

# JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

THURSDAY, 26 APRIL 2018

The House met at 2:00 p.m.

## **Prayers**

## **Routine Proceedings**

## **Journals**

Journals for Tuesday, 24 April 2018 were adopted by the House without amendment.

Doors were opened

## **Matters of Privilege**

Hon. Mr. Speaker made the following ruling:

“Honourable Members,

On Friday, April 20, the Honourable Member for Belfast-Murray River rose on a Point of Privilege, and cited sections 27 and 31 of the *Legislative Assembly Act*; citations 75, 93 and 99 of *Beauchesne’s Parliamentary Rules and Forms* (6<sup>th</sup> Edition); and other parliamentary authorities to assert that her privileges as a Member of the Legislative Assembly had been infringed upon after having received threats of a lawsuit following questions asked during Oral Question Period on Wednesday, April 18, 2018. Then, the Honourable Member for Georgetown-St. Peters rose on a Point of Privilege and, quoting citation 99 of *Beauchesne’s Parliamentary Rules and Forms* (6<sup>th</sup> Edition) and Chapter 3 of *House of Commons Procedure and Practice* (2<sup>nd</sup> Edition), asserted that his privileges as a Member of the Legislative Assembly had been infringed upon after having received threats of legal action in response to statements he had made.

Following their points of privilege, both members tabled copies of comments made by members of the public in social media. The members indicated that they consider these comments to be threats, which offends the privilege that members shall be free from obstruction, intimidation and molestation in the performance of their duties.

Honourable members, I will rule on both matters today, as they are very much related. I have reviewed the assertions raised by both members, as well as the related parliamentary authorities cited, and the documents tabled to support these claims.

Section 31 of the *Legislative Assembly Act* was raised by the Member for Belfast-Murray River; the section says:

“The Legislative Assembly has all the rights and privileges of a court of record for the purposes of summarily inquiring into and punishing as breaches of privilege or as a contempt of court [various actions].”

While this right of the Legislative Assembly is entrenched in its Act, these two matters were raised as matters of privilege, and I will be addressing them as such. Pursuant to Rule 45(3) of the

## JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

*Rules of the Legislative Assembly*, the Speaker shall not accept a motion that the House take action on a privilege matter unless satisfied that there is a *prima facie* case that 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.

I do believe this matter was raised at the earliest opportunity available. In terms of whether there is, at first impression, a breach of privilege, I refer Honourable members to *House of Commons Procedure and Practice* (2<sup>nd</sup> Edition) Chapter 3, page 145:

“In deliberating upon a question of privilege, the Chair will take into account the extent to which the matter complained of infringed upon any member's ability to perform his or her parliamentary functions or appears to be a contempt against the dignity of Parliament.”

The Honourable Member for Belfast-Murray River asked questions on Wednesday, April 18, on the topic of personal information allegedly shared with the Green Party by the PEI Coalition for Proportional Representation. In those questions, the Member used the names of the Green Party President and the Campaign Manager for the Member for Charlottetown-Parkdale during the District 11 by-election held in late 2017. The social media comments tabled by the Member for Belfast-Murray River included comments by those individuals, and others. The social media comment tabled by the Member for Georgetown-St. Peters is attributed to another individual. The Member for Belfast-Murray River indicated that when she arrived at the office the previous day she was “faced with the threat of a lawsuit”. If the member received other communication expressing an intention to take legal action against her for statements made in the Assembly, it has not been brought to my attention.

I have reviewed the social media comments that were tabled by the members. The authors of the comments are of the view that statements made by the members are untrue, defamatory, slanderous or libelous. These comments are opinions. Members of the public have their own right to freedom of speech that allows them to disagree on the factual basis of statements made in parliamentary proceedings. They may also express the view that such statements are defamatory, even though members shall not be sanctioned outside of parliament for speeches in parliament. The proceedings of the Legislative Assembly take place in the public sphere, and members should expect that citizens shall react to and comment on them, especially when they are named in those proceedings. I will direct your attention to *Beauchesne's Parliamentary Rules and Forms*, (6<sup>th</sup> Edition), citation 69:

“The Speaker has reminded the House, ‘It is very important... to indicate that something can be inflammatory, can be disagreeable, can even be offensive, but it may not be a question of privilege unless the comment actually impinges upon the ability of Members of Parliament to do their job properly.’”

With the evidence provided, I see individuals responding to assertions made in this House; however, I do not see any direct threats to influence the actions of either Member in these two matters. As a result, I can not find that there is a *prima facie* breach of privilege in these cases.

