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No. 7

Thursday, December 3, 1998.

8.30 o'clock a.m.

Prayers.

Mr. Speaker welcomed to the Legislative Assembly a delegation of elected officials and staff from Northern Cape, South Africa.

Documents Tabled

Hon. Mr. Byrne laid upon the table of the House the following documents:

First Report and Recommendations of the 1978 Judicial Remuneration Commission on Salaries and Benefits for Judges of the Provincial Court of New Brunswick - 30 July 1998;

Second Report and Recommendations of the 1978 Judicial Remuneration Commission on Salaries and Benefits for Judges of the Provincial Court of New Brunswick - 5 October 1998; and

Statement of the Minister of Justice to the House in response to the Recommendations of the Judicial Remuneration Commission - December 1998.

At the conclusion of Oral Questions, Mr. Speaker stated that although Members enjoy the privilege of unlimited freedom of speech within the House, with that privilege comes the responsibility of exercising restraint when it seems called for such as when referring to persons who are not present in the House and who are unable to defend themselves.

Mr. Speaker referred to paragraph 493(4) of *Beauchesne's Parliamentary Rules and Forms*, 6th Edition under the section **Protected Persons** which states as follows:

493. (4) *The Speaker has cautioned Members to exercise great care in making statements about persons who are outside the House and unable to reply.*

At 10.04 o'clock a.m. Mr. Speaker declared a recess and left the Chair.

11.36 o'clock a.m.

Mr. Speaker resumed the Chair.

Bills Introduced

The following Bills were introduced and read the first time:

By Hon. Mr. C. Thériault,

Bill 5, *An Act to Amend the Executive Council Act.*

By Hon. Mr. Lockyer,

Bill 6, *An Act to Amend the Police Act.*

By Hon. Mr. C. Thériault,

By Hon. Mr. Lockyer,

Bill 8, *An Act to Authorize the Conveyance of Land from The Canadian Red Cross Society / La Société Canadienne de la Croix-Rouge to The Canadian Blood Services / Société canadienne du sang*.

Ordered that the said Bills be read the second time at the next sitting.

Notices of Motions

Mr. Sherwood gave Notice of Motion 62 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Green:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, minutes of meetings, studies, reports, analyses, offers, negotiations, loans between the Province of New Brunswick and the announced expansion of the Saint John Reservation Centre operated by Cendant Canada Inc.

Mr. Sherwood gave Notice of Motion 63 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. D. Graham:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and Imperial Manu-facturing Group.

Mr. Volpé gave Notice of Motion 64 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Hon. Mr. Valcourt:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House complete details from the Department of Economic Development, Tourism and Culture on the cost associated with its advertising campaign bearing the slogan "Small Business is Our Business", including but not limited to: cost of advertising; the name of any private firm hired to create the advertising and buy advertising; the length of time the advertising campaign is going to run; details on when this business initiative was created and by which entities; any and all correspondence in relation to this advertising campaign between the government and the Business Development Bank of Canada, Regional Economic Development Commissions, Conseil économique du Nouveau-Brunswick, and Atlantic Canada Opportunities Agency.

Mr. Lord gave Notice of Motion 65 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Green:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House all notes, memos, correspondence, electronic mail, agreements etc. pertaining to the parc management agreement signed between the Province of New Brunswick and Serco Inc. to manage the Hopewell Rocks.

Mr. Lord gave Notice of Motion 66 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Valcourt:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and Calicloth.

Mr. Robichaud gave Notice of Motion 67 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Hon. Mr. Valcourt:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and Petz International

Mr. Mockler gave Notice of Motion 68 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Volpé:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and Les Systèmes Erin Ltée.

Mr. Mockler gave Notice of Motion 69 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Lord:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and West-Wood Industries Ltd. in Scoudouc.

Mr. Mockler gave Notice of Motion 70 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Hon. Mr. Valcourt:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and Goodison Textiles.

Mr. Mockler gave Notice of Motion 71 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Hon. Mr. Valcourt:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and Simmchen Construction Ltd. of Dieppe concerning the building of the amphitheatre at Parlee Beach.

Mr. D. Graham gave Notice of Motion 72 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Sherwood:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House any and all tendered and un-tendered contracts between any government agency and Incolor Inc. of Moncton, N.B. and any subsidiary of said company in the past five years.

Mr. D. Graham gave Notice of Motion 73 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Volpé:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, minutes of meetings, studies, reports, analyses, offers, negotiations, loans between the Province of New Brunswick and Paquet Yarns Inc.

Mr. Green gave Notice of Motion 74 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Robichaud:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House a copy of all memos, letters, correspondence, proposals, electronic mail, minutes of meetings, studies, reports, analyses, offers, negotiations and the contract signed between the Province of New Brunswick and True North Salmon Company Ltd.

Mr. Green gave Notice of Motion 75 that on Thursday, December 10, 1998 he would move the following resolution, seconded by Mr. Robichaud:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House the economic analysis used to determine the single end user franchise fee.

Government Motion re Business of House

Hon. Mr. Byrne announced that following Private Members' Motions, it was the intention of the government that the House resume debate on the motion for an Address in Reply to the Speech from the Throne and that the Premier would close the Throne Speech Debate at tomorrow's sitting.

Private Members' Motions

It was agreed by unanimous consent to dispose of certain tabling motions remaining on the Order and Notice Paper and for which the documents requested had been tabled.

Motions 4, 5 and 6 by Mr. Sherwood were, by leave of the House withdrawn.

Motions 10 and 11 by Mr. Green were, by leave of the House withdrawn.

Motions 12, 14, 15, and 16 by Mr. D. Graham were, by leave of the House withdrawn.

Motions 21 and 22 by Mr. Robichaud were, by leave of the House withdrawn.

Motion 27 by Hon. Mr. Valcourt was, by leave of the House withdrawn.

Motion 31 by Mr. Volpé was, by leave of the House stood over to Thursday, December 10, 1998.

Motion 32 and 33 by Mr. Mockler were, by leave of the House stood over to Thursday, December 10, 1998.

Motions 7, 8 and 9 by Mr. Green were, by leave of the House stood over to Thursday, December 10, 1998.

Debate resumed on the amendment to Motion 1, moved by Hon. Mr. MacDonald, seconded by Hon. Mrs. Breault as follows:

AMENDMENT

- 1. In the fourth paragraph, by deleting the word "a" and inserting the words "an ongoing", by deleting the word "reevaluate", and inserting the word "evaluate" and by deleting the words "the current" and inserting the word "healthcare" and also by deleting the words "that are delivered";
- 2. In the resolution clause, by deleting the words "to introduce legislation that would guarantee provision of" and replacing them with the words "to continue providing", by deleting the words "levels of", by deleting the word "to" and replacing it with the word "for" and by deleting the word "New Brunswick" and replacing it with the words "the province".

And after some time, Mr. Speaker declared it to be 12.30 o'clock p.m. and left the Chair to resume again at 2 o'clock p.m.

2 o'clock p.m.

Mr. Speaker resumed the Chair.

Debate continued on the amendment to Motion 1.

And after some time, Mr. Speaker interrupted proceedings and advised that the time allotted for Private Members' Motions had expired.

Address

The Assembly resumed the adjourned debate on the proposed motion of Mr. S. Graham, seconded by Mrs. Barry:

THAT the following Address be presented to Her Honour the Lieutenant-Governor to offer the humble thanks of this House to Her Honour for the gracious speech which she has been pleased to make to the Legislative Assembly, namely:

Fredericton, N.B.
November 24, 1998.

To Her Honour,
The Honourable Marilyn Trenholme Counsell,
Lieutenant-Governor of the Province of New Brunswick.

May It Please Your Honour:

We, Her Majesty's most dutiful and loyal subjects of the Legislative Assembly of the Province of New Brunswick, now in session, beg leave to extend our humble thanks to Your Honour for the gracious speech which Your Honour has addressed to us, and we assure Your Honour that all matters which may be submitted to us during the session will receive our most careful attention and consideration.

And the debate continuing, after some time it was, on motion of Hon. Mr. C. Thériault, adjourned over.

It was agreed by unanimous consent to sit beyond the ordinary hour of adjournment.

Government Motions re Business of House

On motion of Hon. Mr. Byrne, seconded by Hon. C. Thériault,

RESOLVED, that when the House adjourns on Friday, December 4th, it stand adjourned until Tuesday, December 8th at 2.30 o'clock p.m.

It was agreed by unanimous consent that second reading of Bills 5, 6, 7, and 8 introduced earlier during the sitting be deferred until Wednesday, December 9, 1998.

STATEMENT BY MR. SPEAKER

Honourable members, before I put the motion to adjourn, there is something I would like to raise with the members. That is with regard to something that has been brought to my attention not too long ago. It deals with an issue that was raised in this House on Friday last. It deals with the question of privilege. It has been brought to my attention that three newspapers in particular, and there may be others that I am unaware of, did make reference to the question of privilege that was raised in the House on Friday. One newspaper is the Fredericton *Daily Gleaner*, another newspaper is the Moncton *Times-Transcript*, and another newspaper is the Saint John *Telegraph Journal*. Honourable members, I just would like to clear the record on perhaps an impression that has been created, and also with regard to certain items that were contained in the press release that may not be entirely factual.

