



No. 27

N° 27

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**Votes and Proceedings**

**Procès-verbaux**

Legislative Assembly  
of Ontario

Assemblée législative  
de l'Ontario

**2<sup>nd</sup> Session**  
**41<sup>st</sup> Parliament**

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

Monday  
November 14, 2016

Lundi  
14 novembre 2016

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**PRAYERS**  
**10:30 A.M.**

**PRIÈRES**  
**10 H 30**

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

On November 3, 2016, the Government House Leader (Mr. Naqvi) rose on a point of order to express concerns about an Opposition Day motion filed by the Leader of the Opposition (Mr. Brown) and scheduled for debate tomorrow. According to the Government House Leader, the motion is out of order because: firstly, it contains a factual error; secondly, it is contrary to Standing Order 23(h) because it makes allegations against a Member; and thirdly, it is contrary to the sub judice rule in Standing Order 23(g) because it deals with matters relating to undisposed charges laid under Ontario's Election Act.

The Member for Simcoe-Grey (Mr. Wilson) and the Member for Timiskaming-Cochrane (Mr. Vanthof) also spoke to the point of order.

Having had an opportunity to review Hansard, our precedents, various procedural authorities, and the written submission of the Government House Leader, I am now ready to rule on the point of order.

With respect to the contention that the motion contained a factual error on the basis that an individual named in the motion no longer has the job title that the motion attributes to her, I have to say that, when faced with a point of order on a motion, the chair is focused on dealing with a procedural error, as opposed to a factual error, ambiguity or disagreement. Nevertheless, the person in question did have that job title at the time of the events that the Opposition Day motion deals with, so I think it is possible to understand the reference to her in that context.

On the contention that the motion makes allegations contrary to Standing Order 23(h), let me remind Members that this Standing Order provides that the Speaker shall call a Member to order during a debate if the Member "makes allegations against another member." While the motion does not make a specific allegation against a Member, it instead infers or assumes that the Premier had knowledge of the matters referenced in the motion. This inference or assumption comes as close as it gets to contravening Standing Order 23(h). I am ruling that the motion does not contravene that Standing Order, but I want to caution Members not to craft their words in such a way as to see how close to the line they can come without actually crossing it.

Let me now turn to the sub judice concerns that were raised in the point of order. In a statement to the House on May 8, 2008, Speaker Peters explained that the sub judice convention is "a voluntary restriction on the part of a legislative body to refrain from discussing matters that are before a judicial or quasi-judicial body." The convention originated out of the parliamentary desire to respect the separation between the legislative and judicial branches, and to avoid any possible prejudice to proceedings before a judicial or quasi-judicial body. The convention is less likely to be applied in the context of civil proceedings, compared to other kinds of proceedings.

Ultimately, it is for the Speaker to determine whether a matter is sub judice. As noted at page 630 of the second edition of House of Commons Procedure and Practice:

The Speaker's discretionary authority over matters sub judice derives from his or her role as guardian of free speech in the House. The Chair has the duty to balance the rights of the House with the rights and interests of the ordinary citizen undergoing trial. Indeed, the Speaker intervenes in exceptional cases only where it appears likely that to do otherwise would be harmful to specific individuals.

Not only does the Assembly have a sub judice convention, it also has a sub judice rule. Under Standing Order 23(g)(i), the Speaker must call a Member to order if the Member "refers to any matter that is the subject of a proceeding that is pending in a court or before a judge for judicial determination ... where it is shown to the satisfaction of the Speaker that further reference would create a real and substantial danger of prejudice to the proceeding."

As stated at page 193 of the third edition of McGee's Parliamentary Practice in New Zealand, the sub judice rule is not intended to prevent discussion on "a generality of cases" dealing with some aspect of the administration of justice: "To apply the Standing Order so generally would be to stultify debate in the House. The law in general may be discussed, but not its application to a particular case that is before the court."