I wish to assure you, Honourable Members, that if an attempt is made to file a lawsuit against any member on the basis of the conduct of a member during an official proceeding of this House or a

## JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

duly constituted committee of the House, as Speaker I will defend the privileges of all members. Upon being elected as Speaker, I claimed on behalf of all members, the ancient and accustomed rights and privileges that attach to your parliamentary work, including freedom of speech in debate, and I take this responsibility very seriously.

In preparing this ruling, there are further related matters that I feel it necessary to address.

On matters of privilege, it is my duty to determine whether, on the first impression, a breach of privilege has occurred. In so doing, I do not invite or consider any unsolicited documentation or opinion from outside this House when contemplating a ruling and I want to assure members that any correspondence received by my office from outside this House on these matters did not and will not influence or factor into my decision today or any other day.

Secondly, members of this House have the privilege of freedom of speech in debate. This privilege exists to allow members to be free from inhibitions or limitations on what they can say in parliamentary proceedings. But comments outside of official Assembly proceedings are not necessarily protected by parliamentary privilege. *House of Commons Procedure and Practice* (2<sup>nd</sup> Edition), Chapter 3, pages 96-97 provides some useful examples of how this privilege does or does not apply according to context:

“Members should be aware that utterances which are absolutely privileged when made within a parliamentary proceeding may not be when repeated in another context, such as in a press release, a householder mailing, on an Internet site, in a television or radio interview, at a public meeting or in the constituency office. Members also act at their peril when they transmit otherwise defamatory material for purposes unconnected with a parliamentary proceeding. Thus, comments made by a Member at a function as an elected representative—but outside the forum of Parliament—would likely not be covered by this privilege, even if the Member were quoting from his or her own speech made in a parliamentary proceeding.”

In the social media comments tabled on April 20, it appears the original cause of objection by members of the public lies in statements made during Oral Question Period on April 18. Parliamentary privilege definitely applies to those statements. But it is not clear that *all* objectionable statements were made within proceedings. There is reference to statements made in the media. It appears in tabled information from the Member for Georgetown-St. Peters that an individual is alleging that he made defamatory statements. It's not clear in this case whether the individual is referring to statements made by the member within proceedings or in some other forum.

Finally, I would like to point out that freedom of speech in debate is a protection for members, but it comes with an important responsibility. I refer Honourable Members to a 1987 ruling in the House of Commons in which Speaker Fraser addressed this subject:

“Such a privilege confers grave responsibilities on those who are protected by it. By that I mean specifically the Hon. Members of this place. The consequences of its abuse can be terrible. Innocent people could be slandered with no redress available to them. Reputations could be destroyed on the basis of false rumour. All Hon. Members are conscious of the care they must exercise in availing themselves of their absolute privilege of freedom of speech.”

## JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

*-House of Commons Procedure and Practice (2<sup>nd</sup> Edition), Chapter 3, page 98*

I urge all honourable members to be mindful of Speaker Fraser's words.

Thank you, Honourable Members."

### **Statements by Members**

2:25 Hal Perry (Tignish-Palmer Road) congratulated Royal Star Foods on their successful business providing seafood products and supporting the seafood industry.

2:27 James Aylward (Stratford-Kinlock) recognized Kowboy Mike Hughes and Jason Mosher on their volunteer work in the community.

2:29 Leader of the Third Party informed the House on the reduction of plastic use and the businesses who are encouraging this initiative.

2:31

### **Questions by Members**

### **Statements by Ministers**

3:15 Hon. Pat Murphy (Rural and Regional Development) announced increased funding to the Rural Growth Initiative.

3:19 Colin LaVie (Souris-Elmira) and Leader of the Third Party added their comments.

3:24 Hon. Chris Palmer (Economic Development and Tourism) congratulated 3 Points Aviation on their collaborative agreement with Bombardier.

3:27 Steven Myers (Georgetown-St. Peters) and Hannah Bell (Charlottetown-Parkdale) added their comments.

3:29 Hon. Sonny Gallant (Workforce and Advanced Learning) highlighted Team Employment investments to create jobs for Islanders.

3:32 Steven Myers (Georgetown-St. Peters) and Hannah Bell (Charlottetown-Parkdale) added their comments.

### **Presenting and Receiving Petitions**

None

### **Tabling of Documents**

Matthew MacKay (Kensington-Malpeque) tabled, by leave, a report titled: Findings and Recommendations from the Independent Review of Assessment and Reporting Ontario: A Learning Province.

## JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

Steven Myers (Georgetown-St. Peters) tabled, by leave, documents referred to during Oral Question Period today.

3:36 Hon. Paula Biggar (Transportation, Infrastructure and Energy) tabled,

1<sup>st</sup>, by leave, a letter to Mark Gotell, Georgetown Fire & Rescue;

2<sup>nd</sup>, by leave, an article regarding the Newton Roundabout;

3<sup>rd</sup>, by leave, media reports regarding accidents in Newton.

