

FRIDAY, 25 NOVEMBER 2016

The House met at 10:00 a.m.

Prayers

Routine Proceedings

Journals

Journals for Wednesday, 23 November, 2016 were adopted by the House without amendment.

Doors were opened

Matters of Privilege

Hon. Mr. Speaker made the following ruling:

“Hon. Members, at the end of Oral Question Period yesterday, and rising on a point order, the Hon. Leader of the Third Party, citing Beauchesne’s Parliamentary Rules and Forms, 6th edition, Citations 565 and 541, requested that I rule on the admissibility of Motion No. 80 for debate in this House.

Citation 541 provides as follows:

As the notice paper is published by authority of the House, a notice of motion, or of a question to be put by a member, which contains unbecoming expressions, infringes its rules, or is otherwise irregular, may, under the Speaker’s authority, be corrected by the clerks at the table. These alterations are submitted to the Member who gave the notice or, if necessary, the Speaker. A notice which is wholly out of order may be withheld from publication on the notice paper. If the irregularity is not extreme, the notice is printed but reserved for future consideration.

Citation 565 provides as follows:

A motion should be neither argumentative, nor in the style of a speech, nor contain unnecessary provisions or objectionable words. It is usually expressed in the affirmative even when its purpose and effect are negative.

The Hon. Leader of the Third Party suggested that Motion No. 80, by calling for a binding referendum, is asking this Legislature to do something that is not within its power to do and is therefore not in order. In addition, the Leader of the Third Party requested that I consider not only whether this Motion infringes on the rules of this House, but also whether the misrepresentation of the proposed referendum as binding constitutes objectionable words.

I am now prepared to rule on this matter. Hon. Members, the purpose of a motion, as provided for in citation 552 of Beauchesne provides, in part, as follows:

A (this) proposition, called a motion, is a proposal moved by one member, in accordance with certain well established rules, that the House do something, or order something to be done or express an opinion with regard to some matter.

Motion 80, as proposed to this House, offers a proposition to this House for response to the November 7, 2016 plebiscite on electoral reform by calling for:

- a Referendum on Democratic Renewal Act
- the inclusion of MMPR as one of the two choices for a clear and binding referendum as provided for in a proposed Act,
- For members of this House to debate and determine the alternative electoral option to MMPR for inclusion in the Act...said act to be passed before the next provincial general election and
- that the proposed referendum be held in conjunction with the next provincial election.

Hon. Members, whether a member agrees with this proposition is subject to consideration and vote by members themselves, as was the case in Motion 54, but it cannot be ruled out of order on the grounds of objectionable language as envisaged in Beauchesne's Citation 565...these are matters for debate. It is not for the Speaker to determine such matters in advance of a decision by all members.

Further, I draw your attention to House of Commons Procedure and Practice, 2nd Edition, 2009, O'Brien and Bosc, Chapter 5, page 261 on Parliamentary Procedure as follows:

*In arriving at a decision on a procedural point, the Speaker may draw on a full range of procedural information and examine the precedents to determine how the Standing Orders have been applied and interpreted in the past. The Standing Orders, though a vital reference, constitute a comparatively small part of the much larger body of House of Commons procedure and practice that the Speaker will consult in preparing a ruling. The primary records of the House, the Journals and Debates, are the richest repository of information on precedents, practices and usages as well as being the most reliable. [74] **Finally, while Speakers must take the Constitution and statutes into account when preparing a ruling, numerous Speakers have explained that it is not up to the Speaker to rule on the "constitutionality" or "legality" of measures before the House. [75]***

Also Hon. Members, on the same page of O'Brien and Bosc, former House of Commons Speaker John Fraser is quoted as stating the following when adapting old rules to new situations:

'When interpreting the rules of procedure, the Speaker must take into account not only of their letter but of their spirit and be guided by the most basic rule of all, that of common sense.'

Hon. Members, this motion represents a means to an end, it is not the end itself. The same can be said of Motion 54. If it had passed, which it did not, a bill would have had to be drafted, introduced in this House and debated before the opinion expressed in the motion would have legal effect. Motion 80 is no different. Motion 80 may be passed or defeated; however, if passed, the Assembly will have clearly expressed its opinion thereby establishing an expectation that a Referendum on Democratic Renewal Act will be developed and introduced for debate in this Assembly for consideration before it will ever have legal effect. A bill based on Motion 80, as with all bills, once introduced, may become law on passage or it may be defeated. The content of that bill, the provisions contained in it, the precise language used in each section, legal and constitutional considerations with respect to the binding nature of the results, the two electoral options presented, the form and timing of the referendum, and all other matters associated with such a referendum will, if the motion passes, be expected to be provided for in the bill itself, guided by Motion 80 should it pass, and subject, I am sure, to the closest of scrutiny, debate and vote in this Legislature.

