



No. 45

N° 45

Votes and Proceedings

Procès-verbaux

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Tuesday
May 1, 2012

Mardi
1^{er} 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 55, An Act to implement Budget measures and to enact and amend various Acts.

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

ORDRE DU JOUR

Deuxième lecture du projet de loi 55, Loi visant à mettre en oeuvre les mesures budgétaires et à édicter et à modifier diverses lois.

Il s'élève un débat 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 April 24, 2012, the Member for Burlington (Mrs. McKenna) rose on a point of privilege concerning the impact of automated telephone calls on her ability to carry out her MPP duties. The Government House Leader (Mr. Milloy), the Member for Parkdale–High Park (Ms. DiNovo), the Member for Simcoe–Grey (Mr. Wilson), the Member for Renfrew–Nipissing–Pembroke (Mr. Yakabuski), and the Member for Cambridge (Mr. Leone) also spoke to this matter.

Having had an opportunity to review the Hansard for that day, the information provided in the notice, and the relevant procedural authorities, I am now prepared to rule on the matter.

The Member's point of privilege relates to automated telephone calls sent to thousands of constituents in her riding. The calls, which she claims are sponsored by the Ontario Liberal party, indicate that the Member was, at the behest of her party, planning to vote against the forthcoming Budget motion, thereby forcing an expensive, unwanted election and jeopardizing funding for a local hospital. The calls, which indicated that the Member needed to put families first, allowed constituents to share their concerns with her by pressing number 3 on their telephone keypad; this action would automatically connect them to the phone number of the Member's office. The Member's office was inundated with over 1,500 telephone calls that swamped its telephone lines and voicemail system.

According to the Member, this resulted in the following:

- Some constituents could not reach the Member.
- The Member had to deal with the telephone calls generated by the automated calls, instead of telephone calls from other constituents.
- There were service complaints that unjustly damaged her reputation with her constituents.

The Member was of the view that the automated calls obstructed and interfered with her parliamentary duties and therefore established a *prima facie* case of privilege.

Before determining whether there is a *prima facie* case based on obstruction, let me say first that I will not assess the veracity or tenor of the allegations and opinions made in the automated calls; it is not for the Speaker to say that they are misleading, inaccurate, false, or inflammatory. Given the political nature of their workplace, Members are often exposed to criticisms for their actions or intended actions. Dealing with allegations, opinions and criticisms is part of the job of being an MPP.

That being said, there can be no doubt that obstruction of or interference with a Member in respect of his or her parliamentary duties can be a matter of privilege. Many of the relevant authorities on the nature of obstruction were mentioned by the Members who spoke to the matter on Tuesday, and so I will not refer to them in this ruling. However, what needs to be said is that a Member's constituency case work and other constituency responsibilities, while important, are by their very nature distinct from a Member's parliamentary responsibilities. As Speaker Carr indicated at page 30 of the *Journals* for April 26, 2001:

Speakers have consistently found – supported by the procedural authorities and a multitude of precedents – that privilege attaches only to a Member's parliamentary duties, and not to subsidiary duties away from Parliament.

Furthermore, citation 92 in the 6th edition of *Beauchesne's Parliamentary Rules and Forms* states as follows:

A valid claim of privilege in respect to interference with a Member must relate to the Member's parliamentary duties and not to the work the Member does in relation to that Member's constituency.

The privilege that protects a Member in respect of what he or she says and does in this House and its committees is known as “parliamentary privilege”; a privilege known as “constituency privilege” does not exist in Ontario or any other jurisdiction that subscribes to the Westminster model of parliament. To those who would claim that this demarcation relegates Members' constituency responsibilities to a courtesy or inferior status, I would say that parliamentary privilege provides Members with a set of legal rights and exemptions that more than 13 million other Ontarians do not have. The glass is half full, not half empty.

The Member for Burlington states that her reputation has been damaged because of the numerous service-related complaints that were made after the automated calls interfered with her office's usual routine. I would agree with the Member that damage to a Member's reputation can amount to obstruction if the Member is prevented from carrying out his or her parliamentary functions. I make the following observations about the application of this proposition to the facts in the case at hand:

- First, the Member did not indicate how the remarks in and the unwelcome consequences of the automated calls prevented her from carrying out her parliamentary duties. For example, the Member did not claim that the automated calls prevented her from speaking in the House on the Budget motion, or from voting on that motion. The calls only appear to have affected her non-parliamentary duties, which (as I have already indicated) are not protected by parliamentary privilege. The best that can be said is that the impact on the Member's parliamentary duties has been indirect or tangential - which is not enough to make a case for obstruction based on damage to the Member's reputation.
- Second, many of the rulings mentioned in the *House of Commons Procedure and Practice* that are authority for the proposition that damage to a Member's reputation can amount to obstruction deal with MPs' use of Commons mailing privileges to send misleading information to another MP's constituents. In the case at hand, however, there is no indication that Assembly resources were used to produce or disseminate the automated calls.
- Third, the Member for Burlington refers to a remark made in a 1985 ruling by Speaker Bosley of the Canadian House of Commons. That ruling is about an advertisement that identified a former MP as an MP; this is not the situation in the case at hand.

