



BERMUDA PARLIAMENT

E DAVID BURT, JP, MP
MEMBER OF THE HOUSE OF ASSEMBLY

March 14, 2015

Honourable K. H. Randolph Horton, JP, MP
Speaker of the House of Assembly

Dear Mr. Speaker,

Pursuant to standing order 13(3)(a), this letter of complaint is submitted as it is my belief that your actions on Friday, March 13, 2015, violated the rights and privileges that I enjoy as a Member of the House of Assembly.

During the debate on the motion moved by MP Walton Brown (*That this Honourable House, in an effort to develop a set of proposals for a substantial reform of immigration policy, agrees to establish a Joint Select Committee...*), I stood to my feet four times; three times on a point of order, the fourth and final time on a question of privilege. The recordings on parliament.bm will show that out of the four times that I stood to my feet I was only recognised to speak on one occasion.

The only time that I was recognised was before a vote was ordered on the amendment to MP Brown's motion that had been put to the floor by the Attorney General. I was recognised after you said, "We vote first". We then had the following exchange:

- MP Burt: "As a point of order, we have to have a debate on the amendment before we can go to the vote on the amendment; correct Mr. Speaker?"
- Honourable Speaker: "No you do not Honourable Member, no you do not."
- MP Burt: "Would you be kind enough to point to the standing order that says that we are not allowed to debate a motion that has been put to the floor... an amendment?"

After I asked that question, there was a period of 5 minutes and 20 seconds before the next Member was recognised to speak. During that period you did

not disclose the standing order that said there can be no debate on the amendment before the amendment is put to a vote as I had requested pursuant to standing order 10(1).

After a few more speakers, you recognised the Attorney General and said, “He will first make the amendment and then we will vote on the amendment”. At this point I again stood on a point of order. Again, I was not allowed to speak and you stated that, “There is no point of order now”. You refused to hear my point of order even though you had no way of knowing the content of my point of order. As per standing orders, a point of order is used to call attention to a breach of standing orders or to seek guidance. In this case I wanted to be sure there would be a debate on the amendment before there was a vote on the amendment.

Points of Order - the purpose of a point of order is to draw the Speaker or the Chair’s attention to a breach of the Standing Orders of the House [Standing Order 19 (11)]; to offer clarification (with the speaking Member’s permission); or to seek guidance on a matter of procedure.

After you refused to recognise me in that instance, you again recognised the Attorney General to read the amendment again. After he read the motion, you put the motion to a vote without debate. Before the Ayes and Nays were called, I rose to my feet on another point of order. This was the third time I stood on a point of order. For the second consecutive time I was not recognised to speak and you said, “There is no point of order”, and you again ordered me to take my seat.

Following your refusal to recognise me for the second time you said, “We must vote”. There was backtalk that can be heard on the recording where a Member said, “We have to debate the amendment”. You retorted to that Member, “You do not; you do not Honourable Members, I’m telling you!”

Mr. Speaker, you then proceeded to order the Ayes and Nays on the amendment without debate. It was after this I rose on a question of privilege, as at this point I felt that my rights as a Member of the House of Assembly to be heard on matters of order had been breached.

*Standing Order 13(1)
Privileges are the rights enjoyed by the House collectively and by the Members of the House individually conferred by the Bermuda Constitution Order 1968, the Parliament Act 1957 and other statutes, or by practice, precedent, usage and custom.*

Again, you refused to recognise me or even hear my question of privilege. Following your refusal to hear my question of privilege and after I had taken my seat, you called me by name to the Sergeant at Arms and said, “Mr. Fox – Honourable Member Burt”. It was my assumption that this was meant for me to be named and removed from the House. Of course, there was no need for the Sergeant at Arms to remove me as I left the chamber of my own volition.

Mr. Speaker, what I have shared thus far is what transpired. The recording shows that you ordered a vote on an amendment without debate, which is in direct contravention of standing orders, custom and practice of the House. For additional clarity, I have outlined the relevant provisions of standing orders and Erskine May below, which make it clear that amendments to substantive motions must be debated before they are put to a vote, and that points of order must be heard:

House of Assembly Standing Orders - Various Explanations: Motions

Page 3 of the standing orders under “Various Explanations” when speaking about motions makes it clear that amendments to substantive motions are to be debated:

A motion must first be moved by a Member, then (if necessary) seconded by another Member; the Chair then proposes the question which is debated by Members (The Member moving a motion speaks twice—once upon the introduction of the Motion, and again after Members have debated its merits. All others speak only once) who may propose amendments (which are then also debated). When this process is finished, the Chair puts the question (as amended if necessary) and the House makes its decision.

House of Assembly Standing Order 21(2)(b)

Standing order 21(2)(b) speaks to the fact that all motions put to the floor are voted on “after debate”. The Attorney General moved a motion to amend and the House needed to debate that motion to amend before it was put to a vote:

21(2)(b) On a motion being made and, where necessary, seconded, the Speaker shall propose the question to the House and after debate, if any, shall then put the question for the decision of the House.

House of Assembly Standing Order 24(8)

Standing order 24(8) speaks clearly to rules of debate on an amendment to a substantive motion and states the limit on such a debate:

24(8): When an amendment proposes to leave out words, or to add or insert other words instead of those words, debate upon the question: "That this amendment be made" may include both the words proposed to be deleted and the words proposed to be added or inserted.

House of Assembly Standing Order 24(11)

Standing order 24(11) governs the question that is put upon an amendment being moved. It is clear that an amendment is a new question and thus follows the rules of debate outlined in standing order 19:

24(11): When an amendment has been moved, the question put thereon shall be, "That the amendment be made."

Right of Members to direct the attention of the Chair to supposed breaches of order (Erskine May's 24th Edition, Page 455)

Erskine May makes it clear that Members enjoy the right of making points of order to the Speaker of the House:

It is the duty of the Speaker to intervene to preserve order, though he may refrain from intervening if he thinks it unnecessary to do so. If he does not intervene, however, whether for the above reason or because he has not perceived that a breach of order has been committed, it is the right of any Member who thinks that such a breach has been committed to rise in his place, interrupting any Member who may be speaking, and direct the attention of the Chair to the matter. A Member speaking to order must simply direct attention to the point complained of, and submit it to the decision of the Speaker. If the Speaker is of the opinion that the words or conduct complained of are disorderly, he will call upon the Member to conform to the rules of the House.

Mr. Speaker, following the reading of the preceding passages, I hope you agree with me your action on Friday, March 13, in putting the Attorney General's amendment to a vote without allowing debate on the amendment, was in contravention of standing orders. Furthermore, when I attempted to raise this breach of standing orders via a point of order, which is the prescribed method

to point out a breach, you refused to recognise me to speak twice. Following those two refusals, you also refused to recognise me on a question of privilege and subsequently ordered the Sergeant at Arms to remove me from the chamber.

Mr. Speaker, given the above, I would hope that you accept that you were in the wrong. It is my expectation that on Monday, March 16, 2015, at the next sitting of parliament, you will take the opportunity to admit your error, in allowing the vote on the amendment to proceed without debate, to the Members of the House. Though I do not require a personal apology, I would hope that you will make it clear to the House that in the future you will hear points of order being made by Members prior to making a ruling on their point of order.

Mr. Speaker, should you not wish to admit your error in this regard or decline to assure Members of their right to be heard, please accept this letter as notice that pursuant to standing order 13(3)(a) I intend to raise this matter as a question of privilege on Monday, March 16, 2015; where I will lay out the above matters in full and ask for the House to make a ruling.

I thank you for your prompt attention to this matter and look forward to your response. Please note that I have sent this letter to members of the media as my ejection from the House of Assembly on Friday was widely reported and it is only fair they note my objections in full for balance.

Regards,

E David Burt, JP, MP
Member of Parliament, Pembroke West Central