



No. 90

N° 90

Votes and Proceedings

Procès-verbaux

Legislative Assembly
of Ontario

Assemblée législative
de l'Ontario

Monday
June 1, 2015

Lundi
1^{er} juin 2015

1st Session,
41st Parliament

1^{re} session
41^e législature

PRAYERS
10:30 A.M.

PRIÈRES
10 H 30

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

On May 26, 2015, the Member for Leeds–Grenville (Mr. Clark) rose on a point of privilege with respect to a Report of the Ombudsman of Ontario concerning Hydro One's billing practices and the timeliness and effectiveness of its process for responding to customer concerns. The Government House Leader (Mr. Naqvi) also made a submission in response, and both the Government House Leader and the Member for Lanark–Frontenac–Lennox and Addington (Mr. Hillier) also provided me with subsequent written submissions.

Having reviewed these, and the relevant precedents and procedural authorities, I am now ready to rule.

The Member for Leeds–Grenville pointed to the section of the Ombudsman's report in which the Ombudsman recounted the contact his staff had with that of Hydro One during the course of his investigation, and the Ombudsman's very scathing analysis of Hydro One's lack of cooperation and forthrightness on the one hand, and its extreme defensiveness and evasiveness on the other. The Ombudsman cited a litany of complaints and criticisms of the conduct of Hydro One toward his office. The Ombudsman likewise aimed similarly strong criticism toward Hydro One with respect to the way and extent to which the Minister of Energy was given information and kept briefed by Hydro One on its management of both its billing problems, and of the Ombudsman's investigation of this issue.

The Member for Leeds–Grenville stated that the issue being investigated by the Ombudsman - apparently serious, systemic billing-system problems on the part of Hydro One - was also a matter in which many MPP offices were involved on behalf of their constituents. This was noted in the Ombudsman's report. The member asserts that, in raising these matters either directly with Hydro One or via the Minister's Office, MPPs were entitled to expect honest and open dealings in order to facilitate the resolution of genuine errors and mistakes on the part of Hydro One. However, Hydro One's method of response, according to both the Ombudsman and the Member for Leeds–Grenville, appears to have been virtually identical to the way it dealt with the Ombudsman in the course of his investigation.

Moreover, the Ombudsman asserted in his report that the Minister was intentionally given a less-than-completely forthright "don't worry" soft sell by Hydro One about the problems, a response the Minister apparently accepted and repeated in the House. By misinforming the Minister, who then passed that misinformation on to the House, the Member for Leeds–Grenville asserts that Hydro One has committed a contempt of the Legislature both by obstructing members in their duties and by being the vehicle by which knowingly incorrect information was conveyed to the Assembly.

Lying to the House is a serious matter. To make a misleading statement, to know while making it that the statement is incorrect, and with the overt goal of deceiving the House, is parliament's cardinal sin. These are the compound of motives and actions that constitute the so-called "McGee Test". If established that such a sequence of events has occurred, there can be little doubt that a Speaker would find that a *prima facie* case of contempt had been made out. The Member for Leeds–Grenville mentions this test with respect to Hydro One's allegedly dishonest dealings with the Minister of Energy.

However, the test is not directly applicable in this case. First, this test applies to statements made by members of the House, in the House or another proceeding in parliament. The source of the misinformation in this case was an outside actor. It is alleged that deceptive information was conveyed to the House by a minister, perhaps thus providing a vicarious link to the McGee Test. That is, had it been established that the Minister of Energy believed the information he was stating in the House to be untrue, and had he nevertheless provided it and with the intent to mislead the House, then a *prima facie* case of contempt would be apparent. However, both the Ombudsman and the Member for Leeds–Grenville absolve the Minister of Energy for his statements in the House because they both assert that Hydro One was disingenuous in informing the Minister, who then passed on that information to the House. No one asserts that the Minister intentionally set out to mislead the House.

Moreover, the Minister of Energy, who, as the Government House Leader correctly pointed out in his written submission, ought to be the one to do so, has not raised a point of privilege on the grounds that he was intentionally misled by anyone, with that person's foreknowledge and their intention that the Minister would then give that same incorrect information to the House. The Member for Leeds–Grenville cites a 1978 case from the Canadian House of Commons in which a *prima facie* case of contempt was found on the basis that an official had given false information to a minister, who then repeated that information in the House of Commons. This case is too detailed and nuanced to go into at any length here, but a key facet was that objective evidence - sworn testimony before a Royal Commission - was available to make the case that the minister had been misled. I do not have that same calibre of evidence before me in this case.

