



No. 36

N° 36

Votes and Proceedings

Procès-verbaux

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Thursday
May 20, 2010

Jeudi
20 mai 2010

2nd Session,
39th Parliament

2^e session
39^e législature

PRAYERS
9:00 A.M.

PRIÈRES
9 H

ORDERS OF THE DAY

A debate arose on the motion for Third Reading of Bill 44, An Act to implement the Northern Ontario energy credit.

After some time, pursuant to the Order of the House of May 10, 2010, the Acting Speaker (Mr. Wilson) put the question forthwith on the motion, which question was declared carried.

And the Bill was accordingly read the third time and passed.

ORDRE DU JOUR

Il s'élève un débat sur la motion portant troisième lecture du projet de loi 44, Loi mettant en oeuvre le crédit pour les coûts d'énergie dans le Nord de l'Ontario.

Après quelque temps, conformément à l'ordre adopté par l'Assemblée le 10 mai 2010, le président par intérim, M. Wilson met la motion aux voix immédiatement, et cette motion est déclarée adoptée.

En conséquence, ce projet de loi est lu une troisième fois et adopté.

At 10:04 a.m., the Minister Responsible for Seniors indicated that no further business would be called this morning and therefore the Acting Speaker (Mr. Wilson) recessed the House.

10:30 A.M.

10 H 30

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

On Monday, May 17, the Third Party House Leader, the Member for Welland (Mr. Kormos), raised a point of privilege concerning reports in the press about the recruitment process for the position of Ombudsman of Ontario.

The Member alleges that leaks to the press of information about this confidential process constitutes a contempt of the Legislature, and furthermore that published statements allegedly made about the current Ombudsman of Ontario are libelous and slanderous.

The House Leader for the Official Opposition (Mr. Yakabuski) and the Government House Leader (Ms. Smith) also spoke to this point of privilege.

An important fact in this matter is that the parent Acts of the various Officers of the Legislature are silent with respect to the method of recruiting those Officers. The Officers are all appointed by the Lieutenant Governor in Council, on Address of the Assembly, but what is not spelled out is a process for the Assembly itself to originate such an Address. Therefore, in strictly procedural terms, the Address is proposed with notice as a substantive government motion and, upon passage by the Assembly, the Lieutenant Governor, on advice of the Cabinet, is in a position to effect the appointment of the Parliamentary Officer in a manner consistent with the stated wishes of the Legislative Assembly.

Over time, ways have been found to involve Members of this House in the recruitment of various parliamentary officers, and within the last 10 years or so it has been the case that the Speaker has been called upon, through what one might call "the usual channels", to compose a panel of 3 Members, one from each recognized party, and chaired by the Speaker, to perform this task. This informal approach was again put to use on several very recent occasions to deal with pending vacancies in the positions of Ombudsman, the Integrity Commissioner and the Environmental Commissioner.

I consider it important to recount the general circumstances surrounding these recruitment panels because it confirms that, although a process of some long standing, it is an informal process that comes into being through the negotiations and cooperation of the parties in this House. Its purpose is to involve the House in the selection of its own Officers, to the extent possible, with the intent that the selection panel is able to recommend a candidate for appointment.

The Member for Welland in his submissions likened this panel to a legislative committee, and asserted that the breach of confidentiality that he alleges has occurred, is subject to the same potential remedies that would be in play in the case of, say, a prematurely-released report of a committee of this House. The question for the Speaker, then, is does this hiring panel have the status of a committee of the Legislature?

No motion or other formal action of this Assembly gave life to the panel. It had no independent authority as a House-appointed legislative committee would have had, such as those conferred by the *Legislative Assembly Act* or the Standing Orders. It was an *ad hoc* panel of Members of the Legislative Assembly, but it was not a Committee of the Legislative Assembly. The difference is substantive. A parliamentary committee is a creature of this House, subservient to the instructions of this House, and able to report only to this House. An unauthorized or premature release of a committee report or *in camera* proceedings has indeed been found on certain occasions in this Legislature and others to be a *prima facie* breach of the privileges of the Legislature.

The status of this panel was informal. While it engaged itself in an important advisory role to the guiding minds and leadership of the House, it was not answerable or accountable to the House, *per se*. Indeed, it might be likened to parliamentary caucuses, or the House Leaders group, each of which consists of Members of the House and meets regularly to discuss matters of parliamentary business. These are not direct creations of the House, though, and are not subject to the conventions of parliamentary privilege as a parliamentary committee indisputably is. Unlike a committee of the House, whose existence and scope of activity is conferred only by the House, no such restrictions attach to the informal bodies I have just mentioned.

That is not to say, however, that the hiring panel's deliberations should have been subject to any less rigorous an observance of confidentiality than should a fully-fledged legislative committee. As Chair of the panel I can assure everyone that the existence of press coverage about the panel's activities - regardless of its level of accuracy - is extremely distressing and disappointing.