- Fourth, I have reviewed a December 13, 2011 Canadian House of Commons ruling involving an incident where an MP's constituents were the subject of an organized telephone campaign survey that, in the view of the MP, negatively affected his reputation. I have also reviewed a March 6, 2012 Canadian House of Commons ruling dealing with an incident in which an MP's office was inundated with telephone calls, emails and faxes that, in the view of the MP, hindered him and his staff from serving his constituents and that prevented constituents from contacting him in a timely manner. In both cases, Speaker Scheer ruled that a *prima facie* case of privilege was not established because the MP had been able to perform his parliamentary duties.

For these reasons, a *prima facie* case of privilege has not been established.

That being said, I have considerable sympathy for the difficult spot that the Member for Burlington found herself in last week. Like other Members, I have no doubt that she strives to serve her constituents to the best of her ability, regardless of how they contact her. Although I cannot prevent an outside organization from using automated technology to facilitate constituents' contact with their Member, I would encourage Members and parties to disassociate themselves from any technology-based communication that is inspired by a political calculus that detracts from civil discourse on public business, just as I would discourage any member from crossing into another's riding by any means for the express purpose of discrediting that member. In other words, take the high road.

I thank the Member for Burlington, the Government House Leader, the Member for Parkdale–High Park, the Member for Simcoe–Grey, the Member for Renfrew–Nipissing–Pembroke, and the Member for Cambridge for speaking to this matter.

ORAL QUESTIONS

QUESTIONS ORALES

The House recessed at 11:45 a.m.

À 11 h 45, l'Assemblée a suspendu la séance.

3:00 P.M.

15 H

REPORTS BY COMMITTEES

RAPPORTS DES COMITÉS

Standing Committee on General Government:-

Comité permanent des affaires gouvernementales :-

Bill 8, An Act respecting Ontario One Call Ltd.

Projet de loi 8, Loi sur Ontario One Call Ltd.

Reported as amended.

Rapport est fait du projet de loi modifié.

Long title amended to read:-

Le titre est modifié comme suit :-

“An Act respecting an underground infrastructure notification system for Ontario”.

«Loi sur un système d'information sur les infrastructures souterraines en Ontario».

Report adopted and Ordered for Third Reading.

Rapport adopté et passage à la troisième lecture.

Mr. Prue from the Standing Committee on Estimates presented the Committee's report as follows:-

Pursuant to Standing Order 60, your Committee has selected the Estimates (2012-2013) of the following ministries and offices for consideration:-

Ministry of Energy

15 hrs. 00 mins.

Ministry of Finance	7 hrs. 30 mins.
Ministry of Health and Long-Term Care	7 hrs. 30 mins.
Office of Francophone Affairs	7 hrs. 30 mins.
Ministry of Aboriginal Affairs	7 hrs. 30 mins.
Ministry of Training, Colleges and Universities	15 hrs. 00 mins.
Ministry of Northern Development and Mines	7 hrs. 30 mins.
Ministry of Infrastructure	7 hrs. 30 mins.
Ministry of the Attorney General	7 hrs. 30 mins.
Ministry of the Environment	7 hrs. 30 mins.

Pursuant to Standing Order 61(a), the Estimates (2012-2013) of the following ministries and offices not selected for consideration are deemed to be passed by the Committee and are reported back to the House:-

MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS

101	Ministry Administration	\$	27,715,900
107	Better Public Health and Environment		86,112,700
108	Strong Agriculture, Food and Bio-product Sectors and Strong Rural Communities		749,476,800
109	Policy Development		16,898,800

CABINET OFFICE

401	Cabinet Office	\$	27,223,900
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MINISTRY OF CHILDREN AND YOUTH SERVICES

3701	Ministry Administration	\$	14,253,400
3702	Children and Youth Services		4,135,077,400
3703	Infrastructure		35,269,100

MINISTRY OF CITIZENSHIP AND IMMIGRATION

601	Ministry Administration	\$	19,604,000
602	Citizenship and Immigration		129,822,500
603	Ontario Women's Directorate		18,232,200
605	Regional Services		6,712,700
607	Pan/Parapan American Games Secretariat		319,596,700

