

JOURNAL OF THE LEGISLATIVE ASSEMBLY

FRIDAY, 18 NOVEMBER 2016

The House met at 10:00 a.m.

Prayers

Routine Proceedings

Journals

Journals for Wednesday, 16 November, 2016 were adopted by the House without amendment.

Doors were opened

Matters of Privilege

Hon. Mr. Speaker made the following ruling:

“Hon. Members, I am prepared to deliver my findings on the points of privilege raised by the Hon. Members for Stratford-Kinlock, Belfast-Murray River and the Hon. Leader of the Opposition on November 15 and 16, 2016.

As Hon. Members are aware, once the claim of a breach of privilege has been made, it is the duty of the Speaker to decide if a *prima facie* case of breach of privilege exists. In so doing, the Speaker must be satisfied that two conditions have been met:

- (1) that the matter is being raised at the earliest opportunity; and
- (2) that the matter is of such a character, or that privilege appears to be sufficiently involved, to justify giving it priority over all other business before the House.

The Rules of the Legislative Assembly of Prince Edward Island are clear; I refer Hon. Members to Rule 45 (3), which states:

The Speaker shall not accept such a motion unless satisfied that there is a prima facie case that a breach of privilege has been committed and that the matter is being raised at the earliest opportunity. The Speaker's decision is not subject to appeal.

Hon. Members can also refer to Beauchesne's Parliamentary Rules and Forms (6th edition), Citation 115:

A question of privilege must be brought to the attention of the House at the first possible opportunity. Even a gap of a few days may invalidate the claim for precedence in the House.

Armed with these parliamentary authorities honourable members, I find as follows:

- 1) With respect to the point of privilege raised by the Hon. Member for Belfast-Murray River on November 15, 2016, the matter concerns remarks made by the Minister of Agriculture and Fisheries in this House on April 12, 2016. As such, the matter has not been raised at the earliest opportunity. There was a full month of legislative proceedings after those statements

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were made in this House last spring. As such, the matter does not satisfy the requirement for being raised at the earliest opportunity and cannot, per the authorities cited, be advanced.

- 2) With respect to the question of privilege raised by the Hon. Member from Stratford-Kinlock on November 15, 2016, I have carefully reviewed the relevant Hansard transcripts, the “Report of the Auditor General of Prince Edward Island Special Assignment: Government Involvement with the E-gaming Initiative and Financial Services Platform”, and the relevant parliamentary authorities.

On May 13, 2016, the Minister of Economic Development and Tourism was asked by the Member from Stratford-Kinlock the following question:

‘The loan, as innovation calls it, had conditions that required audited financial statements of the borrower prepared by a firm of professional accountants. Can the minister confirm: Did the borrower complete this as required by the loan and Innovation PEI?’

The question concerned, specifically, the provision of audited financial statements prepared by professional accountants to support the application of a loan.

The response from the Minister of Economic Development and Tourism was:

‘Mr. Speaker, from the onset prior to the election the Premier put notice to the AG that this would be recommended to go to the AG for review. We’ve gone down this road with our Financial Administration Act in exposing loans. We worked cooperatively with the opposition on that. We debated the issues. We came to an agreement. We’re working with the AG on this. If recommendations come from the AG we’ll be ready to support those recommendations. We’re not hiding anything. We’re being as transparent as possible. If we go through the same process we just did with the AG on loan write-offs, then I’m sure everybody, including Islanders, will reveal everything that happened with the e-gaming file.’

Hon. Members, as stated, I have also reviewed the Auditor General’s report into the E-gaming and financial services platform issues. At section 7.10 (page 41), the Auditor General makes reference to the email accounts of senior government officials, who were key participants in the E-gaming initiative and/or the establishment of a financial services platform, and which were removed after the individuals left government. The following sections, 7.11 and 7.12 (pages 41-42), also relate to the emails and associated records for senior government officials who had left government.

The sections of the Auditor General’s report, as quoted by the Hon. Member from Stratford-Kinlock do not, on the face of that presented to the House, relate to the question as posed to the Minister of Economic Development and Tourism and therefore a finding of *prima facie* case of breach of privilege is not supported in this instance, and;

- 3) On November 16, 2016, the Hon. Leader of the Opposition, rising on a Matter of Privilege, asserted that statements made by Hon. Premier on the topic of the E-gaming Initiative and the involvement of senior civil servants during Oral Question Period on November 15, 2016, were contrary to sections 3.45 and 3.46 in the *Auditor General’s Report, Special Assignment: Government Involvement in the E-Gaming Initiative and Financial Services Platform*, and therefore constituted a deliberate breach of privilege in this matter.

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Beauchesne's Parliamentary Rules and Forms, 6th Edition, Citation 31 (1) states as follows:

A dispute arising between two Members, as to allegations of facts, does not fulfill the conditions of parliamentary privilege.

Hon. Members, in this instance, the subject matter in question is not between two members but involves a report to the Legislative Assembly and statements made by the Hon. Premier during oral question period. Without prejudice to either position, a statement made on the floor of this House that is contrary to a finding in a report submitted to it may well be cause for debate but it does not constitute a *prima facie* case of breach of privilege.

Thank you, Hon. Members.”

Statements by Members

10:50 Bush Dumville (West Royalty-Springvale) recognized Eddy Dykerman, who was recently inducted into the Atlantic Agricultural Hall of Fame.

10:52 Hal Perry (Tignish-Palmer Road) congratulated organizers on a Workshop for 4H members elected to club executive positions.

10:53 Darlene Compton (Belfast-Murray River) recognized Kier White of Belfast for his outstanding contributions to the community.