The panel as a whole had a valid expectation that the confidentiality of its proceedings, discussions and decisions were to be held in confidence. Each member of the panel was justifiably entitled to a similar expectation, and had a coexistent mutual obligation to ensure it. This is so not because of the status of the panel - whether it be a parliamentary body or not - but because of the nature of the panel's work - a human resources assignment. From a normative point of view, in this case privilege is beside the point.

Nevertheless, what is before us is a matter of privilege. For the reasons already cited, though, I cannot find that a *prima facie* case has been made out.

Finally, the Member for Welland essentially framed his point of privilege within the larger question of contempt and whether a matter of libel or slander is at play in this issue. As I am sure the Member can appreciate, allegations of libel are only that, and it is certainly not to the Speaker to adjudicate them. It is however, possible to imagine that an attack or obstruction of a Parliamentary Officer could give rise to a finding of contempt, in the proper scenario. The Member for Welland has furnished the Speaker with numerous press reports to support his point. However, press reports are just that; reported and sometimes paraphrased commentary. They do not rise to the level of proved libel and in the absence of a report or plea made to this House from one of its officers that such an occurrence has interfered with the performance of his or her duties I cannot find that a *prima facie* case of contempt has been made out.

I thank the Member for Welland, the Official Opposition House Leader and the Government House Leader for their submissions on this matter.

ORAL QUESTIONS

QUESTIONS ORALES

DEFERRED VOTES

VOTES DIFFÉRÉS

The deferred vote on Government Order Number 10, on allocation of time on Bill 21, An Act to regulate retirement homes, was carried on the following division:-

AYES / POUR - 45

Aggelonitis	Dombrowsky	Kwinter	Qaadri
Albanese	Duguid	Leal	Ramal
Balkissoon	Duncan	Matthews	Rinaldi
Bentley	Flynn	McMeekin	Ruprecht
Berardinetti	Fonseca	McNeely	Sandals
Best	Gerretsen	Milloy	Smith
Bradley	Gravelle	Mitchell	Sousa
Brown	Hoskins	Murray	Takhar
Cansfield	Jaczek	Oraziotti	Wilkinson
Crozier	Johnson	Pendergast	Wynne
Delaney	Kular	Phillips	Zimmer
Dickson			

NAYS / CONTRE - 21

Arnott	Gélinas	Marchese	Savoline
Bailey	Hampton	Miller <small>(Hamilton East-Stoney Creek)</small>	Tabuns
Bisson	Hardeman	Miller <small>(Parry Sound-Muskoka)</small>	Wilson
Chudleigh	Klees	Munro	Witmer
Dunlop	Kormos	Prue	Yakabuski
Elliott			

And it was,

Ordered, That pursuant to Standing Order 47 and notwithstanding any other Standing Order or Special Order of the House relating to Bill 21, An Act to regulate retirement homes, the Standing Committee on Social Policy be authorized to meet from 2:00 p.m. to 6:00 p.m. on Thursday, May 20, 2010 for the purpose of clause-by-clause consideration of the Bill; and

That at 5:00 p.m. on that day, those filed amendments which have not yet been moved shall be deemed to have been moved, and the Chair of the Committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the Bill and any amendments thereto. Any division required shall be deferred until all remaining questions have been put and taken in succession with one 20 minute waiting period allowed pursuant to Standing Order 129(a); and

That the Committee shall report the Bill to the House no later than Monday, May 31, 2010. In the event that the Committee fails to report the Bill on that day, the Bill shall be deemed to be passed by the Committee and shall be deemed to be reported to and received by the House; and

That, upon receiving the report of the Standing Committee on Social Policy, the Speaker shall put the question for adoption of the report forthwith, and at such time the Bill shall be Ordered for Third Reading; and

That, on the day the Order for Third Reading of the Bill is called, 1 hour shall be allotted to the Third Reading stage of the Bill, apportioned equally among the recognized parties. At the end of this time, the Speaker shall interrupt the proceedings and shall put every question necessary to dispose of this stage of the Bill without further debate or amendment; and

That the vote on Third Reading may be deferred pursuant to Standing Order 28(h); and

That, in the case of any division relating to any proceedings on the Bill, the division bell shall be limited to 5 minutes.

The Speaker addressed the House as follows:-

I beg to inform the House that, pursuant to Standing Order 71(c), the House Leader of the Official Opposition, the Member for Renfrew-Nipissing-Pembroke, has filed notice of a reasoned amendment to the motion for Second Reading of Bill 72, An Act to enact the Water Opportunities Act, 2010 and to amend other Acts in respect of water conservation and other matters.

The Order for Second Reading of Bill 72 may therefore not be called today.

