

Session: Functions of Parliament

Topic: Parliamentary Procedure and Law-Making

Sub Topic – Parliamentary Privilege at the Provincial Level

Recommended time: 75 Minutes

Score: 42 Marks

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Question

Cory is a member of the Nova Scotia House of Assembly. Last week, he joined other members of the opposition party to stage a walk-out during the second reading of a controversial bill which proposed an increase in carbon tax for certain categories of vehicles. At the doorsteps of the House, Cory was met by reporters who sought his opinions on the day's proceedings. Cory expressed strong reservations about the hurried manner the Speaker and other members of the majority were going about the bill without allowing inputs from opposition members. Cory referred to the Speaker's act as "unacceptably authoritarian, disgraceful, barbaric and nauseating", adding, "This radical left is utterly corrupt; the Speaker is disgusting and has been compromised by the Premier".

At the resumed meeting of the House the following day, Martha, a member moved a motion for disciplinary actions to be commenced against Cory because his outbursts cast aspersions on the integrity of the House as a whole. Cory vigorously protested this motion but it passed.

Cory has now retained you to file a legal action challenging the disciplinary steps taken by the House. According to him, his outbursts were not made inside the Legislative Chambers or during legislative proceedings. They were made outside and it was an exercise of his Charter right to freedom of expression. Specifically, Cory informs you that when he notified the Speaker of his proposed legal action against the House, he had retorted that the House is immune from such and will challenge it on the ground of parliamentary privilege. But, according to Cory, there is no provision in the rules of the House or the Constitution that confers such privilege on the House.

Advise Cory as to the likelihood of success of his proposed action in light of the defence of parliamentary privilege by the House.

Note:

This question relates to the issue of parliamentary privilege that comes under the topic, Functions of Parliament in Chapter 6 of the NCA syllabus. Please take note that the issue of parliamentary privilege is a sore one and there are established legal principles on this.

In this sample Q&A, we will discuss parliamentary privilege at the provincial level. (Our Sample Q&A No. 11 discusses parliamentary privilege at the federal level). The courts have established that there are significant differences between the two as their constitutional bases are different.

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.