

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

Votes and Proceedings

No. 84

Procès-verbaux

N° 84

1st Session
42nd Parliament

Thursday
March 28, 2019

1^{re} session
42^e législature

Jeudi
28 mars 2019

9:00 A.M.
PRAYERS

9 H
PRIÈRES

ORDERS OF THE DAY

ORDRE DU JOUR

Second Reading of Bill 87, An Act to amend various statutes related to energy.

Deuxième lecture du projet de loi 87, Loi modifiant diverses lois en ce qui concerne l'énergie

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

Il s'élève un débat et après quelque temps, à 10 h 15, la Chambre a suspendu la séance.

10:30 A.M.

10 H 30

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

Yesterday, March 27, 2019 at 9:50 a.m., the Member for Timmins (Mr. Bisson) submitted a notice of his intention to raise a question of privilege. The notice alleges that an answer given by the Premier during Oral Questions on December 5, 2018 was deliberately misleading and therefore a contempt of the House. The Government House Leader (Mr. Smith (Bay of Quinte)) also provided me with a written submission in response to the notice the Member for Timmins sent to my office.

I am now prepared to rule on the matter without hearing further from the Members, as Standing Order 21(d) permits me to do.

The Member for Timmins, in his notice, alleges that the Premier's response, that the Premier was not involved in the appointment of Ron Taverner as OPP Commissioner (found at page 2815 of the *Debates* of December 5, 2018), was contradicted by the Integrity Commissioner's report of March 20, 2019. The notice further alleges that the Integrity Commissioner found that the Premier's staff and the former Secretary of Cabinet were involved in the appointment process and that the principle of ministerial responsibility stipulates that the Premier must therefore have had knowledge of this, and thereby could not lay claim to having had no involvement in the process whatsoever.

I wish to first comment on the importance of timeliness when raising a question of privilege or contempt. These questions must be brought to the House at the first available opportunity. As the Fifth Edition of *Beauchesne's Parliamentary Rules and Forms* states (on page 25):

“Even a gap of a few days may invalidate the claim.”

I also refer Members to Speaker Levac's ruling of April 21, 2015 (on page 267 of the *Journals*), where he categorically rejected a notice to raise a question of privilege because it related to events from four days previous and, therefore, did not meet the test for timeliness.

The issues raised by the Member for Timmins relate to the Integrity Commissioner's report from seven days ago. I have serious concerns about the timeliness of this notice; however, I will address the substance of the notice...this time.

Having just now reminded the House of the timeliness requirement, I want to make it clear it is very unlikely that I will be presupposed to be so accommodating in the future.

I now turn to the test for determining when a Member has deliberately misled the House. Previous Speakers have adopted and enunciated the “McGee test” for determining whether a Member has deliberately misled the House.

The test is set out on page 775 of the Fourth Edition of *McGee's Parliamentary Practice in New Zealand*, as follows:

“There are three elements to be established when an allegation is made against a member regarding the member’s statement: the statement must, in fact, have been misleading; the member must have known that the statement was inaccurate at the time the statement was made; and the member must have intended to mislead the House.”

As Speaker Carr elaborated on June 17, 2002 (on page 102 of the *Journals*):

“The threshold for finding a *prima facie* case of contempt against a Member of the Legislature, on the basis of deliberately misleading the House, is therefore set quite high and is very uncommon. It must involve a proved finding of an overt attempt to intentionally mislead the Legislature. In the absence of an admission from the Member accused of the conduct, or of tangible confirmation of the conduct, independently proved, a Speaker must assume that no honourable Members would engage in such behavior or that, at most, inconsistent statements were the result of inadvertence or honest mistake.”

This ruling was followed by Speaker Levac on April 29, 2014 (on page 422 of the *Journals*).

