

Wednesday, April 7, 2004.

*10 o'clock a.m.*

Prayers.

Mr. Boudreau offered condolences to the family of five-year old kindergarten student Remi Cormier of Grand-Barachois, N.B., who lost his life on Tuesday, April 6, 2004, in a tragic school bus accident.

The House observed a moment of silence in memory of Remi Cormier.

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Mr. Speaker delivered a ruling with respect to the Question of Privilege raised by the Member for Fredericton-Fort Nashwaak on Friday last:

STATEMENT BY SPEAKER

Honourable Members,

At this time, I am prepared to rule on the question of privilege that was raised by the member for Fredericton-Fort Nashwaak on Friday last. The member stated that his question of privilege involved the issue of anticipating the vote on the budget before the House has had an opportunity to consider and approve the budget itself.

The member cited media reports that the government had begun to reduce the number of positions in the civil service, as outlined in the government's budget. The member submitted that by taking this action prior to the budget being considered and approved by the House, the government has either breached the rule of anticipation or has obstructed or impeded the House in the performance of its functions, which has resulted in an offence against the authority or dignity of the House.

The Government House Leader, in speaking on the point of privilege, stated that the purpose of the estimates process is to have the legislative branch of government decide on the spending parameters, not only for government as a whole, but for individual departments. The Government House Leader submitted that it is entirely at the discretion of individual departments to spend less money than has been allocated and that it is incumbent upon individual departments and ministers to take whatever steps they can to reduce cost measures, both before and after the estimates are approved.

At this stage, it may be useful to review the nature of parliamentary privilege. Parliamentary privilege relates to the rights and immunities that belong to Parliament, its members, and others,

which are essential for the operation of Parliament. These rights and immunities allow the Legislature to meet and carry out its proper constitutional role, allow members to discharge their responsibilities to their constituents, and allow others involved in the parliamentary process to carry out their duties and responsibilities without obstruction or fear of prosecution.

Privileges are generally categorized under five headings: freedom of speech, freedom from arrest in civil actions, exemptions from jury duty, exemptions from attendance as a witness, and freedom from molestation. In the matter before us, I cannot find that any of the aforementioned privileges have been breached by the actions of the government.

Contempts, on the other hand, cannot be enumerated or categorized. Contempts are offences against the authority or dignity of the House. Contempt is defined in the 22nd edition of Erskine May, on page 108:

*Any act or omission which obstructs or impedes either House . . . in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.*

I cannot find that the situation described by the member for Fredericton-Fort Nashwaak is one that obstructs or impedes the House in the performance of its functions. Members are free to debate and criticize the budget and to approve or reject the estimates for each department.

It has been argued that the government, by acting to reduce the number of positions in the civil service while the budget is under consideration, is anticipating a decision of the House. The budget, however, is a general statement outlining the government's fiscal, social, and economic policies and priorities. Although the government's budgetary policy is put before the House for approval, its ongoing consideration in no way precludes the government from continuing to administer the day-to-day affairs of the province.

As noted by the member for Fredericton-Fort Nashwaak, the executive branch remains accountable to the legislative branch for its actions. Indeed, as noted in Marleau and Montpetit's *House of Commons Procedure and Practice* on page 697, "No tax may be imposed, or money spent, without the consent of Parliament."

However, section 35 of the *Financial Administration Act* clearly sets out the authority of the government to continue to make payments out of the consolidated fund to provide for the ordinary public

services, from the beginning of the fiscal year until such time as supply is voted by the Legislature.

Accordingly, I am unable to find that there is a prima facie case that a breach of privilege has been committed. I thank both honourable members for their comments.

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Mr. Brewer, the Member for Southwest Miramichi, laid upon the table of the House a petition signed by citizens of the Pidgeon Hill and Coteau-Road area who are in favour of using the old rail beds between Miramichi and Fredericton for all-terrain vehicles. (Petition 28)

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The following Private Bill was introduced and read a first time:

By Mr. Holder,

Bill 41, *An Act to Incorporate the New Brunswick Institute of Agrologists.*

Ordered referred to the Standing Committee on Private Bills.

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Mr. Arseneault gave Notice of Motion 79 that on Tuesday, April 15, 2004, he would move the following resolution, seconded by Mr. Paulin:

That an address be presented to His Honour the Lieutenant-Governor, praying that he cause to be laid upon the table of the House all documents, correspondence, e-mails, reports and private contracts in regard to the Workforce Adjustment Program as announced in the 2004-2005 Budget, procedure for determining surplus positions and the timeline for the implementation of the said program.

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Hon. Mr. Green announced it was the intention of government that following second reading, the House would resume the debate on the budget, following which, the House would resolve itself into a Committee of the Whole to consider Bill 28.

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The Order being read for second reading of Bill 39, *Fiscal Transparency Act*, a debate arose thereon.

And after some time, due to the unavoidable absence of Mr. Speaker, Mr. Holder, the Deputy Speaker, took the chair as Acting Speaker.

And after some further time, Mr. Holder, the Deputy Speaker, cautioned Mr. MacDonald to keep his remarks relevant to the

principle of the Bill under discussion. Mr. Deputy Speaker interrupted debate on two more occasions cautioning the Member to keep his remarks relevant to the debate and reciting Standing Rule 19 which empowers the Speaker or Chairman to direct that a Member discontinue speaking if the Member persists in irrelevant or tedious repetition of arguments.

And the debate continuing, after some time, Mr. Holder, the Deputy Speaker, interrupted Mr. MacDonald and recognized the Hon. Mr. Volpé.

At 12.30 o'clock p.m., Mr. Holder, the Deputy Speaker, left the chair to resume again at 2 o'clock p.m.

*2 o'clock p.m.*

Mr. Holder, the Deputy Speaker, resumed the chair as Acting Speaker.

Debate resumed on the motion for second reading of Bill 39.

And after some time, Mr. C. LeBlanc, the Deputy Speaker, took the chair as Acting Speaker.

And after some time, Mr. Holder resumed the chair.

And after some further time, Mr. Speaker resumed the chair.

And the debate being ended, and the question being put that Bill 39 be now read a second time, the motion was negatived on the following recorded division:

YEAS - 23

Mr. Jamieson	Mr. Ouellette	Mr. Foran
Mr. MacIntyre	Ms. Robichaud	Mr. Albert
Mr. Allaby	Mr. Lamrock	Mr. A. LeBlanc
Mr. S. Graham	Mr. Targett	Mr. Paulin
Mr. Haché	Mr. Burke	Mr. Doucet
Mr. Landry	Mr. Murphy	Mr. Boudreau
Mr. Branch	Mr. Kenny	Mr. Brewer
Ms. Weir	Mr. Arseneault	

NAYS - 24

Hon. Ms. Blaney	Mr. Sherwood	Hon. Mr. Huntjens
Hon. E. Robichaud	Hon. Mr. Steeves	Hon. Mr. Betts
Hon. Mr. Mesheau	Hon. Ms. Dubé	Mr. Malley
Hon. Mr. Volpé	Hon. Ms. Poirier	Mr. Williams
Hon. Mr. