

*Business of the House**[Translation]*

While a member of the House receives absolute protection and is free to speak as he sees fit during a debate in Parliament, subject only to the rules of the House, it is not so when the Member chooses either to speak or to publish his speech outside the House. The same privilege does not extend to statements made outside a "proceeding in Parliament" even if it is a reproduction of what was said in the House.

[English]

In the first edition of his book published in 1844, Erskine May expressed that reservation as follows:

—a Member may state whatever he thinks fit in debate, however offensive it may be to the feelings, or injurious to the character of individuals, and is protected by his privilege from any action for libel; but if he should proceed to publish his speech, his printed statement will be regarded as a separate publication unconnected with any proceeding in Parliament.

The same principle is reiterated in the Twentieth Edition at page 202 where it states:

—when a matter is a proceeding of the House, beginning and terminating within its own walls, it is obviously outside the jurisdiction of the courts . . . But if a proceeding of the House issues in action affecting the rights of persons exercisable outside the House (as e.g., in the publication of a part of the proceedings of the House . . .) then the person who published . . . will be within the jurisdiction of the courts.

That does not mean, of course, that the person who published may, given the circumstances, be subject to condemnation by the courts. It only means that if published outside, that publication would be subject to the courts but all the defences which would be available to any other citizen would, of course, be available to the Member of Parliament if published outside this place. To make it very clear, when I use the word "publish" I mean either to publish in print or to express verbally to others by way of television, radio, or otherwise.

To expand on this further, in *Parliamentary Privilege in Canada*, Joseph Maingot states on page 38:

A member could not come to Parliament for protection if he was sued for having published to the world. One could not question what the member said in the House but publication outside the House was another matter. The protection afforded the member speaking in the House is, in law, spoken on an occasion of absolute legal privilege, that is to say, spoken with impunity to the outside world, but he publishes outside the House at his peril. Parliament protects him when he speaks in Parliament, but when he speaks outside, or publishes outside what he says inside Parliament, Parliament offers no protection; only the common law does, if it is offered at all.

In the case at hand there is no indication that the legal proceedings commenced against the Hon. Member for Athabasca are based on a proceeding in Parliament. From a close reading of the statement of claim filed in the Court of Queen's Bench of Alberta on April 26, 1988, it would appear that these proceedings relate to a newspaper article published in *The Edmonton Sun* and to the comments attributed in that article to the Hon. Member for Athabasca and to written information allegedly provided to employees of the *Toronto Sun* by the Hon. Member.

As this legal proceeding appears in no way to be based upon "proceedings in Parliament", but rather upon events which transpired outside of Parliament, the Chair cannot find, after long and very careful consideration, that the Hon. Member's privilege has been breached.

● (1520)

I want to add some comment to this because it is important. Nothing in this ruling should be taken to indicate whether the Hon. Member for Athabasca has or has not a defence to the defamation action taken against him. This ruling is confined to whether the Hon. Member's privileges as a Member of Parliament have been violated.

There is, of course, under the law of defamation outside this place, a defence of privilege. It is important to understand the distinction and to understand that my ruling in no way intrudes into the law of defamation or into the present action concerning the Hon. Member and others, and in no way affects whatever defences are available to that Hon. Member outside this place.

I want to apologize to the Hon. Member for Athabasca for being so long in returning to this House with this ruling. I have to say that the ruling gave the Chair a great deal of difficulty. I have decided it, I think correctly, but not without a great deal of concern. I thank Hon. Members.

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BUSINESS OF THE HOUSE

Mr. Lewis: Mr. Speaker, it may be of assistance to advise the House of the tentative order of business for this afternoon and this evening. We intend to resume debate on the Government's response to the Senate's amendments to Bill C-103. Once that debate is concluded, we will proceed to the Government's response, which is essentially in the affirmative, to the Senate's amendment to Bill C-137, also known as the flow-through shares Bill.

Once that is finished, we would call second reading of Bill C-139, the income tax reform Bill. Pending completion of the speech of the Minister of State for Finance (Mr. Hockin) on that Bill, we would call it five o'clock in order to allow for Private Members' Hour to proceed. There are several votes at 6.00 p.m., which will commence at 6.15. Pending success at report stage, we would then proceed, on consent, to third reading of Bill C-82 and Bill C-30, whichever order is most appropriate for those Members involved. Upon completion of those two items of business after the votes, we will call it ten o'clock.

Tomorrow at 11 a.m. we will resume debate on Bill C-139.