

Submitted by the  
Member for St. George's  
Humber

2017-11-16  
Baines



HOUSE OF ASSEMBLY  
NEWFOUNDLAND AND LABRADOR

**REPORT**  
**OF**  
**PRIVILEGES AND ELECTIONS COMMITTEE**  
**NOVEMBER 16<sup>TH</sup>, 2017**

# Privileges and Elections Committee

## Report

### Point of Privilege of Government House Leader respecting publication via social media of excerpts from the House of Assembly webcast

#### Background

On May 16 during debate on certain estimates of the Executive Council the Member for Mount Pearl North used unparliamentary language in reference to the Minister of Finance: "that kind of behavior from a minister is unethical. It's dishonest and it's deceptive". *Hansard*, May 16<sup>th</sup>, p. 1029. The Government House Leader raised a point of order. The Chair having taken the matter under advisement ruled, on May 18<sup>th</sup> that there was a valid point of order and directed the Member for Mount Pearl North to withdraw the comments, which he refused to do. The Member was suspended from the service of the House for the remainder of the sitting day.

The Member then tweeted excerpts from the webcast of the proceedings including the segment containing the language which he had been asked to withdraw.

On May 29<sup>th</sup> the Government House Leader rose on a point of privilege stating that the Member for Mount Pearl North in posting, via social media, excerpts of the proceedings of May 16<sup>th</sup>, after he had been ejected from the House, was in contempt of the House. The Speaker took the matter under advisement.

Later the same day, May 29<sup>th</sup>, the Government House Leader again rose on a point of privilege when it was brought to his attention that the Member for Mount Pearl North had re-tweeted the clips which had led to his raising the earlier point of privilege.

The Speaker suspended the proceedings to consider the point of privilege. Upon resuming the Chair the Speaker ruled that the actions of the Member for Mount Pearl North, in repeating via social media the language which had been found to be a breach of order in the House, for which he had been asked to apologize, *prima facie* amounted to a contempt. The Speaker cited Maingot: "Language spoken during parliamentary proceedings that impugns the integrity of Members would be unparliamentary and a breach of order... Spoken outside the House by a Member, the same language reflecting on the Member's parliamentary capacity would be

considered contempt of the House." Maingot, J.R. Joseph, Q.C., *Parliamentary Privilege in Canada*, Second Edition, p. 255.

Before the Committee had finished their deliberations on the question of privilege the Member for Mount Pearl North had resigned his seat to take up a position in the private sector

## Decision

Having reviewed and discussed the points of privilege raised by the Government House Leader, the commentary of other Members and the parliamentary authorities the Committee concurs with the Speaker's *prima facie* opinion that the actions of the Member for Mount Pearl North amounted to a contempt of the House.

The repetition outside the House of comments which have been ruled unparliamentary in the House is, in and of itself a contempt. Maingot, *ibid.*, p. 225.

The second repetition of the comments again via social media after the Speaker had ruled that the actions of the Member for Mount Pearl North amounted *prima facie* to a contempt appeared to be an act of defiance and disrespectful of the Speaker which compounded the original contempt.

The behaviour described above while not directly in a physical way obstructing the House or Members in the performance of their duties does so indirectly by lowering the institution in the eyes of the public and diminishing the respect which is its due. Abraham and Hawtrey, *A Parliamentary Dictionary*, Third Edition, p. 84; Maingot, *ibid.*, p. 255.

While the Committee does not recommend that any action be taken by the House in this instance we caution Members that if a similar fact situation were to recur in respect of a sitting Member another Committee might well exercise its option to impose a penalty.

Members should be aware also that using social media to publish material that would otherwise be unparliamentary or contemptuous would not shield a person from an allegation of breach of privilege or contempt as one is not permitted to do by the back door what one may not do by the front door. In addition language spoken outside the House, including language disseminated via social media from the House, would not be protected by privilege.

The penalties which can be imposed if a contempt is found range from a reprimand to a suspension from the service of the House for a period of time with a salary deduction for the duration of the suspension, in accordance with subsection 13(2) of the *House of Assembly Accountability, Integrity And Administration Act*, subsection, in the latter case.

Parliamentary privilege attaches to Members of the House of Assembly to enable them to enable them to carry out their parliamentary duties without obstruction or fear of reprisal. It is incumbent on members in light of the special privileges they enjoy to conduct themselves in accordance with the rules, conventions and traditions of the House.

Members of the House of Assembly acknowledge these responsibilities when they ascribe to their Code of Conduct which includes this introductory statement: "Members of this House of Assembly respect the law and the institution of the Legislature and acknowledge our need to maintain the public trust placed in us by performing our duties with accessibility, accountability, courtesy, honesty and integrity."



Scott Reid, MHA, St. George's – Humber  
Chair

### **Committee Members**

Lorraine Michael, MHA, St. John's East – Quidi Vidi  
Vice-Chair

John Finn, Port au Port, MHA, Stephenville-Port au Port

Keith Hutchings, MHA, Ferryland

Pam Parsons, MHA, Harbour Grace, Port de Grave

November 16<sup>th</sup>, 2018