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Votes and Proceedings

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Procès-verbaux

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2^e session
42^e législature

Mercredi
6 octobre 2021

9:00 A.M.
PRAYERS

9 H
PRIÈRES

ORDERS OF THE DAY

ORDRE DU JOUR

Second Reading of Bill 5, An Act respecting York Region Wastewater.

Deuxième lecture du projet de loi 5, Loi concernant les eaux usées dans la région de York.

Debate arose and after some time the debate adjourned at 10:13 a.m.

Il s'élève un débat et après quelque temps, à 10 h 13, le débat était ajourné.

10:15 A.M.

10 H 15

The Speaker informed the House,

Le Président a informé l'Assemblée,

That the following document was tabled:-

Que le document suivant a été déposé :-

Report entitled "Federal and Provincial COVID-19 Response Measures: 2021 Update" from the Financial Accountability Office of Ontario (Sessional Paper No. 10).

Le Rapport intitulé « Mesures fédérales et provinciales de réponse à la COVID-19 : Mise à jour 2021 » du Bureau de la responsabilité financière de l'Ontario (Document parlementaire n° 10).

The Speaker delivered the following ruling:-

Le Président a rendu la décision suivante :-

On June 14, 2021, the Member for London West (Ms. Sattler) and the Member for York Centre (Mr. Baber) rose on questions of privilege respecting the ability of Members to rise on points of order to seek the unanimous consent of the House regarding the business of the day. The Member for London West subsequently provided a written submission in support of her questions, and gave an additional oral submission to the House yesterday.

I am now prepared to rule on the questions raised by the Members.

Let us first revisit the events of June 14, which was the last day the House sat before the summer recess. At various times during that day's proceedings, Members rose on supposed points of order, each time seeking the unanimous consent of the House to give immediate consideration to a Private Member's Public Bill or Motion, or to move a substantive motion without notice.

Made over and over again, the requests cumulatively made it difficult for the House to conduct its scheduled business. As Speaker, I eventually found these requests to be disorderly and came to the view that they were being used for a dilatory purpose not provided for in the Standing Orders or in the Assembly's practices. As a practical and reasonable response, I made the decision to ask the House if there was unanimous consent to consider any business other than the Bill that had been called for debate. When that consent was not granted, I chose to move on from any further unanimous consent requests, and to resume the business at hand.

Let me remind Members that among other responsibilities the Speaker has an obligation to ensure that the House is able to conduct the business that is before it. More on that later.

In the course of the day's events, the Members for London West and York Centre raised concerns framed as issues of parliamentary privilege. While they raised objections related to the procedures and practices of the House, as well as the role of the Speaker and my response to the events of June 14, they did not establish that any parliamentary privilege had been breached.

Let me remind Members that there are a number of specific parliamentary privileges which, as Standing Order 23(a) indicates, may be categorized as either a Member's individual privilege or a collective privilege of the House "...conferred by the *Legislative Assembly Act* and other statutes, or by practice, precedent, usage and custom."

The matters brought forward by the two Members would have been more appropriately raised as points of order, and I will respond to them now as such.

It perhaps bears explaining what a point of order actually is.

A point of order, according to the 3rd edition of *House of Commons Procedure and Practice* at pages 636-638,

"is an intervention by a Member who believes that the rules or customary procedures of the House have been incorrectly applied or overlooked during proceedings." [...] "When recognized on a point of order, a Member should state only which Standing Order or practice the Member considers to have been breached; if this is not done, the Speaker may request that the Member do so."

Standing Order 14 provides that, when raising points of order, Members are to make their points tersely and without interruption by other Members.

The Speaker's responsibilities include the preservation of order and decorum in the House, and ruling on points of order. The latter involves interpreting the rules and practices of procedure to address issues as they arise out of the proceedings. The Speaker may rule either immediately after a point of order is raised, or after taking the necessary time to consider the Standing Orders and precedents.

While the Speaker should hear a valid point of order when one is raised, the Chair retains the discretion not to entertain a Member who persists with points of order. This discretion is supported by various procedural authorities. *Erskine May* at paragraph 21.49 of the 26th edition says that "Speakers have exercised discretion over the taking of points of order."

House of Commons Procedure and Practice at page 637 says that "points of order are often used by Members in attempts to gain the floor to participate in debate; in such cases, the Speaker will not allow the Member intervening to continue."

Finally, Australia's *House of Representatives Practice* at page 193 of the 7th edition says that when "points of order which are inordinately long, frivolous or of dubious validity" are raised, "the Chair would normally intervene."

What is a valid point of order? The question is sometimes muddled because of the occasional but longstanding practice of using points of order to gain the floor for purposes not actually related to matters of order.

