



No. 83

N° 83

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**Votes and Proceedings**

**Procès-verbaux**

Legislative Assembly  
of Ontario

Assemblée législative  
de l'Ontario

**Tuesday**  
**September 25, 2012**

**Mardi**  
**25 septembre 2012**

**1<sup>st</sup> Session,**  
**40<sup>th</sup> Parliament**

**1<sup>re</sup> session**  
**40<sup>e</sup> législature**

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**PRAYERS**  
**9:00 A.M.**

**PRIÈRES**  
**9 H**

**ORDERS OF THE DAY**

**ORDRE DU JOUR**

The Speaker addressed the House:-

Le Président s'adresse à l'Assemblée :-

On September 13, 2012 in response to a point of privilege raised by the Member for Cambridge (Mr. Leone), I offered a period of time to allow the House Leaders to devise a means by which the concerns of all parties could be met. I also indicated that I would return to the House to make a statement on the matter.

Let me now advise the House of the position we currently find ourselves in. I first want to make note for the House that the Minister of Energy and the Ontario Power Authority yesterday tabled a large number of documents related to the Oakville and Mississauga power plants.

Letters of transmittal from both the Minister and the OPA indicate that what was tabled comprises all documents responsive to the May 16 request of the Standing Committee on Estimates. It would appear that the House is now in receipt of the requisite documents; however this is ultimately a determination for the Standing Committee on Estimates to make.

It seems equally apparent to me, not having received any communication to the contrary signed by all three House Leaders, that there are still some remaining concerns related to the initial refusal to produce the documents and the length of time it has taken to do so. This takes us to the finding of a *prima facie* breach of privilege on September 13, and the response of the House to that finding.

At this point, I want to take a moment to clarify for the House exactly what a *prima facie* finding of a breach of privilege means, and just as importantly what it does not mean, just as Speaker Peters did in relation to a similar situation on May 4, 2010.

Joseph Maingot, in *Parliamentary Privilege in Canada*, states (at page 221):

*A prima facie* case of privilege in the parliamentary sense is one where the evidence on its face as outlined by the Member is sufficiently strong for the House to be asked to debate the matter and to send it to a committee to investigate whether the privileges of the House have been breached or a contempt has occurred and report to the House.

...

While the Speaker may find that a *prima facie* case of privilege exists and give the matter precedence in debate, it is the House alone that decides whether a breach of privilege or a contempt has occurred, for only the House has the power to commit or punish for contempt.

In short, a *prima facie* finding by the Speaker does not mean that the Speaker has found anyone guilty of such an allegation. Rather, *prima facie* means the Speaker has determined that on the face of it, the information presented points toward the likelihood that a breach of privilege has occurred, and that it is in the interests of the House to give priority consideration to such a serious matter, and for a parliamentary committee to inquire into it.

In the case at hand, while it may be that the House would determine that the documents having been tabled resolves the matter and that is the end of it; it may also be that the House would determine otherwise, that is, that the matter of the *prima facie* finding still warrants a response.

Either way, it is the House and not the Speaker that is in the position to make that determination.

That being the case, I understand that the Member for Cambridge has been advised on what an appropriate motion would be in response to a *prima facie* finding of breach of privilege such as this and I will turn now to the Member to determine if he does wish to proceed with that motion.

Just before allowing the Member for Cambridge to put the motion, I also want to clarify for the House how the subsequent debate will play out in the House in a practical sense.

The motion that the Member for Cambridge will move is debatable and amendable. It will have precedence over, and will displace, consideration of all regular business until it is disposed of.

This includes Question Period, Deferred Votes, Routine Proceedings and Private Members' Public Business. I will note that on previous occasions in 2003 and 1997 when a privilege motion was being debated, the House still considered Private Members' Public Business. This is attributable to the fact that the physical structure of the meeting day in those years was different than it is today. It is not now possible as it was on those previous times to separate out a discrete time for Private Members' Business.

Debate on the motion will comprise of the normal rotation, with each Member being entitled to speak for up to 20 minutes on the motion and again on any amendment. There will not be a period for Questions and Comments following speeches. While the vote on any such amendment is not deferrable, the vote on the main motion will be.

I now recognize the Member for Cambridge to put his motion.

Mr. Leone moved,

M. Leone propose,

That this House directs the Minister of Energy and the Ontario Power Authority to table immediately with the Clerk of the House all remaining documents ordered by the Standing Committee on Estimates on May 16, 2012; and

That the matter of the Speaker's finding of a *prima facie* case of privilege, with respect to the production of documents by the Minister of Energy and the Ontario Power Authority to the Standing Committee on Estimates, be referred to the Standing Committee on Finance and Economic Affairs, which is hereby re-constituted as it existed on September 9, 2012; and

That the Committee shall be authorized to meet at the call of the Chair, and shall report back its findings and recommendations no later than November 19, 2012.

Debate arose and after some time,

Il s'élève un débat et après quelque temps,

Mr. Leone moved,

M. Leone propose,

That, the words "November 19<sup>th</sup>, 2012" be deleted and the following added "November 23<sup>rd</sup>, 2012".

Debate resumed and after some time,

Le débat reprend et après quelque temps,

Mr. Tabuns moved,

M. Tabuns propose,

That, the words "November 23<sup>rd</sup>, 2012" be removed and the following be added "November 26<sup>th</sup>, 2012".

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

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

**10:30 A.M.**

**10 H 30**

Debate resumed on the amendment to the amendment to the motion by Mr. Leone arising from the Speaker's ruling of September 13, 2012.

The House recessed at 11:27 a.m.

À 11 h 27, l'Assemblée a suspendu la séance.

3:00 P.M.

15 H

**ORDERS OF THE DAY****ORDRE DU JOUR**

Debate resumed on the amendment to the amendment to the motion by Mr. Leone arising from the Speaker's ruling of September 13, 2012.

The House adjourned at 5:55 p.m.

À 17 h 55, la chambre a ajourné ses travaux.

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le président

**DAVE LEVAC**

Speaker

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**RESPONSES TO WRITTEN QUESTIONS****RÉPONSES AUX QUESTIONS ÉCRITES**

Final Answers to Question Numbers: 361, 365, 367, 368 and 369.

**RESPONSES TO PETITIONS****RÉPONSES AUX PÉTITIONS**

Grey Bruce Health Unit (Sessional Paper No. P-152):  
 (Tabled June 11, 2012) M<sup>me</sup> Gélinas.  
 (Tabled June 13, 2012) Ms. Thompson.

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