I will turn now to the assertion by the Member for Leeds–Grenville that Hydro One obstructed members of this Assembly in their duties by failing to fully cooperate, in good faith, with members who were seeking to deal with Hydro One on behalf of their constituents who had fallen victim to Hydro One's billing problems.

It may be that Hydro One was in fact a bad player when it came to its dealings with members of this Legislature. The Ombudsman's report does not equivocate on that view. However, it is well-established that parliamentary privilege does not extend to the constituency or other non-parliamentary work that a member does.

The Second Edition of House of Commons Procedure and Practice, at page 117, cites a ruling by Speaker Sauvé that very eloquently explains this principle, as follows:

While I am only too aware of the multiple responsibilities, duties, and also the work the member has to do relating to his constituency, as Speaker I am required to consider only those matters which affect the member's parliamentary work. That is to say, whatever duty a member has to his constituents, before a valid question of privilege arises in respect of any alleged interference, such interference must relate to the member's parliamentary duties. In other words, just as a member is protected from anything he does while taking part in a proceeding in Parliament, so too must interference relate to the member's role in the context of parliamentary work.

This view has been taken numerous times by Speakers of this House as well. For instance, Speaker Carr on April 26, 2001 stated:

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.

I therefore cannot find a *prima facie* case of contempt has been established with respect to Hydro One's dealings with MPPs concerning their constituents' complaints.

Though the Member for Leeds–Grenville does not explicitly address this aspect, he does so by inference, and this is the crux of the argument made by the Member for Lanark–Frontenac–Lennox and Addington, so I will address the possibility of contempt of the Legislature arising with respect to the obstruction or interference by anyone with one of the Assembly's Parliamentary Officers.

Erskine May's Parliamentary Practice states that,

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.

A *prima facie* case of contempt on these grounds was established in this House in 2000, on a point of privilege raised in response to a report from the Information and Privacy Commissioner. In that report, the Commissioner reported that in attempting to conduct a certain investigation, her office was disregarded, discounted and thwarted to the extent that she was "unable to conduct a full and complete investigation."

The Speaker found that "(i)n official business dealings with an officer of this House, individuals owe an obligation of accountability to parliament. That our own officer advises that the opposite was the case is sufficient cause in my mind to find that a *prima facie* case of contempt of parliament has been made out. How could it be otherwise? The Privacy Commissioner's sole loyalty is to this House, manifested in her trusted discharge of the role and functions assigned to her, by us, in the Act."

While the Ombudsman dedicates a portion of his report, under the title "Obstructing the Ombudsman", to a description of his many frustrations in dealing with Hydro One, and its posture of alleged disingenuousness, the Ombudsman does not ultimately argue that he was unable to complete his investigation, and make findings and recommendations.

For all of these reasons, I do not find that a *prima facie* case of breach of privilege or of contempt has been established. I thank the Member for Leeds–Grenville, the Government House Leader and the Member for Lanark–Frontenac–Lennox and Addington for their submissions in this matter.

ORAL QUESTIONS

The House recessed at 11:54 a.m.

1:00 P.M.

REPORTS BY COMMITTEES

Standing Committee on Finance and Economic Affairs:-

Bill 91, An Act to implement Budget measures and to enact and amend various Acts.

Reported as amended.

Carried on the following division:-

QUESTIONS ORALES

À 11 h 54, la Chambre a suspendu la séance.

13 H

RAPPORTS DES COMITÉS

Comité permanent des finances et des affaires économiques :-

Projet de loi 91, Loi visant à mettre en oeuvre les mesures budgétaires et à édicter et à modifier diverses lois.

Rapport est fait du projet de loi modifié.