3:39 Hon. Pat Murphy (Rural and Regional Development) tabled,

1<sup>st</sup> by leave, Community Development Program Funding Agreement;

2<sup>nd</sup> by leave, answers to written question No. 56.

Allen Roach (Montague-Kilmuir) tabled, by leave, a letter from the Woman's Institute Board of Directors supporting the Plastic Bag Reduction Act.

### **Reports by Committees**

3:41 Kathleen Casey (Charlottetown-Lewis Point), Chair of the Standing Committee on Rules, Regulations, Private Bills and Privileges presented a report of the said committee on Committee Activities.

### **[Appendix ??? – Rules, Regulations, Private Bills and Privileges – Page ???]**

**ORDERED**, that the Report of the Committee be received.

Speaking to the Motion for Adoption: Kathleen Casey (Charlottetown-Lewis Point) (3:40); and Sidney MacEwen (Morell-Mermaid) (3:49).

**ORDERED**, that the Report of the Committee be adopted

### **Introduction of Government Bills**

None

### **Motions Other Than Government**

3:52 Steven Myers (Georgetown-St. Peters) moved, seconded by Brad Trivers (Rustico-Emerald), the following Motion (No. 44):

**WHEREAS** the current government is determined to force amalgamation upon rural areas of our province;

**AND WHEREAS** a binding referendum held during an election campaign violates the principle of Parliamentary sovereignty;

## JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

**AND WHEREAS** a resounding majority of residents in all parts of the proposed Three Rivers area voted against amalgamation;

**THEREFORE BE IT RESOLVED** that this Legislative Assembly urge the current government to honour the vote and not proceed with forced amalgamation.

Debate was commenced by the Mover (3:54); continued by the Seconder (4:27); and, on his Motion, debate was adjourned.

Hannah Bell (Charlottetown-Parkdale) moved, seconded by Leader of the Third Party, the following Motion (No. 58):

**WHEREAS** homeless women are particularly vulnerable to sexual exploitation, physical and mental abuse, and unsafe situations;

**AND WHEREAS** the only women's homeless shelter in Charlottetown (Grandmother's House) closed in 2012 due to lack of funding and operational oversight;

**AND WHEREAS** the only women's homeless shelter in PEI is in Lennox Island (Chief Mary Bernard Memorial Shelter);

**AND WHEREAS** a community-based group (Blooming House) is currently working on securing a property to provide an emergency shelter for women in Charlottetown;

**THEREFORE BE IT RESOLVED** that the Legislative Assembly urges government to provide financial support for an emergency homeless shelter for women in Charlottetown.

Debate was commenced by the Mover (4:43); continued by the Seconder (4:53); Hon. Tina Mundy (Family and Human Services) (4:56); who moved, seconded by Hon. Paula Biggar (Transportation, Infrastructure and Energy) the following amendment:

Insert after the fourth WHEREAS:

**AND WHEREAS** government has met with community groups and are working for the establishment of an emergency shelter for women in Charlottetown and is awaiting proposals for these groups;

**AND WHEREAS** government is currently working with other levels of government and a number of community partners to develop a provincial housing action plan in response to range of housing needs, including vulnerable populations;

In the operative clause, delete the words "provide financial support for an emergency homeless shelter for women in Charlottetown" and add the words "continue to work with all community partners to consider the needs of homeless women in the development of the housing action plan."

Debate on the amendment was commenced by the Mover; and on her Motion, debate was adjourned.

5:00 Hon. Mr. Speaker declared recess until 7:00 p.m.

## JOURNAL OF THE LEGISLATIVE ASSEMBLY

---

**7:00 p.m.**

### **Government Motions**

#### **Orders of the Day (Government)**

The Order of the Day being read for the consideration of the Estimates in Committee, Kathleen Casey (Charlottetown-Lewis Point) took the Chair of the Committee to consider the Estimates for the Department of Communities, Land and Environment (completed); and Health PEI.

During Committee of the Whole House, Hon. Robert Mitchell (Health and Wellness) tabled the following documents for Health PEI: Physician Fee for Service and Contract Payments; Grants and Professional Services 2018/19; and Employee Salary Listing 2018/19.

Hon. Mr. Speaker resumed the Chair and the Chairperson reported progress and asked leave to sit again, to which the House agreed.

#### **Adjournment**

9:00 On Motion of Hon. Robert Mitchell (Health and Wellness), seconded by Hal Perry (Tignish-Palmer Road), the House adjourned until 10:00 a.m. on Friday, April 27, 2018.

Charles H. MacKay  
Clerk of the Legislative Assembly