10:57

Questions by Members

Hon. Mr. Speaker reminded all Hon. Members that he would like questions and answers to be no more than forty seconds in length.

Hon. Doug Currie (Education, Early Learning and Culture) tabled a response to an oral question taken as notice on the Kinkora School Zone map.

Statements by Ministers

11:37 Hon. Doug Currie (Education, Early Learning and Culture) recognized November 21 as National Child Day.

11:40 Steven Myers (Georgetown-St. Peters) and Leader of the Third Party added their comments.

11:42 Hon. Richard Brown (Workforce and Advanced Learning) recognized the newly appointed Youth Futures Council and highlighted the success of YDAY.

11:46 Sidney MacEwen (Morell-Mermaid) added his comments.

11:47 Hon. Robert Mitchell (Communities, Land and Environment) updated the House on the climate change mitigation strategy.

11:50 Bradley G. Trivers (Rustico-Emerald) and Leader of the Third Party added their comments.

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Presenting and Receiving Petitions

None

Tabling of Documents

None

Reports by Committees

None

Introduction of Government Bills

None

Government Motions

Hon. Alan McIsaac (Agriculture and Fisheries) moved, seconded by Hon. Premier, that Motion No. 80 (Democratic Renewal: A Clear Question and a Binding Vote) be now read.

Leader of the Third Party, rising on a Point of Order and citing Marleau and Montpetit, Chapter 12, asserted that while it is possible to have more than one notices of motion with the subject matter on the Order Paper, once a motion is moved and debate is commenced, debate on all other motions on the same subject is precluded. Leader of the Third Party indicated that two motions on the current Order Paper (Motions No. 54 and 80) cover the same subject matter (plebiscite results and electoral reform). Leader of the Third Party then asked Hon. Mr. Speaker to rule if on the admissibility of debate commencing on Motion No. 80 before debate on Motion No. 54 was concluded.

Hon. Mr. Speaker advised that he consulted the relevant parliamentary authorities on this matter and finds as follows:

“Beauchesne’s Parliamentary Rules and Forms, Citation 514 (1):

There is nothing in the rules and no precedent to prevent the setting down of more than one bill or motion dealing with the same subject.

Erskine May: Parliamentary Practice (pages 379-381) states:

A question which has not been definitely decided may be raised again.

A motion must not anticipate a matter already appointed for consideration by the House, whether it be a bill or an adjourned debate upon a motion. Stated generally, the rule against anticipation is that a matter must not be anticipated if it is contained in a more effective form of proceeding than the proceeding by which it is sought to be anticipated but it may be anticipated if it is contained in an equally or less effective form.

Hon. Members, I find that as Motion 54 is still available for debate, and the House has not yet come to a decision, it is in order to begin debate on Motion 80. Once the House has come to its

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determination on either one of these motions, that decision will stand for the remainder of this session.”

The Speaker then called on the Clerk to read Motion No. 80 for debate.

Hon. H. Wade MacLauchlan (Premier) moved, seconded by Pat Murphy (Alberton-Roseville), the following Motion (No. 80):

WHEREAS Islanders voted in a plebiscite on democratic renewal in November of 2016;

AND WHEREAS the plebiscite was the continuation of the process that began with the release of the White Paper on Democratic Renewal in July of 2015;

AND WHEREAS following the release of the White Paper an all-party committee held multiple public hearings across Prince Edward Island;

AND WHEREAS there is an understanding that many Islanders desire renewal in the way we choose representatives to the Legislative Assembly;

AND WHEREAS the Mixed Member Proportional Representation model achieved the highest level of support;

AND WHEREAS participation in the plebiscite was proportionately low, in comparison to the Island’s traditional high voter turnouts during general elections;

AND WHEREAS there is an understanding that tying a vote on electoral reform to a general election will undoubtedly raise turnout;

AND WHEREAS the November 2016 vote was under the terms of the *Plebiscite Act*;

AND WHEREAS plebiscites are non-binding;

AND WHEREAS a clear question in a binding referendum on democratic renewal will give all Islanders the confidence of knowing that there is broad-based support for a new electoral system;

AND WHEREAS a binding referendum will underline the importance of the decision facing Islanders - and provide an opportunity for respectful and informed debate;

THEREFORE BE IT RESOLVED that this Assembly consider a specific *Referendum on Democratic Renewal Act* that will bind government to its results;

THEREFORE BE IT FURTHER RESOLVED that this legislation *will* honour the plebiscite results by including the Mixed Member Proportional Representation option that was voted upon in 2016 as one of two choices in a clear and binding referendum;

AND THEREFORE BE IT FURTHER RESOLVED that the Members of the Legislative Assembly debate and determine the alternative to Mixed Member Proportional Representation - so that the *Referendum on Democratic Renewal Act* will include a clear and precise choice as part of its statutory authority;

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AND THEREFORE BE IT FURTHER RESOLVED that this *Referendum on Democratic Renewal Act* be passed into law prior to the next general election;

AND THEREFORE BE IT FURTHER RESOLVED that the proposed referendum on a clear question be held in conjunction with the next provincial election.

Debate was commenced by the Mover (12:02); continued by the Seconder (12:21); Hon. Richard Brown (Workforce and Advanced Learning) (12:35); and, on his Motion, debate was adjourned.

Adjournment

On Motion of Sonny Gallant (Government House Leader), seconded by Pat Murphy (Alberton-Roseville), the House adjourned until 2:00 p.m. on Tuesday, November 22, 2016.

Charles H. MacKay
Clerk of the Legislative Assembly