It is important to note that the Member for Timmins does not allege that the Premier was involved in the appointment process. Nor does the Member allege that the Premier had actual knowledge of the actions of his staff and the former Secretary of the Cabinet, only that the principle of ministerial responsibility stipulates that the Premier has knowledge of these actions, even if only vicariously.

In my view, the McGee test requires a Member to have actual knowledge that a statement was inaccurate at the time that the statement was made. If a Member does not know that a statement was inaccurate, I cannot see how that Member could have been found to have overtly and intentionally misled the House. Furthermore, to find that stipulated knowledge can form an adequate basis for contempt would contradict Speaker Carr’s ruling that an admission or tangible confirmation is usually required for such a finding.

Furthermore, the principle of ministerial responsibility, as described on page 30 of the Third Edition of *House of Commons Procedure and Practice*, only requires Ministers to be accountable for their staff’s actions. The principle does not stipulate that Ministers have knowledge of their staff’s actions at all times.

Finally, even if the Integrity Commissioner’s finding did contradict the Premier’s statement, I am not convinced there is adequate tangible evidence to support a finding of *prima facie* contempt.

Therefore, I do not find that a *prima facie* case of contempt has been established.

I thank the Member for Timmins and the Government House Leader for their submissions.

ORAL QUESTIONS

QUESTIONS ORALES

The House recessed at 11:43 a.m.

À 11 h 43, la Chambre a suspendu la séance.

1:00 P.M.

13 H

INTRODUCTION OF BILLS

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

Bill 91, An Act to amend the Trillium Gift of Life Network Act. M^{me} Gélinas.

DÉPÔT DES PROJETS DE LOI

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

Projet de loi 91, Loi visant à modifier la Loi sur le Réseau Trillium pour le don de vie. M^{me} Gélinas.

Bill 92, An Act to amend the Labour Relations Act, 1995 with respect to replacement workers. M^{me} Gélinas.

Projet de loi 92, Loi modifiant la Loi de 1995 sur les relations de travail en ce qui concerne les travailleurs suppléants. M^{me} Gélinas.

PETITIONS

PÉTITIONS

The Long-Term Care Homes Act (Sessional Paper No. P-13) M^{me} Gélinas.

Affordable housing (Sessional Paper No. P-32) Ms. Andrew.

Injured workers (Sessional Paper No. P-36) Mr. Mantha.

Banning unattended tethering of dogs (Sessional Paper No. P-47) Ms. Berns-McGown.

Auto insurance (Sessional Paper No. P-65) Mr. Hassan.

Memorial honouring war veterans (Sessional Paper No. P-68) Mr. Barrett.

Hunting and trapping of the eastern hybrid wolf (Sessional Paper No. P-71) Mr. Harris and Mr. Smith (Peterborough—Kawartha).

Ontario Society for the Prevention of Cruelty to Animals (Sessional Paper No. P-79) Mr. Rakocevic.

Autism (Sessional Paper No. P-87) Ms. Singh (Brampton Centre).

Eviction (Sessional Paper No. P-113) Ms. Karpoche.

Campus radio stations (Sessional Paper No. P-117) Mr. Schreiner.

PRIVATE MEMBERS' PUBLIC BUSINESS

AFFAIRES D'INTÉRÊT PUBLIC ÉMANANT DES DÉPUTÉS

Ms. Ghamari moved,

Second Reading of Bill 78, An Act to amend various Acts with respect to the publication of notices in newspapers.

Debate arose and after some time,

Carried.

Referred to the Standing Committee on Justice Policy.

M^{me} Ghamari propose,

Deuxième lecture du projet de loi 78, Loi modifiant diverses lois en ce qui concerne la publication d'avis dans les journaux.

Il s'élève un débat et après quelque temps,

Adoptée.

Renvoyé au Comité permanent de la justice.

Ms. Triantafilopoulos moved,

Second Reading of Bill 77, An Act to proclaim a month to celebrate Hellenic heritage in Ontario.

Debate arose and after some time,

Carried.