Adoptée par le vote suivant:-

AYES / POUR - 53

Albanese
Anderson
Baker
Balkissoon
Ballard
Berardinetti
Bradley
Chan
Chiarelli
Colle
Crack
Damerla
Delaney
Dhillon

Dickson
Dong
Duguid
Flynn
Fraser
Gravelle
Hoggarth
Hoskins
Hunter
Jaczek
Kiwala
Kwinter
Lalonde

Leal
MacCharles
Malhi
Mangat
Martins
Matthews
Mauro
McGarry
McMahon
McMeekin
Meilleur
Milczyn
Moridi

Naidoo-Harris
Naqvi
Oraziatti
Potts
Qaadri
Sandals
Sergio
Sousa
Takhar
Thibeault
Vernile
Wong
Wynne

NAYS / CONTRE - 30

Armstrong	French	McNaughton	Smith
Arnott	Gates	Miller (Hamilton East-Stoney Creek)	Tabuns
Bailey	Gélinas	Miller (Parry Sound-Muskoka)	Taylor
Bisson	Gretzky	Natyshak	Thompson
Clark	Hatfield	Nicholls	Vanthof
Fedeli	Mantha	Pettapiece	Walker
Fife	Martow	Sattler	Yakabuski
Forster	McDonell		

Pursuant to the Order of the House May 13, 2015,

Report adopted and Ordered for Third Reading.

Conformément à l'ordre de l'Assemblée du 13 mai 2015,

Rapport adopté et passage à la troisième lecture.

MOTIONS

Mr. Naqvi moved,

That pursuant to Standing Order 6(c)(ii), the House shall meet from 6:45 p.m. to 12:00 midnight on Monday, June 1, 2015, for the purpose of considering government business.

Carried on the following division:-

MOTIONS

M. Naqvi propose,

Adoptée par le vote suivant :-

AYES / POUR - 69

Albanese	Dickson	Mangat	Oraziotti
Anderson	Dong	Martins	Pettapiece
Arnott	Duguid	Martow	Potts
Bailey	Flynn	Matthews	Qadri
Baker	Fraser	Mauro	Sandals
Balkissoon	Gravelle	McDonell	Sergio
Ballard	Hoggarth	McGarry	Smith
Berardinetti	Hoskins	McMahon	Sousa
Bradley	Hunter	McMeekin	Takhar
Chan	Jaczek	McNaughton	Thibeault
Chiarelli	Kiwala	Meilleur	Thompson
Clark	Kwinter	Milczyn	Vernile
Colle	Lalonde	Miller (Parry Sound-Muskoka)	Walker
Crack	Leal	Moridi	Wong
Damerla	MacCharles	Naidoo-Harris	Wynne
Del Duca	MacLaren	Naqvi	Yakabuski
Delaney	Malhi	Nicholls	Yurek
Dhillon			

NAYS / CONTRE - 14

Armstrong	Gates	Mantha	Sattler
Bisson	Gélinas	Miller (Hamilton East-Stoney Creek)	Taylor
Fife	Gretzky	Natyshak	Vanthof
French	Hatfield		

With unanimous consent,
On motion by Mr. Naqvi,

Avec le consentement unanime,
Sur la motion de M. Naqvi,

Ordered, That Ms. Jones replace Mr. Hillier on the membership of the Select Committee on Sexual Violence and Harassment.

PETITIONS

PÉTITIONS

Affordable and reliable electricity (Sessional Paper No. P-11) Mr. Pettapiece.

Fluoridation of drinking water (Sessional Paper No. P-114) Mr. Delaney.

Sexual education curriculum (Sessional Paper No. P-120) Mr. McNaughton.

Microbeads (Sessional Paper No. P-162) Mrs. McGarry.

Stopping the sale of Hydro One (Sessional Paper No. P-191) Ms. Sattler and Miss Taylor.

The closure of the Welland General Hospital (Sessional Paper No. P-199) Ms. Forster.

Agri-Food Education Program (Sessional Paper No. P-201) Ms. Thompson.

Acute care hospital services (Sessional Paper No. P-202) Mr. Miller (Parry Sound–Muskoka).

Impact of amalgamation upon citizens of Flamborough (Sessional Paper No. P-203) Ms. McMahan.

ORDERS OF THE DAY

ORDRE DU JOUR

Amendment to the motion to apply a timetable to certain business of the House.

Debate resumed and after some time,

Le débat a repris et après quelque temps,

The question was then put.

La question a ensuite été mise aux voix.

Vote deferred on request of the Chief
Government Whip.