In reviewing our own precedents, I found that the precedents dealing with sub judice concerns in the context of Question Period are not all that relevant to sub judice concerns on motions and debates, for the simple reason that the chair and Ministers know that Ministers can indicate their sub judice concerns when responding to an oral question. As noted by Speaker Peters, Speakers here and in most other jurisdictions have adopted the practice of minimal responsibility with respect to the sub judice convention during Question Period.

Our precedents on previous Opposition Day motions were more relevant and helpful. For example, I note that on May 14, 2001 the House debated an Opposition Day motion calling for a public inquiry into the circumstances surrounding the death of an individual in a provincial park. No one questioned the orderliness of the motion, but it bears noting that criminal proceedings relating to the death had ended, and that the only individual identified in the motion was deceased.

A 2008 precedent offers more guidance. In that case, an Opposition Day motion called for a public inquiry into the circumstances surrounding the release on bail of an individual who was identified in the motion. At page 3584 of the Hansard for October 27, 2008, Speaker Peters indicated as follows:

This motion not only does not address the general application of such rules [on the apprehension of persons charged with serious criminal offences], but it also identifies, in every one of its clauses, the names of individuals associated with a very serious incident that is still before the criminal courts. It also draws conclusions on certain evidence and on the actions of officials involved in the administration of criminal justice in Ontario. Absent these specifics and written a very different way, it is likely such a motion could have proceeded, as was the case with the opposition day motion about the justice system in Ontario that was put forward in November 2006.

After the Speaker ruled this 2008 motion out of order, the House debated a re-worded Opposition Day motion. It called for a public inquiry into Ontario's bail system, so it was thematically similar to the earlier out-of-order motion. However, the motion did not identify any individuals, and it did not refer to the details of any specific case. No concerns were raised as to the orderliness of this replacement motion.

Applying these precedents to the case at hand, the Opposition Day motion identifies – by name, job description or both – five individuals, two of whom are identified as having been charged with electoral offences that are still before a provincial offences court. It provides a quote, allegedly made by one of the defendants. And it calls on the Premier "to identify the individual who ordered" the two defendants to offer an alleged bribe to a named individual, and "to identify the person" who ordered the defendants to offer an alleged bribe to another named individual; in other words, the motion infers or assumes that at least one other individual is involved in the alleged offence, and that the Premier knows their identity.

My principal difficulty with this is that there is no getting around the procedural reality that Standing Order 43(d) requires a decision on an Opposition Day motion, on the same day that the motion is moved. Whether the motion is carried or lost, a decision will have been made. The House will have taken a position - pronounced its opinion - on elements of a specific proceeding that is before the courts. It is hard to reconcile the possibility of having a debate on this motion that could be held within the bounds of sub judice when, at the end of the debate, the House will vote and make a decision on a specifically worded motion. I find that scenario particularly troubling, and I believe the prospect of it does rise to the level of creating a real and substantial danger of prejudice to the proceeding.

For these reasons, I find the motion to be out of order for contravening the sub judice rule in Standing Order 23(g). I thank the Government House Leader, the Member for Simcoe-Grey, and the Member for Timiskaming-Cochrane for speaking to this matter. I also thank the Government House Leader for providing a written submission.

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## ORAL QUESTIONS

The House recessed at 11:51 a.m.

**1:00 P.M.**

The Speaker informed the House,  
That the following document was tabled:-

The Report of the Integrity Commissioner of Ontario concerning the review of allowable expenses to September 2016, under the *Cabinet Ministers' and Opposition Leaders' Expenses Review and Accountability Act, 2002*, section 14(b). (No. 79) (Tabled November 8, 2016).

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## REPORTS BY COMMITTEES

Standing Committee on Finance and Economic Affairs:-

Bill 37, An Act to amend the Early Childhood Educators Act, 2007 and the Ontario College of Teachers Act, 1996.

Reported as amended.

Pursuant to the Order of the House dated October 20, 2016,

Ordered for Third Reading.

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## INTRODUCTION OF BILLS

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

Bill 60, An Act to proclaim the month of November Lebanese Heritage Month. Mr. Fraser.