Hon. Members, the issues raised are not procedural in nature but are primarily points of law and constitutionality. As noted in O'Brien and Bosc, it is not the role of the Speaker to rule on the admissibility of a motion based on asserted points of law or constitutional considerations. Such matters are unquestionably for the consideration of the House itself in debate on motions and, arguably a more onerous responsibility for promoters of bills brought before this House but are not points of order relating to procedures for the determination of your Speaker. Further Members, if points of order are to be raised on the admissibility of a motion to this House, the point of order ought to be raised before debate commences on the motion and not after the House has spent a considerable amount of time debating the subject.

Accordingly Hon. Members, I find Motion 80 admissible as presented.

Thank you.”

Statements by Members

10:34 Chris Palmer (Summerside-Wilmot) recognized Emily Wainwright Schuman, a community member who has dedicated her time to the Lights for Life, a fundraiser for the Prince County Hospital.

10:36 Bush Dumville (West Royalty-Springvale) paid tribute to the five recipients of the 2016 PEI Senior Islanders of the Year, including: Verna Barlow, Maria Bernard, Alan Stuart William (Bill) Hogg; Annie Lee MacDonald; and Alice Taylor.

10:38 Bradley G. Trivers (Rustico-Emerald) recognizes the 50th Anniversary of the North Rustico Lion's Club.

10:40

Questions by Members

Statements by Ministers

11:21 Hon. Paula Biggar (Transportation, Infrastructure and Energy) recognized today as International Day for the Elimination of Violence Against Women.

11:25 Darlene Compton (Belfast-Murray River) and Leader of the Third Party added their comments.

11:31 Hon. Heath MacDonald (Economic Development and Tourism) highlighted the Tourism Industry Association of Prince Edward Island's annual general meeting.

11:34 Matthew MacKay (Kensington-Malpeque) and Leader of the Third Party added their comments.

Presenting and Receiving Petitions

None

Tabling of Documents

None

Reports by Committees

None

Introduction of Government Bills

Bills introduced and read a First Time:

11:37 **An Act to Amend the Highway Traffic Act (No. 2)** (Bill No. 50) by Hon. Paula Biggar (Transportation, Infrastructure and Energy).

11:39 **An Act to Amend the Highway Traffic Act (No. 3)** (Bill No. 51) by Hon. Paula Biggar (Transportation, Infrastructure and Energy).

11:40 **Appropriation Act (Capital Expenditures) 2017** (Bill No. 54) by Hon. Allen Roach (Finance)

11:41 **An Act to Amend the Employment Standards Act (No. 2)** (Bill No. 56) by Hon. Premier.

Government Motions

None

Orders of the Day (Government)

The following Bill was read a Second Time and referred to a Committee of the Whole House:

AN ACT TO AMEND THE COMMUNITY DEVELOPMENT EQUITY TAX CREDIT ACT (Bill No. 46)

Promoter: Hon. Allen Roach
Chair: Hal Perry

After some time spent therein, Hon. Mr. Speaker resumed the Chair and the Chairperson reported the Bill agreed to without amendment.

ORDERED, that the Report of the Committee be adopted.

The following Bill was read a Second Time and referred to a Committee of the Whole House:

PROCUREMENT OF GOODS ACT (Bill No. 36)

Promoter: Hon. Allen Roach
Chair: Bush Dumville

After some time spent therein, Hon. Mr. Speaker resumed the Chair and the Chairperson reported the Bill agreed to without amendment.

ORDERED, that the Report of the Committee be adopted.

12:47 The following Bill was read a Second Time and referred to a Committee of the Whole House:

AN ACT TO AMEND THE OFF-HIGHWAY VEHICLE ACT (Bill No. 52)

Promoter: Hon. Paula Biggar
Chair: Chris Palmer

After some time spend therein, Hon. Mr. Speaker resumed the Chair and the Chairperson reported Progress and begged leave to sit again to which the House agreed.

ORDERED, that the Report of the Committee be adopted.

Adjournment

1:00 On Motion of Sonny Gallant (Government House Leader), seconded by Hal Perry (Tignish-Palmer Roach), the House adjourned until 2:00 p.m. on Tuesday, November 29, 2016.

Charles H. MacKay
Clerk of the Legislative Assembly

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