



No. 37

N° 37

Votes and Proceedings

Procès-verbaux

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Monday
April 26, 2004

Daytime Meeting - Sessional Day 54

Lundi
26 avril 2004

Séance de l'après-midi - jour de session 54

1st Session,
38th Parliament

1^{re} session
38^e législature

PRAYERS
1:30 P.M.

PRIÈRES
13 H 30

INTRODUCTION OF BILLS

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

Bill 63, An Act to amend the Employment Standards Act, 2000 with respect to hours of work and certain other matters. Hon. Mr. Bentley.

Bill 64, An Act to amend the Pension Benefits Act. Mr. Kormos.

Bill 65, An Act to amend the Collection Agencies Act. Mr. Sergio.

Bill 66, An Act to amend the Private Investigators and Security Guards Act. Mr. Sergio.

Bill 67, An Act to provide for greater safety and accountability in pipeline excavations and to amend the Technical Standards and Safety Act, 2000 to require annual reports in the pipeline sector and to increase penalties for offences under the Act. Mr. Sergio.

DÉPÔT DES PROJETS DE LOI

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

Projet de loi 63, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les heures de travail et d'autres questions. L'hon. M. Bentley.

Projet de loi 64, Loi modifiant la Loi sur les régimes de retraite. M. Kormos.

Projet de loi 65, Loi modifiant la Loi sur les agences de recouvrement. M. Sergio.

Projet de loi 66, Loi modifiant la Loi sur les enquêteurs privés et les gardiens. M. Sergio.

Projet de loi 67, Loi prévoyant une sécurité et une responsabilisation accrues en matière d'excavation de pipelines et modifiant la Loi de 2000 sur les normes techniques et la sécurité afin d'exiger la présentation de rapports annuels dans le secteur des pipelines et d'augmenter les peines imposées pour les infractions à la Loi. M. Sergio.

The Speaker delivered the following ruling:-

On Tuesday, April 20, 2004, the Member for Erie-Lincoln (Mr. Hudak) rose on a question of privilege concerning an incident that occurred immediately after the adjournment of the House on Wednesday, April 14.

As Members well know, just prior to the adjournment of the House on April 14, the Deputy Speaker was presiding over a recorded vote on a motion of non-confidence in the government. The atmosphere in the House at the time of the vote was raucous, and immediately after the vote the Deputy Speaker made a statement to the House on the situation. However, emotions continued to run high after the ensuing adjournment of the House. According to the Member for Erie-Lincoln, it was at this time that the Deputy Speaker, who was in the undergallery on his way out of the Chamber, directed gestures and facial expressions toward him. The Member was of the view that these gestures and expressions amounted to a contempt of the House, and so he asked the Speaker to rule that a *prima facie* case of contempt exists.

The Member for Haldimand-Norfolk-Brant (Mr. Barrett), the Member for Niagara Centre (Mr. Kormos), and the Government House Leader (Mr. Duncan) also spoke to this matter.

Then, on April 22, the Member for Essex, during a point of personal explanation, indicated to the House his position that what he was attempting to do at the time in question was to invite the Member for Erie-Lincoln behind the dais to discuss what had occurred during the vote that had just taken place.

I have had an opportunity to reflect on this matter, and I am now ready to rule. Since it is not appropriate to question the conduct, suitability or impartiality of the Chair on a point of privilege – which the Member for Erie-Lincoln has acknowledged – I will address only the contempt issue in this ruling.

Erskine May defines contempt in the following terms (at pages 108, 117, and 120 of the 22nd edition):

Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence. It is therefore impossible to list every act which might be considered to amount to a contempt, the power to punish for such an offence being of its nature discretionary....

. . .

Indignities offered to the House by words spoken or writings published reflecting on its character or proceedings have been punished by both the Lords and the Commons upon the principle that such acts tend to obstruct the Houses in the performance of their functions by diminishing the respect due to them.

. . .

Other acts besides words spoken or writings published reflecting upon either House or its proceedings which, though they do not tend directly to obstruct or impede either House in the performance of its functions, yet have a tendency to produce this result indirectly by bringing such House into odium, contempt or ridicule or by lowering its authority may constitute contempts.

That is what *Erskine May* says on contempt.

In our own House, there have been several occasions on which a Member has alleged that another Member threatened or intimidated that Member. For example, on December 5, 2000, a question of privilege was raised concerning an allegedly threatening and intimidating remark made by a minister to another Member, while the minister was leaving his seat in the Chamber. The Acting Speaker ruled (at page 6103 of the *Hansard* for that day) as follows:

I understand there's a difference of opinion here as to what was and what wasn't said. None of what has been alleged to be said is on the record so we don't have the privileges of being able to take a look at that. I would ask all honourable Members in this place to respect the privilege of each other, as we are expected to do or are wont to do or are understood to be doing when we're sent here by the electorate, and that in future we will act accordingly.