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

701	Ministry Administration	\$	39,606,400
702	Adults' Services		9,986,258,600

MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

2601	Ministry Administration	\$	118,677,500
2603	Public Safety Division		397,463,100
2604	Ontario Provincial Police		1,137,432,700
2605	Correctional Services		931,564,600
2606	Justice Technology Services		53,924,500
2607	Agencies, Boards and Commissions		5,393,400
2609	Emergency Planning and Management		73,850,700
2610	Policy and Strategic Planning Division		3,404,500

MINISTRY OF CONSUMER SERVICES

3101	Consumer Services	\$	20,363,000
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MINISTRY OF ECONOMIC DEVELOPMENT AND INNOVATION		
901	Ministry Administration	\$ 18,053,800
902	Economic Development and Innovation	1,106,647,600
MINISTRY OF EDUCATION		
1001	Ministry Administration	\$ 26,469,300
1002	Elementary and Secondary Education	23,784,491,500
1003	Community Services Information and Information Technology Cluster	10,351,500
1004	Child Care	984,071,000
MINISTRY OF GOVERNMENT SERVICES		
1801	Ministry Administration	\$ 47,185,300
1807	Employee and Pensioner Benefits (Employer Share)	829,247,100
1808	Human Resources Services	118,045,000
1811	Enterprise Business Services	502,457,000
1812	Agencies, Boards, Commissions and Tribunals	5,960,600
1814	ServiceOntario	290,848,200
1815	Bulk Media Buy	25,000,000
MINISTRY OF LABOUR		
1601	Ministry Administration	\$ 23,070,600
1602	Pay Equity Commission	4,217,000
1603	Labour Relations	24,157,000
1604	Occupational Health and Safety	198,374,900
1605	Employment Rights and Responsibilities	33,452,400
OFFICE OF THE LIEUTENANT GOVERNOR		
1701	Office of the Lieutenant Governor	\$ 1,359,100
MINISTRY OF MUNICIPAL AFFAIRS AND HOUSING		
1901	Ministry Administration	\$ 31,439,700
1902	Municipal Services and Building Regulation	26,700,400
1903	Local Government and Planning Policy	13,238,000
1904	Affordable Housing	765,571,400
MINISTRY OF NATURAL RESOURCES		
2101	Ministry Administration	\$ 33,429,300
2103	Natural Resource Management	419,094,300
2104	Public Protection	126,791,100
2105	Land and Resources Information and Information Technology Cluster	182,500
OFFICE OF THE PREMIER		
2401	Office of the Premier	\$ 2,655,300

MINISTRY OF TOURISM, CULTURE AND SPORT

3801	Ministry Administration	\$	8,892,800
3802	Tourism		166,480,300
3803	Sport, Recreation and Community Programs		48,915,000
3804	Tourism and Culture Capital		52,041,700
3805	Culture		241,969,200
3806	Ontario Trillium Foundation		120,001,000
3807	Ontario Seniors' Secretariat		4,019,500
3808	Ontario Cultural Media Tax Credits		226,238,700

MINISTRY OF TRANSPORTATION

2701	Ministry Administration	\$	53,765,200
2702	Policy and Planning		2,593,149,500
2703	Road User Safety		109,337,700
2704	Provincial Highways Management		2,918,205,500
2705	Labour and Transportation Cluster		72,251,800

Pursuant to Standing Order 61(b) the Report of the Committee was deemed to be received and the Estimates of the ministries and offices named therein were deemed to be concurred in.

INTRODUCTION OF BILLS

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

Bill 78, An Act to amend the Labour Relations Act, 1995 to protect the rights of employees in collective bargaining and the financial interests of members of trade unions. Mr. Hillier.

Bill 79, An Act to amend the Labour Relations Act, 1995 to provide an equal right for trade unions to have access to certification processes and to enact other measures with respect to employee rights. Mr. Natyshak.

DÉPÔT DES PROJETS DE LOI

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

Projet de loi 78, Loi modifiant la Loi de 1995 sur les relations de travail pour protéger les droits des employés à la négociation collective et les intérêts financiers des membres des syndicats. M. Hillier.

Projet de loi 79, Loi modifiant la Loi de 1995 sur les relations de travail pour accorder aux syndicats un droit égal d'accès aux processus d'accréditation et pour édicter d'autres mesures concernant les droits des employés. M. Natyshak.

PETITIONS

Banning solar farms on agricultural land (Sessional Paper No. P-31) Mr. O'Toole.

New school in Avalon (Sessional Paper No. P-55) Mr. McNeely.

