

SUMMARY

BACKGROUND

At the request of the Official Opposition House Leader and Member for Matane-Matapédia (hereinafter "Leader"), the purpose of this inquiry was to determine whether the Minister of Health and Social Services and Member for La Pinière (hereinafter "Minister") committed a violation of the *Code of ethics and conduct of the Members of the National Assembly* (hereinafter "Code") by taking part in parliamentary debates on Bill No. 118, *An Act respecting medical laboratories, orthopaedic service centres and respiratory physiology centres operated by an entity other than a health and social services institution* (hereinafter "Bill No. 118").

A summary examination of this bill reveals that a significant part of this piece of legislation concerns certain elements regarding medical imaging related to the specialty of diagnostic radiology. It encompasses the activities of medical laboratories, orthopaedic service centres and respiratory physiology centres operated by an entity other than a health and social services institution.

In support of his request, the Leader submits that the Minister, a medical specialist in diagnostic radiology, has, with regard to this bill, a distinct private financial interest not shared by all Members or the general public. Under section 25 of the Code, the Minister should have declared his interest and withdrawn from the debates.

ANALYSIS OF THE FACTS AND APPLICABLE LAW

Analysis of what constitutes a distinct private financial interest in the sense of section 25 of the Code must take into consideration the important privilege of freedom of speech enjoyed by elected officials in the context of parliamentary deliberations.

- Private interest must be particular to the elected official and may not entail any financial aspect.

In this case, considering the strong commitment to his profession expressed by the Minister and the small number of people registered with the Collège des médecins du Québec as medical specialists in diagnostic radiology, it could be considered that the Minister has a private interest in Bill No. 118. However, we must also take into consideration the fact that the practice of his subspecialty, angiography, only takes place in public health institutions, establishments which are not covered by Bill No. 118.

- Financial interest refers to an interest that has a pecuniary, economic or monetary value.

Since 2009, the Minister has not been the owner or shareholder of private radiology clinics or any other establishment covered by Bill No. 118. In addition, as he is not authorized to practise his medical profession due to his obligations under the Code as a Minister, he currently derives no income from the practice of diagnostic radiology. Therefore, he currently has no interest with a pecuniary, economic or monetary value with regard to Bill No. 118.

Should the possibility of future income alone, if he were to return to practising his profession, be considered in determining financial interest in the sense of section 25 of the Code? An overly broad interpretation could have the effect of unduly restricting the privilege of freedom of speech that elected officials enjoy in the context of parliamentary business. A purely hypothetical or prospective interest cannot be considered a financial interest in the sense of section 25 of the Code. Thus, a financial interest must be present or reasonably foreseeable when analyzing the facts. However, nothing in the facts that have been brought to my attention allow this foreseeability to be established. Indeed, even if the Minister were to decide to return to professional practice, it seems most likely that he would return to his position, which is currently protected due to his present duties, at the Hôpital Maisonneuve-Rosemont, an establishment that is not covered by Bill No. 118.

Taking into account the overall situation, it cannot be concluded that the Minister has a financial interest in Bill No. 118.

- Distinct interest is a particular or specific interest of the elected official not shared by all Members or the general public. An interest that is of general application is not considered to be distinct.

In this case, given that it is impossible to conclude that the Minister has a private financial interest in Bill No. 118, it is not necessary to pursue analysis of the facts relative to the distinct nature of this interest.

CONCLUSION

In light of the foregoing, I conclude that the Minister has not committed a violation of section 25 of the Code, given that he has no private financial interest distinct from that of all Members or the general public with regard to Bill No. 118.