

Foundations of Canadian Law – Practice Question and Answer

Session: Functions of Parliament

Topic: Parliamentary Procedure and Law-Making

Sub- Topic: Parliamentary Privilege at the Federal Level (2)

Recommended time: 1 hour 45 Minutes (including reading time for question)

Score: 58 Marks

Author: **Manuel Akinshola**

Question

You are the Agency Counsel of the Canadian Human Rights Tribunal (Tribunal) hearing a complaint of discrimination brought by the International Association for the Survival of Black People (IASBP). The group alleges that information contained in a brochure produced by the Public Accounts Committee of the House of Commons contained discriminatory remarks about black people. This brochure had been given to individual MPs who then shared same to their constituents. The Speaker of the House of Commons filed an application to dismiss the complaint on the grounds, *inter alia, that*:

- (1) by virtue of the Parliament of Canada Act (PCA), only the House Standing Committee on Justice and Human Rights has jurisdiction to entertain the type of complaint filed at the Tribunal. This is because s. 4 of the PCA "conferred on the Senate and House of Commons the full extent of the privileges permitted under the Constitution"; and
- (2) parliamentary privilege provides absolute immunity for the contents of the brochure shared by Members of Parliament with their constituents and no outside agency can review them.

Members of the Tribunal have unanimously agreed that the first ground in the Speaker's Application should be dismissed on the basis that the Tribunal has jurisdiction to entertain the matter since the complaints relate to violation of human rights. But members are confused about whether or not the second ground in the Application is valid.

What will be your legal advice to the Tribunal?

Note:

*This is another question relating to the issue of parliamentary privilege in Chapter 6 of the NCA syllabus: Functions of Parliament. Please note that there are differences between the facts and ratios in this sample Q&A and the other sample Q&A No. 16 on parliamentary privilege. In the other sample Q&A No. 16, we discussed the issue of parliamentary privilege as it concerns a provincial legislative assembly. But in this sample Q&A, we shall be discussing about parliamentary privilege at the federal level. Like the court held *Duffy v. Canada (2020)* and as you shall see below, there are significant differences between parliamentary privilege at the federal level and at the provincial level; each has different constitutional basis.*

These sample questions and answers continue to lay emphasis on the importance attached to this topic under the NCA syllabus. Like we stated in the other sample Q&A, it is worthy for you to note that all the 3 required readings under this Chapter 6 revolve on the issue of parliamentary privilege, viz: Duffy v. Senate of Canada, Chagnon v. Syndicat de la Fonction Publique et Parapublique Du Quebec, Singh v. Attorney General of Quebec. So, this should be a pointer to you of the importance you should attach to that topic, of course, without neglecting the other topics under that chapter.

When faced with a question about parliamentary privilege at the federal level, there are 2 tests which must be applied, as established by the SCC.