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

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

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

Alzheimer's Advisory Council (Sessional Paper No. P-100) Mrs. Cansfield.

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

PÉTITIONS

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

Highway 37 and Wisser Road (Sessional Paper No. P-114) Mr. Smith.

Wind farm development on Manitoulin Island (Sessional Paper No. P-115) Mr. Fedeli.

Go Transit link from Lindsay to Oshawa (Sessional Paper No. P-116) Ms. Scott.

ORDERS OF THE DAY

Second Reading of Bill 13, An Act to amend the Education Act with respect to bullying and other matters.

Debate resumed and after some time, Mr. Hardeman moved the adjournment of the debate.

Lost on the following division:-

AYES - 21 NAYS - 35

Debate resumed and after some time, Mr. Hardeman moved the adjournment of the House.

Lost on the following division:-

AYES - 12 NAYS - 41

Debate resumed and after some time, Mr. Clark moved the adjournment of the debate.

Carried on the following division:-

AYES - 49 NAYS - 0

The House adjourned at 6:10 p.m.

ORDRE DU JOUR

Deuxième lecture du projet de loi 13, Loi modifiant la Loi sur l'éducation en ce qui a trait à l'intimidation et à d'autres questions.

Le débat reprend et après quelque temps, M. Hardeman propose l'ajournement du débat.

Rejetée par le vote suivant :-

POUR - 21 CONTRE - 35

Le débat reprend et après quelque temps, M. Hardeman propose l'ajournement de la Chambre.

Rejetée par le vote suivant :-

POUR - 12 CONTRE - 41

Le débat reprend et après quelque temps, M. Clark propose l'ajournement du débat.

Adoptée par le vote suivant :-

POUR - 49 CONTRE - 0

À 18 h 10, la chambre a ajourné ses travaux.

le président

DAVE LEVAC

Speaker

PETITIONS TABLED PURSUANT TO STANDING ORDER 39(a)

Supporting Bill 13, Accepting Schools Act (Sessional Paper No. P-102) (Tabled May 1, 2012) Mrs. McKenna.

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

RESPONSES TO WRITTEN QUESTIONS

Final Answers to Question Numbers: 288, 289, 290 and 291.

RÉPONSES AUX QUESTIONS ÉCRITES

RESPONSES TO PETITIONS**RÉPONSES AUX PÉTITIONS**

Le Commissaire aux services en français (document parlementaire n° P-3):
(Déposée le 5 avril 2012) M^{me} Gélinas.

Chronic Lyme Disease (Sessional Paper No. P-5):
(Tabled March 19, 2012) Mr. McDonell.

Granting additional powers to the Ontario Ombudsman (Sessional Paper No. P-6):
(Tabled March 8, 2012) Mr. Craitor.

Hydro dam in Bala Falls (Sessional Paper No. P-9):
(Tabled March 19, 2012) Mr. Miller (Parry Sound–Muskoka).

Licensing of electricians (Sessional Paper No. P-27):
(Tabled February 29; March 19, 26, 2012) Mr. McDonell.

Live baitfish (Sessional Paper No. P-57):
(Tabled March 5, 2012) Ms. Campbell.
(Tabled March 29, 2012) Ms. Scott.

Moratorium on school closures (Sessional Paper No. P-59):
(Tabled February 29; March 26, 2012) Mr. Barrett.
(Tabled March 5, 21; April 2, 2012) Ms. Thompson.

Eye exams (Sessional Paper No. P-61):
(Tabled March 5, 2012) Mr. Fedeli.

Private Member's motion on wind turbine development (Sessional Paper No. P-62):
(Tabled March 8, 2012) Mr. Arnott.
(Tabled March 8, 2012) Mr. Barrett.
(Tabled March 5, 2012) Mr. Harris.
(Tabled March 8, 2012) Mr. Leone.
(Tabled March 7, 2012) Mr. MacLaren.
(Tabled March 8, 2012) Mrs. Munro.
(Tabled March 8, 2012) Mr. O'Toole.
(Tabled March 8, 2012) Ms. Scott.
(Tabled March 7, 2012) Ms. Thompson.
(Tabled March 5, 19, 2012) Mr. Walker.

Synvisc treatment (Sessional Paper No. P-64):
(Tabled March 6, 2012) Mr. Fedeli.

Cellular towers (Sessional Paper No. P-70):
(Tabled April 3, 2012) Mr. Delaney.
(Tabled March 19; April 3, 2012) Mr. Flynn.

Closure of the Sarnia jail (Sessional Paper No. P-73):
(Tabled March 19, 2012) Mr. Bailey.