Speakers have not objected to allowing Members, from time to time, to use points of order (for example) to apologize, to ask for a moment of silence, to seek unanimous consent to expedite the business of the House or waive notice, to vote on a motion without debate, to wish a member a Happy Birthday or announce the birth of a child, or on occasion to immediately pass a bill. While this has been a somewhat common practice, it is one that is typically used sparingly, and has mostly been used when there is known agreement among the parties to proceed with the request.

In her written submission, the Member for London West noted that the successive requests for unanimous consent that were made on June 14 were similar to requests that had been made on many occasions in this Parliament, requests that at the time were deemed acceptable. In her submissions yesterday, the Member made the point that conducting business by unanimous consent is very often helpful to the House and, indeed, it occurs frequently enough in this House that it could be said to have entered the realm of established practice. I agree.

The Member also said that historically there have been few limitations on the subject matter or nature of unanimous consent requests. I also agree with that assertion, but this is the point where a distinction can be made between what has become an accepted part of our practice and where what happened on June 14 deviated from that practice: the sheer extent and volume of those requests on June 14 was a striking and obvious change from the typical use of unanimous consent requests. In other words, it is not the case that Members can utter the phrase “point of order” and the Speaker is then somehow obligated, each and every time, without limit, to give members the floor and interrupt whatever other business is properly before the House.

Indeed, previous Speakers have intervened to deal with the kind of dilatory measures that occurred on June 14.

For instance, on April 2, 1997, at pages 7523-7524 of the *Debates*, the House found itself in a very similar circumstance to the one we are contemplating today. After Members raised several lengthy points of order and requests for unanimous consent in succession, Speaker Stockwell decided to disallow further interventions so that the House could move on to the next proceeding, providing the following explanation:

“I don’t ever want to cut a Member off from a point of order because I think it’s very, very important that they have the right to stand on those points of order, but it’s also very important that we are allowed to continue the business of the day.”

A few days later, on April 6, 1997, at page 8386 of the *Debates*, Speaker Stockwell elaborated on the role of the Speaker:

“I believe that a modern definition of Speaker requires that decisions are taken which are also in the best interests of the institution of Parliament. On occasion, in particular when faced with extraordinary circumstances, Speakers may have to intervene in a way which seeks to enable the Parliamentary process to accomplish the business at hand.”

Our precedents are supported by similar decisions made in the Canadian House of Commons. In a ruling from May 27, 2019, at page 28,059 of the *Debates*, Speaker Regan explained that the use of unanimous consent to expedite the business of the House

“confers on the Chair a certain discretion to determine to what extent a motion needs to be read, particularly when they are unusually lengthy or when multiple motions are presented one after the other. On February 6, 2004, Speaker Milliken had stated at page 245 of the *Debates*:

‘I want to say right off that if every member had the right to stand up and ask for consent to move motions and then stood here and read motions all day, no business would be conducted in the House. In my view members do not have such a right. They are asking for consent and if consent is not going to be given, then we cannot have interminable requests for unanimous consent.’”

Speaker Regan concluded that

“requests for unanimous consent are not to be used as a method to thwart the rules of the House or as a dilatory tactic. Therefore, to uphold the integrity of the process, the Chair will continue to invoke its authority, particularly when it becomes clear that the motions are deliberately too lengthy, when they are continuously attempted in a repetitive way or when they stray into the realm of debate.”

Applying these authorities to what happened on June 14, the requests may have been individually acceptable, but the volume and disruptive effect of these requests made it a matter of order requiring intervention by the Chair pursuant to Standing Order 14(a). Parenthetically, it is worth being mindful of the possibility that the business before the House could just as easily have been an Opposition Day motion or an item of Private Member's Public Business, and to consider the impact of repeated and dilatory points of order in that context.

The Member for London West and the Member for York Centre questioned the Speaker's decision to test the House by asking if there was unanimous consent to consider matters other than the business currently before it. Again, this was a prerogative of the Speaker, and is.

Erskine May explains at paragraph 21.49 of the 26th edition that "cases may arise upon which the rules of the House are indistinct or obsolete or do not apply directly to the point at issue. The Speaker will then usually give a ruling to cover the new circumstances, on occasion referring the matter to the judgement of the House." *Beauchesne's Parliamentary Rules and Forms of the House of Commons of Canada*, 6th edition, at page 98 states: "Sometimes, instead of expressing an opinion on one side or the other, the Speaker may ask instructions from the House..."

