against untoward reflections on a presiding officer are not available to a committee chair because he or she is not a "Presiding Officer" in the same sense as the Speaker, Deputy Speaker, or First, Second or Third Deputy Chairs of the Committee of the Whole House. I disagree. I already mentioned that the committee chairs are in effect designates of the Speaker. As noted in *Parliamentary Practice in New Zealand*,

The chairperson performs a similar role in respect of chairing the committee that the Speaker does in chairing the House – calling on members to speak or ask questions, keeping order, ruling on disputed aspects of procedure and putting questions to the committee for formal decision.

Committee chairs are responsible to see that the Standing Orders of the House are observed in their committees to the extent applicable, just as the Speaker and his designates in the House must do. Like the Speaker, they have no vote except in the case of a tie and do not participate in the debates of the committee.

The implication that it would somehow be acceptable to criticize or intimidate or obstruct a committee chair because of a strict designation of the term "presiding officer" is erroneous and I would not want this to remain uncorrected.

Like the Speaker, committee Chairs can only be most effective when their impartiality in the chair is assumed and unquestioned. It is simply not acceptable to make implications about the partiality of the person presiding over a parliamentary proceeding, not only because that person lacks the means to defend himself or herself, but more importantly because a formal course exists for such an assertion to be made, that is, by substantive motion in the affected venue, be it this Legislature or one of its committees.

Members who disagree with the decisions of, or who have lost confidence in, a committee chair have procedural mechanisms at their disposal. If there is no case for using those mechanisms – and there is no case in the incident before me – they should strive to avoid couching or juxtaposing words in such a way as to call into question the neutrality of a Member who has presiding responsibilities in the House or one of its committees. An accusation that a committee chair is not impartial is serious and deserves to be treated as such, and not made in an ill-considered throw-away line in Question Period.

Nevertheless, I do believe that the Deputy Premier's remarks were of exactly this type – something said in the heat and battle of what was a particularly raucous Question Period. Tempers were high and so was some of the language. As I said, the remarks were unfortunate and I do not excuse them but I also do not believe they were premeditated by the Deputy Premier to undermine or impugn the integrity and reputation for impartiality that the Member for Parry Sound–Muskoka clearly enjoys among his peers in this House.

I do not find the Deputy Premier's remarks give rise to a finding of *prima facie* breach of privilege and again state my belief that had they been heard the Deputy Premier would have been asked to withdraw as a matter of order. In fact, such a withdrawal is never too late.

I am concerned, though, about the comment made on Twitter, a copy of which the Member for Parry Sound–Muskoka provided to me. The tweet asks this question about the Chair of the Public Accounts Committee – "Norm Miller MPP met Ornge top executives in 2010 – what did he tell them? Can he still be an impartial chair at public hearings?"

The Member made a thought-provoking point about this by quoting the following from Maingot's *Parliamentary Privilege in Canada*,

All interferences with members' privileges of freedom of speech, such as editorials and other public comment, are not breaches of privilege even though they influence the conduct of members in their parliamentary work.... But any attempt by improper means to influence or obstruct a member in his parliamentary work may constitute contempt. What constitutes an improper means of interfering with members' parliamentary work is always a question depending on the facts of each case.

This new age of robust and viral social media encourages spontaneous reactions and comment on whatever trend happens to have someone's immediate attention. The intersection between ancient but still-valid parliamentary privileges, on one hand, and fair comment on the other, promises exponentially more crossings in the future than were possible even a few years ago. While in a proper case the opposite could be found, I am prepared in the present instance to say that this single tweet on Twitter, even if it was re-tweeted several times, does not rise to the level required for me to find it was an attempt to intimidate the Member for Parry Sound–Muskoka.

I therefore do not find that a *prima facie* case of breach of privilege or of contempt has been made out.

In closing, I will say that in this Assembly, as in most parliamentary jurisdictions, there is a strong tradition of respect for the authority of those Members who exercise presiding functions – be it in the House or its committees. The fact that an issue such as this one arises so infrequently is good evidence of this.

I thank the Member for Parry Sound–Muskoka, the Member for Timmins–James Bay, and the Government House Leader for speaking to this matter.

ORAL QUESTIONS

QUESTIONS ORALES

The House recessed at 11:50 a.m.

À 11 h 50, l'Assemblée a suspendu la séance.

3:00 P.M.

15 H

The Speaker informed the House of the following changes in the Order of Precedence for Private Members' Public Business:-

Le Président a informé la Chambre des changements suivants dans l'ordre de priorité pour les affaires émanant des députés :-

Mr. Chudleigh assumes ballot item number 44 and
Mr. Pettapiece assumes ballot item number 46.

REPORTS BY COMMITTEES

RAPPORTS DES COMITÉS

The Speaker informed the House,

Le Président a informé la Chambre,

That the Clerk received the Report on Intended Appointments dated May 8, 2012 of the Standing Committee on Government Agencies. Pursuant to Standing Order 108(f)(9), the Report is deemed to be adopted by the House (Sessional Paper No. 87) (Tabled May 8, 2012).