Bill 61, An Act respecting the City of Toronto and the Ontario Municipal Board. Ms. DiNovo.

Bill 62, An Act to amend the Climate Change Mitigation and Low-carbon Economy Act, 2016. Mr. Tabuns.

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## QUESTIONS ORALES

À 11 h 51, la Chambre a suspendu la séance.

**13 H**

Le Président a informé la Chambre,  
Que le document suivant a été déposé :-

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## RAPPORTS DES COMITÉS

Comité permanent . des finances et des affaires économiques :-

Projet de loi 37, Loi modifiant la Loi de 2007 sur les éducatrices et les éducateurs de la petite enfance et la Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario.

Rapport est fait du projet de loi modifié.

Conformément à l'ordre de l'Assemblée du 20 octobre 2016,

Ordonné à la troisième lecture.

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## DÉPÔT DES PROJETS DE LOI

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

Projet de loi 60, Loi proclamant le mois de novembre Mois du patrimoine libanais. M. Fraser.

Projet de loi 61, Loi portant sur la cité de Toronto et la Commission des affaires municipales de l'Ontario. M<sup>me</sup> DiNovo.

Projet de loi 62, Loi modifiant la Loi de 2016 sur l'atténuation du changement climatique et une économie sobre en carbone. M. Tabuns.

The following Bill was introduced, read the first time and referred to the Standing Committee on Regulations and Private Bills:-

Le projet de loi suivant est présenté, lu une première fois et renvoyé au Comité permanent des règlements et des projets de loi d'intérêt privé :-

Bill Pr52, An Act to revive All About Water Ltd. Ms. DiNovo.

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**MOTIONS**

With unanimous consent,  
On motion by Mr. Naqvi,  
Ordered, That the following changes be made in the Order of Precedence for Private Members' Public Business:-

Mr. Fraser assumes ballot item number 19  
Ms. Malhi assumes ballot item number 70  
Mrs. Martins assumes ballot item number 21  
Mr. Baker assumes ballot item number 60  
Mr. McMeekin assumes ballot item number 24  
Mr. Crack assumes ballot item number 35  
Ms. Hoggarth assumes ballot item number 31  
Mr. Sergio assumes ballot item number 72; and  
That the requirement for notice be waived for ballot item numbers 19 and 23.

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**PETITIONS**

Sale of Hydro One (Sessional Paper No. P-9) Ms. DiNovo.  
Natural gas (Sessional Paper No. P-10) Mr. Pettapiece and Mr. Walker.  
Minimum Wage of \$15 an hour (Sessional Paper No. P-21) Ms. DiNovo and M<sup>me</sup> Gélinas.  
The price of gasoline (Sessional Paper No. P-25) M<sup>me</sup> Gélinas.  
Steps to reduce the cost of energy (Sessional Paper No. P-35) Mr. Barrett.  
La Villa Aubin (document parlementaire n<sup>o</sup> P-71) M. Vanthof.  
The Niagara Escarpment Plan Area 2015 reference 012-7228 (Sessional Paper No. P-77) Mr. Walker.  
Amending the Consumer Protection Act (Sessional Paper No. P-88) Mrs. Martins.  
Justice regarding the collapse of the Elliot Lake Algo Centre Mall (Sessional Paper No. P-95) Mr. Mantha.

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**ORDERS OF THE DAY**

Third Reading of Bill 37, An Act to amend the Early Childhood Educators Act, 2007 and the Ontario College of Teachers Act, 1996.

Debate arose and after some time,

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**MOTIONS**

Avec le consentement unanime,  
Sur la motion de M. Naqvi,  
Il est ordonné que les changements suivants soient effectués dans l'ordre de priorité des affaires d'intérêt public émanant des députés :-

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**PÉTITIONS**

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**ORDRE DU JOUR**

Troisième lecture du projet de loi 37, Loi modifiant la Loi de 2007 sur les éducatrices et les éducateurs de la petite enfance et la Loi de 1996 sur l'Ordre des enseignantes et des enseignants de l'Ontario.