One example from our own practice occurred on March 2, 2006, at pages 2364-2365 of the *Debates*. A Member raised a point of order regarding the division procedure provided by a time allocation motion; the Member argued that it was out of order, and proposed an alternative way of proceeding. While the Member himself did not seek unanimous consent, the Speaker took it upon himself to test the House to see if there was unanimous consent to address the issue raised by the point of order – and in that case there was.

Finally, I will address the question raised by the Member for York Centre, in which he asserted that "there's nothing in the rules that precludes a Member from rising on a motion without notice, whether it's brought under a point of order or not."

In response, I will direct the Member's attention to the definition of substantive motions contained in Standing Order 3, which states: "Such motions require notice and must be submitted to the Speaker in writing when moved, before being put to the House for debate." As well, Standing Order 101 establishes the requirements for filing notice of and moving a Private Member's Motion.

In short, points of order will normally be heard, and legitimate points of order will be acknowledged and recognized. But if they are repeated over and over, and they are intended to obstruct the business of the House, we may have to move on.

I will conclude by saying that the House has exclusive control of its own proceedings, and it has a long history of adapting in the face of new challenges so that it can continue to carry out its functions. I will continue to endeavour to maintain an appropriate balance between individual Members' ability to gain the floor and the orderly progress of the business of the House. I thank the Members for their submissions.

QUESTION PERIOD

The Speaker informed the House of the following changes in the Order of Precedence for Private Members' Public Business:-

Ms. Fife assumes Ballot Item number 3;
M^{me} Gélinas assumes Ballot Item number 69;

PÉRIODE DE QUESTIONS

Le Président a informé l'Assemblée des changements suivants dans l'ordre de priorité des affaires d'intérêt public émanant des députées et députés :-

Ms. Morrison assumes Ballot Item number 23;
Mr. Hatfield assumes Ballot Item number 64.

The House recessed at 11:48 a.m.

À 11 h 48, l'Assemblée a suspendu la séance.

1:00 P.M.

13 H

INTRODUCTION OF BILLS

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

Bill 8, An Act to amend the Employment Standards Act, 2000 with respect to paid leave. Ms. Sattler, Ms. Andrew, Ms. Begum and Ms. Singh (Brampton Centre).

Bill 9, An Act to proclaim Non-Profit Sector Appreciation Week. Mrs. Wai.

Bill 10, An Act to amend various statutes with respect to workplace violence and harassment policies in codes of conduct for councillors and members of local boards. Mr. Blais.

DÉPÔT DE PROJETS DE LOI

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

Projet de loi 8, Loi modifiant la Loi de 2000 sur les normes d'emploi en ce qui concerne les congés payés. M^{me} Sattler, M^{me} Andrew, M^{me} Begum et M^{me} Singh (Brampton-Centre).

Projet de loi 9, Loi proclamant la Semaine de reconnaissance du secteur sans but lucratif. M^{me} Wai.

Projet de loi 10, Loi modifiant diverses lois en ce qui concerne les politiques en matière de violence et de harcèlement au travail prévues dans les codes de déontologie des conseillers et des membres des conseils locaux. M. Blais.

PETITIONS

Optometry (Sessional Paper No. P-2) Mr. Burch, Ms. French, Mr. Mantha, Mr. Rakocevic, Ms. Sattler, Mr. Schreiner, Ms. Shaw and Ms. Singh (Brampton Centre).

New school in Caledonia (Sessional Paper No. P-4) Mr. Barrett.

PÉTITIONS

ORDERS OF THE DAY

Second Reading of Bill 5, An Act respecting York Region Wastewater.

Debate resumed and after some time,

The Deputy Speaker informed the House of the following changes in the Order of Precedence for Private Members' Public Business:-

Ms. Horwath assumes Ballot Item number 1;
Mr. Bisson assumes Ballot Item number 19.

ORDRE DU JOUR

Deuxième lecture du projet de loi 5, Loi concernant les eaux usées dans la région de York.

Le débat a repris et après quelque temps,

Le Vice-Président a informé l'Assemblée des changements suivants dans l'ordre de priorité des affaires d'intérêt public émanant des députées et députés :-

Debate resumed and after some time,

Le débat a repris et après quelque temps,

The Deputy Speaker informed the House of the following changes in the Order of Precedence for Private Members' Public Business:-

Le Vice-Président a informé l'Assemblée des changements suivants dans l'ordre de priorité des affaires d'intérêt public émanant des députées et députés :-

Mrs. Wai assumes Ballot Item number 4;
Ms. Park assumes Ballot Item number 39.

Debate resumed and after some time the House adjourned at 6:00 p.m.

Le débat a repris et après quelque temps, à 18 h, l'Assemblée a ajourné ses travaux.

le président
TED ARNOTT
Speaker