The House recessed at 11:54 a.m.

À 11 h 54, 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 81, An Act to eliminate automatic tips in restaurants. Mr. Caplan.

Projet de loi 81, Loi éliminant l'imposition automatique de pourboires dans les restaurants. M. Caplan.

Bill 82, An Act to amend the City of Toronto Act, 2006 and the Legislative Assembly Act. Mr. Sergio.

Projet de loi 82, Loi modifiant la Loi de 2006 sur la cité de Toronto et la Loi sur l'Assemblée législative. M. Sergio.

PETITIONS

PÉTITIONS

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. Wilson.

Petition relating to stopping the 13% combined sales tax (Sessional Paper No. P-8) Mr. Bailey.

Petition relating to making PET scans available through the Sudbury Regional Hospital (Sessional Paper No. P-14) M^{me} Gélinas.

Petition relating to the Oakville-Clarkson airshed (Sessional Paper No. P-18) Mr. Chudleigh.

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

Petition relating to liberation treatment for sufferers of multiple sclerosis (Sessional Paper No. P-60) Ms. Jaczek.

Petition relating to banning the use of replacement workers during a strike (Sessional Paper No. P-72) M^{me} Gélinas.

Petition relating to speech-language therapy in York Region (Sessional Paper No. P-82) Mr. Klees.

Petition relating to Xstrata Copper Canada and the Kidd Mine Site (Sessional Paper No. P-93) Mr. Bisson.

**PRIVATE MEMBERS' PUBLIC
BUSINESS**

Ms. Horwath moved,

Second Reading of Bill 57, An Act to cap the top public sector salaries.

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

Mrs. Cansfield then moved,

Second Reading of Bill 52, An Act to establish the Alzheimer Advisory Council and develop a strategy for the research, treatment and prevention of Alzheimer's disease and other forms of dementia.

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

Mr. Oraziotti then moved,

Second Reading of Bill 56, An Act to increase access to breast cancer screening.

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 57, An Act to cap the top public sector salaries, it was lost on the following division:-

**AFFAIRES D'INTÉRÊT PUBLIC
ÉMANANT DES DÉPUTÉS**

M^{me} Horwath propose,

Deuxième lecture du projet de loi 57, Loi plafonnant les hauts traitements du secteur public.

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^{me} Cansfield propose,

Deuxième lecture du projet de loi 52, Loi créant le Conseil consultatif de la maladie d'Alzheimer et élaborant une stratégie de traitement et de prévention de la maladie d'Alzheimer et d'autres formes de démence et de recherche en la matière.

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. Oraziotti propose,

Deuxième lecture du projet de loi 56, Loi visant à accroître l'accès aux services de dépistage du cancer du sein.

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 57, Loi plafonnant les hauts traitements du secteur public, mise aux voix, est rejetée par le vote suivant:-

AYES / POUR - 9

Bisson
Gélinas
Hampton

Horwath
Kormos

Marchese
Miller (Hamilton East-Stoney Creek)

Prue
Tabuns

NAYS / CONTRE - 31

Balkissoon	Elliott	Miller (Parry Sound-Muskoka)	Sandals
Berardinetti	Flynn	Moridi	Sergio
Brown	Fonseca	Murray	Sousa
Cansfield	Hardeman	Pendergast	Takhar
Chudleigh	Jaczek	Phillips	Witmer
Delaney	Klees	Qaadri	Wynne
Dhillon	Kular	Rinaldi	Zimmer
Dickson	McMeekin	Ruprecht	

The question having been put on the motion for Second Reading of Bill 52, An Act to establish the Alzheimer Advisory Council and develop a strategy for the research, treatment and prevention of Alzheimer's disease and other forms of dementia, it was declared carried and the Bill was accordingly read the second time and Ordered referred to the Standing Committee on Justice Policy.

The question having been put on the motion for Second Reading of Bill 56, An Act to increase access to breast cancer screening, it was declared carried and the Bill was accordingly read the second time and Ordered referred to the Standing Committee on Social Policy.

La motion portant deuxième lecture du projet de loi 52, Loi créant le Conseil consultatif de la maladie d'Alzheimer et élaborant une stratégie de traitement et de prévention de la maladie d'Alzheimer et d'autres formes de démence et de recherche en la matière, 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 justice.

La motion portant deuxième lecture du projet de loi 56, Loi visant à accroître l'accès aux services de dépistage du cancer du sein, 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.

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

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

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

Cette motion, mise aux voix, est déclarée adoptée.

The House then adjourned at 4:19 p.m.

À 16 h 19, la chambre a ensuite ajourné ses travaux.

le président

STEVE PETERS

Speaker

QUESTIONS ANSWERED (SEE STATUS OF BUSINESS, SECTION 4A):-

Final Answers to Question Numbers: 69, 70, 71 and 72.