Il s'élève un débat et après quelque temps,

Pursuant to the Order of the House dated October 20, 2016,

The question was then put.

Vote deferred on request of the Chief Government Whip.

Conformément à l'ordre de l'Assemblée du 20 octobre 2016,

La question a ensuite été mise aux voix.

Le vote est différé par requête du Whip en chef du gouvernement.

Second Reading of Bill 39, An Act to amend the Aggregate Resources Act and the Mining Act.

Debate resumed, during which the Acting Speaker (Mr. Arnott) interrupted the proceedings and announced that there had been more than six and one-half hours of debate and that the debate would be deemed adjourned.

The Minister of Natural Resources and Forestry directed that the debate should continue.

Debate resumed and after some time the House adjourned at 5:57 p.m.

Deuxième lecture du projet de loi 39, Loi modifiant la Loi sur les ressources en agrégats et la Loi sur les mines.

Le débat a repris. Le président suppléant (M. Arnott) a interrompu les travaux et a annoncé qu'il y avait eu plus de six heures et demie de débat et que le débat était réputé ajourné.

La Ministre des Richesses naturelles et des Forêts a indiqué que le débat devrait se poursuivre.

Le débat a repris et après quelque temps, à 17 h 57, la Chambre a ajourné ses travaux.

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le président

**DAVE LEVAC**

Speaker

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

Stevenson Memorial Hospital (Sessional Paper No. P-5) (Tabled November 14, 2016) Mr. Wilson.

Natural gas (Sessional Paper No. P-10) (Tabled November 14, 2016) Mr. Wilson.

Shale Beach (Sessional Paper No. P-66) (Tabled November 14, 2016) Mr. Wilson.

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

**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 November 4, 2016 (No. 78) (Tabled November 4, 2016).

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**RESPONSES TO WRITTEN QUESTIONS**

**RÉPONSES AUX QUESTIONS ÉCRITES**

Final Answers to Question Numbers: 35, 50, 51, 52, 53, 54, 56, 57, 58, 59 and 60.

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**RESPONSES TO PETITIONS**

**RÉPONSES AUX PÉTITIONS**

Train derailment outside Gogama (Sessional Paper No. P-2):

(Tabled September 21, 26, 29; October 3, 4, 18, 24, 2016) M<sup>me</sup> Gélinas.

Certified Crop Advisors (Sessional Paper No. P-7):

(Tabled September 22, 28; October 5, 18, 20, 2016) Ms. Thompson.

Phasing out the Drive Clean program (Sessional Paper No. P-24):

(Tabled September 14, 2016) Mr. Harris.

Regenerative agriculture (Sessional Paper No. P-26):

(Tabled September 15, 2016) Mr. Arnott.

New GO Train station in Etobicoke (Sessional Paper No. P-27):

(Tabled September 15, 2016) Mr. Qaadri.

Canal Road ramps at Highway 400 (Sessional Paper No. P-28):

(Tabled September 15, 22; October 20, 24, 2016) Mrs. Munro.

Waitlist for adults with developmental disabilities awaiting residential funding (Sessional Paper No. P-32):

(Tabled September 21, 2016) Ms. Fife.

The Improving Mental Health and Addictions Services in Ontario Act (Sessional Paper No. P-33):

(Tabled September 21; October 27, 2016) Ms. Armstrong.

Lyme disease (Sessional Paper No. P-34):

(Tabled September 22, 2016) Mr. Mantha.

(Tabled October 4, 2016) Ms. Campbell.

(Tabled October 19, 2016) Mr. Smith.

(Tabled October 25, 2016) Mr. Clark.

Institutional ice machines (Sessional Paper No. P-41):

(Tabled September 26; October 3, 2016) Mr. Potts.

(Tabled September 26, 2016) Ms. Vernile.

(Tabled September 29, 2016) Mr. Milczyn.

(Tabled October 4, 2016) Mrs. Martins.

Pay Equity for Midwives (Sessional Paper No. P-45):

(Tabled September 28, 2016) Ms. Fife.

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