The article in the *Daily Gleaner*, and a similar article was contained in the Moncton *Times-Transcript*, refers, and I will just go through some of the items that have been mentioned: It states that MLA, Peter LeBlanc, sought to invoke to break privilege as chairman of the Legislative Select Committee on Energy. It states that he asked the House Speaker, John McKay, to investigate the leak of a draft version of the committee's report on natural gas. The article refers to the Legislature and the concern for contempt shown for the Legislature and its ancient rules. The article refers also that there is no specific rule against leaking Legislature documents. The article also states that the Speaker then referred the chairman of the committee's complaint to the Legislature's privilege committee. It goes on to talk about people being threatened to be thrown in jail, and it also goes on to assume that there will be an out-of-public view, closed-door inquisition. This same article was contained in the Moncton *Times*.

The *Telegraph Journal* says that the Thériault government took aim at media outlets in the Legislature yesterday. The *Moncton Times* says that the MLAs went after two New Brunswick newspapers for allegedly violating these ancient parliamentary rights. The *Telegraph Journal* states that traditionally, meetings of the privileges committee are held in private.

Honourable members, we have dealt with a very, very serious issue in this House. Before I deal with the issue of privileges of the House, I would like to correct the record on a couple of items. Number one, of course, the Speaker was not asked to investigate a leak of a draft version of the committee's report. The request was made to the House to refer the matter to the privileges committee. That is the first correction I would like to make, and of course all of us are seeking the truth, both Members of the House and members of the press.

The item also states that there is no specific rule against leaking Legislature documents, and of course that is incorrect. We have very, very clear rules on the right of the House to protect its publications, protect its documents, and protect its rights. I refer to rule 851 of the sixth edition of *Beauchesne*. The article states that the Speaker then referred the LeBlanc complaint to the Legislature's privileges committee, which of course is incorrect. The House referred the complaint to the privileges committee. The Speaker is only the servant of the House. The Speaker does not refer anything to anybody or anywhere.

The article goes on to impugn that the committee deliberations will be held out of public view and will, in effect, be a closed-door inquisition. Except for very rare circumstances, most particularly in the drafting of a report, all committee reports, or all committee deliberations, are conducted in public. This Legislature, and all Legislatures, are the protector of the public right to know. That is one of the great responsibilities that Legislatures have. And it is the protector of the press's right to know. Of course, with reference to the fact that the government has referred this, just a little lesson in the difference between government and the Legislature, and I am sure all honourable members of the press realize this, the Lieutenant-Governor in Council is the government. Those who are not members of the Executive Council are not the government. None of the business in this House, none of the remarks that were made, or none of the motions that were made, nor the amendments that were made, with regard to this question of privilege, involve any government or any members of the government, all private members.

That being said, I want to very, very briefly deal with the issue of privilege. Privilege, honourable members, is not as has been, perhaps, insinuated. It's not a mechanism to enhance a member's ego, nor to cater to his vanity, as one would assume. Privilege is, yes, an ancient mechanism. As defined by *Beauchesne*:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively - each House - as a constituent part of the High Court of Parliament. Thus, privilege though - and I emphasize this - though part of the law of the land, is to a certain extent an exemption from the ordinary law. Privilege is what sets Hon. Members apart from other citizens giving them rights which the public does not possess. A question of privilege is a question partly of fact and partly of law - the law of contempt of Parliament.

This House makes the law. This House has a duty to uphold the law. It has been a decision of the people of our province and the people of our Parliamentary tradition, our ancestors, who have created this House, to ensure that their rights are protected, and to ensure that their rights are protected, privilege is a mechanism to protect the authority of Parliament which acts on behalf of the people.

The Legislature, honourable members, is the highest court in the land, the court of all courts, the court of the people. We act only as a consequence of carrying out the people's wishes. Is the protector of the people's right, and privilege is a collection of rights which have been deemed to be necessary to ensure the supremacy of the people's court. We all know, of course, of the law of courts, where certain items are maintained to be confidential. In cases of sexual assault, confidentiality is, of course, expected. In cases of minor offenders, confidentiality, of course, is expected. The press respects that. Of course, to challenge that threatens the wrath of the court, and of course can be considered to be in contempt of court. This is a court of appeal, and it is the right of Parliament and a right of members of Parliament, and I will close on this, to defend those rights that really are the rights that members of Parliament, through many, many, many, many centuries have wrestled from the authority of the Crown, and have, as a consequence, become a way for the public to defend their rights. The rights that members here have - the freedom from arrest, the freedom of speech, the freedom from interference, the freedom to carry out your deliberations without harassment - those are rights which have been hard earned. Yes, they are ancient rights, and yes, they are peculiar rights, but they are the rights that ensure that we as a democracy will continue to serve the people to the best of our ability.

With that, honourable members, I would entertain a motion that the House do now adjourn.

And then, 6.16 o'clock p.m., the House adjourned.

The following documents, having been deposited with the Clerk of the House, were deemed laid upon the table of the House pursuant to Standing Rule 39:

- Department of Supply and Services
- Annual Report 1997-98 December 2, 1998