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

With unanimous consent,
On motion by Mr. Naqvi,

Avec le consentement unanime,
Sur la motion de M. Naqvi,

Ordered, That the Standing Committee on Finance and Economic Affairs shall be authorized to meet on Thursday, June 4, 2015, between 2:00 p.m. – 4:00 p.m. for the purpose of public hearings on Bill 75, An Act with respect to microbeads;

That the Clerk, in consultation with the Committee Chair, be authorized to arrange the following with regard to Bill 75:

- Notice of public hearings on the Ontario parliamentary channel, the Legislative Assembly's website, and Canada NewsWire; and
- That the deadline for requests to appear be 5:00 p.m. on Tuesday, June 2, 2015;
- That following the deadline, the Clerk of the Committee provide the members of the Sub-committee with a list of requests to appear;
- That the members of the Sub-committee prioritize and return the list by 9:30 a.m. on Wednesday, June 3, 2015;

- That the Clerk of the Committee schedule witnesses from these prioritized lists; and
- Each witness will receive up to five minutes for their presentation, followed by nine minutes for questions from committee members;
- The deadline for written submission is 4:00 p.m. on the day of public hearings.

Third Reading of Bill 31, An Act to amend the Highway 407 East Act, 2012 and the Highway Traffic Act in respect of various matters and to make a consequential amendment to the Provincial Offences Act.

Troisième lecture du projet de loi 31, Loi modifiant la Loi de 2012 sur l'autoroute 407 Est et le Code de la route en ce qui concerne diverses questions et apportant une modification corrélative à la Loi sur les infractions provinciales.

Debate resumed and after some time,

Le débat a repris et après quelque temps,

The question was then put.

La question a ensuite été mise aux voix.

Vote deferred on request of the Chief Government Whip.

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

With unanimous consent,

Avec le consentement unanime,

On motion by Mr. Naqvi,

Sur la motion de M. Naqvi,

Ordered, That, notwithstanding the Order passed earlier today, when the House adjourns this afternoon, it shall stand adjourned until 9:00 a.m. tomorrow.

On motion by Mr. Naqvi, it was Ordered that the House adjourn.

Sur la motion de M. Naqvi, il est ordonné que la Chambre ajourne ses travaux.

The House adjourned at 4:15 p.m.

À 16 h 15, la Chambre a ajourné ses travaux.

le président

DAVE LEVAC

Speaker

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

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

Fluoridation of drinking water (Sessional Paper No. P-114) (Tabled June 1, 2015) Mr. Miller (Parry Sound–Muskoka).

Carbon tax (Sessional Paper No. P-125) (Tabled June 1, 2015) Mr. Clark.

Supporting the Almaguin Improvement Association in their efforts to stock native pickerel (Sessional Paper No. P-160) (Tabled June 1, 2015) Mr. Miller (Parry Sound–Muskoka).

**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 May 29, 2015 (No. 371) (Tabled May 29, 2015).

Accessibility for Ontarians with Disabilities Act, 2005, 2014 Annual Report (No. 372) (Tabled June 1, 2015).

Ontario Electricity Financial Corporation / Société financière de l'industrie de l'électricité de l'Ontario, 2014 Annual Report (No. 373) (Tabled June 1, 2015).

Ontario Financing Authority / Office ontarien de financement, Annual Report 2014 (No. 374) (Tabled June 1, 2015).

Ontario Lottery and Gaming Corporation / Société des loteries et des jeux de l'Ontario, 2013-2014 Annual Report (No. 370) (Tabled May 29, 2015).

Worker Advisor, Office of / Bureau des conseillers des travailleurs, 2013-2014 Annual Report (No. 375) (Tabled June 1, 2015).

RESPONSES TO PETITIONS

RÉPONSES AUX PÉTITIONS

Credit Unions (Sessional Paper No. P-6):
(Tabled April 20, 2015) Mrs. Martins.

ServiceOntario counters in Northern Ontario (Sessional Paper No. P-36):
(Tabled April 15, 2015) Mr. Mantha.

Emergency Response Workers (Sessional Paper No. P-86):
(Tabled April 20, 2015) Ms. DiNovo.
(Tabled April 16, 2015) Mr. Natyshak.

Sexual education curriculum (Sessional Paper No. P-120):
(Tabled April 16, 2015) Mr. Arnott.
(Tabled May 14, 2015) Mr. Clark.
(Tabled April 21, 2015) Mr. McNaughton.
(Tabled April 20, 2015) Mr. Nicholls.
(Tabled April 27, 2015) Mr. Pettapiece.