INTRODUCTION OF BILLS

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

Bill 85, An Act to amend the Labour Relations Act, 1995 to increase the rights of members of trade unions with respect to the certification of trade unions. Mr. Hillier.

Bill 86, An Act to amend the Health Protection and Promotion Act to require a food service premise to provide nutritional information. M^{me} Gélinas.

Bill 87, An Act to amend the Workplace Safety and Insurance Act, 1997 to provide employers with the right to participate in alternate insurance plans. Mr. Hillier.

DÉPÔT DES PROJETS DE LOI

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

Projet de loi 85, Loi modifiant la Loi de 1995 sur les relations de travail pour accroître les droits des membres des syndicats relativement à l'accréditation des syndicats. M. Hillier.

Projet de loi 86, Loi modifiant la Loi sur la protection et la promotion de la santé pour obliger les lieux de restauration à indiquer l'information nutritionnelle. M^{me} Gélinas.

Projet de loi 87, Loi modifiant la Loi de 1997 sur la sécurité professionnelle et l'assurance contre les accidents du travail pour accorder aux employeurs le droit de participer à des régimes d'assurance concurrents. M. Hillier.

PETITIONS

Closing St. John the Evangelist school (Sessional Paper No. P-54) Mrs. Albanese.

Private Member's motion on wind turbine development (Sessional Paper No. P-62) Mr. Wilson.

Horse racing industry (Sessional Paper No. P-71) Mr. McNaughton.

Ontario Tax Credit payment schedule (Sessional Paper No. P-74) Mr. Fedeli.

ORNGE (Sessional Paper No. P-88) Ms. Jones.

Small Drinking Water System (Sessional Paper No. P-95) Mr. O'Toole.

Travel Information Centres (Sessional Paper No. P-98) Ms. Armstrong.

Supporting Bill 13, Accepting Schools Act (Sessional Paper No. P-102) Mr. Naqvi.

Healing Arts Radiation Protection Act (Sessional Paper No. P-108) Mr. Dickson, Ms. Jacek and Mr. Moridi.

Air-Rail Link (Sessional Paper No. P-119) Mr. Schein.

Spousal treatment by dentists (Sessional Paper No. P-126) Mr. Clark.

PÉTITIONS

ORDERS OF THE DAY

Opposition Day

Ms. Horwath moved,

That, in the opinion of this House, the Legislative Assembly of Ontario calls upon the Government of Ontario to create a tax credit that rewards companies for creating new jobs; and that the government consider funding this tax credit from the recently created \$2 billion Jobs and Prosperity Fund.

Debate arose and after some time,

Lost on the following division:-

ORDRE DU JOUR

Jour de l'opposition

M^{me} Horwath propose,

Il s'élève un débat et après quelque temps,

Rejetée par le vote suivant :-

AYES / POUR - 17

Armstrong	Gélinas	Miller (Hamilton East–Stoney Creek)	Singh
Bisson	Horwath	Natyshak	Tabuns
Campbell	Mantha	Prue	Taylor
DiNovo	Marchese	Schein	Vanthof
Forster			

NAYS / CONTRE – 69

Albanese	Elliott	Matthews	Oraziotti
Balkissoon	Fedeli	Mauro	Piruzza
Barrett	Flynn	McDonell	Qaadri
Bentley	Gerretsen	McKenna	Sandals
Berardinetti	Hardeman	McMeekin	Scott
Best	Harris	McNaughton	Sergio
Cansfield	Hillier	McNeely	Shurman
Chan	Hoskins	Meilleur	Smith
Clark	Jackson	Miller (Parry Sound–Muskoka)	Sousa
Coteau	Jaczek	Milligan	Takhar
Crack	Jeffrey	Milloy	Thompson
Craitor	Jones	Moridi	Walker
Damerla	Klees	Munro	Wilson
Delaney	Kwinter	Murray	Wong
Dhillon	Leone	Naqvi	Wynne
Dickson	MacCharles	Nicholls	Yakabuski
Duguid	Mangat	O'Toole	Zimmer
Duncan			

The House adjourned at 5:48 p.m.

À 17 h 48, la chambre a ajourné ses travaux.

le président

DAVE LEVAC

Speaker

**PETITIONS TABLED PURSUANT TO
STANDING ORDER 39(a)**

**PÉTITIONS DÉPOSÉES
CONFORMÉMENT À L'ARTICLE
39a) DU RÈGLEMENT**

Alzheimer's Advisory Council (Sessional Paper No. P-100) (Tabled May 8, 2012) Ms. Thompson.

RESPONSES TO PETITIONS

RÉPONSES AUX PÉTITIONS

Debt retirement charge (Sessional Paper No. P-60):
(Tabled March 5, 6, 8, 21, 28, 29, 2012) Mr. Mantha.

Funding transit fares (Sessional Paper No. P-63):
(Tabled March 6, 2012) Mr. Schein.

Funding denture care (Sessional Paper No. P-65):
(Tabled March 6, 2012) M^{me} Gélinas.