Later the same day, a Member rose on a point of order to indicate that, during a recess for grave disorder, another Member had crossed the floor and approached him at his desk in a physically intimidating and threatening manner. The Acting Speaker ruled (at page 6123 of the *Hansard* for that day) as follows:

[W]hile all that happened, the House was in recess and I wasn't here. I have no reason to doubt the scenario you've painted. However, I would expect all Members in this place, duly elected by their constituents, to assume to be honourable and that they would carry themselves in that manner in this place.

And finally, on October 23, 2001, a point of order was raised concerning a Member's alleged challenge to another Member, as the former was leaving the Chamber at the end of Question Period, to meet him outside the Chamber. The Speaker dealt with the point of order by indicating (at pages 2929 and 2930 of the *Hansard* for that day) as follows:

I know that occasionally Members do get rather heated in here. I'm sure the Member will agree that the Sergeant at Arms does all he can. In circumstances like this, if Members could realize that we are honourable Members -- and in fact on that particular occasion, it could have been a discussion taken outside. I would ask all Members to act honourably, which I'm sure they will do.

I say to Members of this House that, in a proper case, threatening or intimidating behaviour by a Member against another Member can amount to a contempt of the House. In assessing whether the alleged behaviour in the case at hand establishes a *prima facie* case of contempt, I have to say that there are different ways to interpret what actually occurred. Indeed, these differences were reflected in the various submissions and statements that were made in the House concerning this question of privilege: what the Member for Erie-Lincoln claims was threatening and intimidating conduct, the Member for Essex claims was an invitation to explain a rule. The competing claims of the honourable Members lead me to the view that, in this case, the Speaker is not in a position to make a preliminary finding as to the nature and intention of the conduct in question. Therefore, I find that a *prima facie* case of contempt has not been made out.

In closing, I want to thank the Member for Erie-Lincoln, the Member for Haldimand-Norfolk-Brant, the Member for Niagara Centre, the Government House Leader, and the Member for Essex for their thoughtful and helpful contributions on this matter.

PETITIONS

Petitions relating to improving the Ontario Drug Benefit program and abandoning the plan to de-list drugs or increase seniors' drug fees (Sessional Paper No. P-53) Mr. Hudak, Mr. Martiniuk and Mr. Tascona.

Petition relating to the Tillsonburg District Memorial Hospital (Sessional Paper No. P-71) Mr. Hardeman.

Petition relating to reconstruction of Highway 518 (Sessional Paper No. P-74) Mr. Miller.

Petition relating to presenting annual budgets in the House of the Legislative Assembly of Ontario (Sessional Paper No. P-87) Mr. Leal.

Petitions relating to maintaining the Provincial Retail Sales Tax exemption on meals under four dollars (Sessional Paper No. P-88) Mr. Kormos and Mr. O'Toole.

Petition relating to supporting municipal fire services (Sessional Paper No. P-91) Mr. Miller.

Petition relating to enacting legislation requiring seat belts on school and tour buses (Sessional Paper No. P-95) Mr. Sergio.

Petition relating to increasing social assistance rates to reflect the true cost of living (Sessional Paper No. P-96) Mr. Leal.

Petition relating to pressing the Federal Government to pass legislation regarding sex offenders (Sessional Paper No. P-97) Mr. Tascona.

ORDERS OF THE DAY

A debate arose on the motion for Second Reading of Bill 25, An Act respecting government advertising.

After some time, pursuant to Standing Order 9(a), the motion for 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 deuxième lecture du projet de loi 25, Loi concernant la publicité gouvernementale.

Après quelque temps, conformément à l'article 9(a) 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.

le président

ALVIN CURLING

Speaker

PETITIONS TABLED PURSUANT TO STANDING ORDER 38 (A)

Petitions relating to maintaining the Provincial Retail Sales Tax exemption on meals under four dollars (Sessional Paper No. P-88) Mr. Klees, Ms. Marsales and Mr. Parsons.

**SESSIONAL PAPERS PRESENTED
PURSUANT TO STANDING ORDER 39(A):-**

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

COMPENDIA:

Bill 63, An Act to amend the Employment Standards Act, 2000 with respect to hours of work and certain other matters (No. 110).

Certificate pursuant to Standing Order 106(e)(1) re intended appointments dated April 21, 2004 (No. 109) (Tabled April 23, 2004).

Independent Electricity Market Operator, Annual Report 2002 (No. 107) (Tabled April 23, 2004).

Ontario Power Generation, Annual Report 2002 (No. 108) (Tabled April 23, 2004).