Referred to the Standing Committee on the Legislative Assembly.

M^{me} Triantafilopoulos propose,

Deuxième lecture du projet de loi 77, Loi proclamant un mois pour célébrer le patrimoine hellénique en Ontario.

Il s'élève un débat et après quelque temps,

Adoptée.

Renvoyé au Comité permanent de l'Assemblée législative.

Mr. Glover moved,

Private Members' Notice of Motion No. 40:-

That, in the opinion of this House, the Government should make it easier for low and middle income students to access higher education and relieve their debt loads by converting all future OSAP loans into grants, and ending the practice of the Provincial Government charging interest on existing student debt.

Debate arose and after some time,

Lost on the following division:-

M. Glover propose,

Avis de motion émanant des députés n° 40 :-

Il s'élève un débat et après quelque temps,

Rejetée par le vote suivant :-

AYES / POUR - 25

Andrew	Glover	Mamakwa	Sattler
Armstrong	Hassan	Mantha	Singh (Brampton Centre)
Bell	Hatfield	Miller (Hamilton East—Stoney Creek)	Stiles
Berns-McGown	Karpoche	Monteith-Farrell	Tabuns
Bisson	Kernaghan	Morrison	Vanthof
Coteau	Lindo	Rakocevic	Yarde
Fife			

NAYS / CONTRE - 56

Anand	Dunlop	Lecce	Rasheed
Baber	Elliott	Martin	Roberts
Babikian	Fee	Martow	Romano
Barrett	Ghamari	McKenna	Sabawy
Bethlenfalvy	Gill	Miller (Parry Sound—Muskoka)	Sandhu
Bouma	Harris	Mulroney	Sarkaria
Calandra	Hogarth	Nicholls	Smith (Peterborough—Kawartha)
Cho (Scarborough North)	Jones	Oosterhoff	Surma
Cho (Willowdale)	Kanapathi	Pang	Tangri
Clark	Karahalios	Park	Thanigasalam
Coe	Ke	Parsa	Tibollo
Crawford	Khanjin	Pettapiece	Triantafilopoulos
Cuzzetto	Kramp	Phillips	Wai
Downey	Kusendova	Piccini	Yakabuski

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

The House adjourned at 3:47 p.m.

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

À 15 h 47, la Chambre a ajourné ses travaux.

le président

TED ARNOTT

Speaker

RESPONSES TO PETITIONS**RÉPONSES AUX PÉTITIONS**

Animal welfare standards (Sessional Paper No. P-43):
(Tabled December 6, 2018) Ms. Hogarth.

Sanctions for any person convicted under any of sections 83.18 to 83.221 of the Criminal Code of Canada (Sessional Paper No. P-62):
(Tabled December 6, 2018) Mrs. Martin.

Hunting and trapping of the eastern hybrid wolf (Sessional Paper No. P-71):
(Tabled December 6, 2018) Mr. Smith (Peterborough—Kawartha).

Drinking water (Sessional Paper No. P-77):
(Tabled November 29, 2018; February 20, 2019) Ms. Fife.
(Tabled March 4, 2019) Ms. Karpoche.

Ontario Society for the Prevention of Cruelty to Animals (Sessional Paper No. P-79):
(Tabled December 6, 2018) Ms. Skelly.

Live Bait Industry (Sessional Paper No. P-81):
(Tabled December 5, 2018) Mr. Barrett.

Mental health and addictions centres (Sessional Paper No. P-82):
(Tabled December 6, 6, 2018) Mr. Gates.
(Tabled December 6, 2018) Mrs. Stevens.

Eating Disorders Awareness Week (Sessional Paper No. P-83):
(Tabled December 6, 19, 2018) Ms. Andrew.
(Tabled December 18, 2018) Ms. Berns-McGown.

Windsor Jail in Sandwich Towne (Sessional Paper No. P-86):
(Tabled December 6, 2018) Mrs. Gretzky.
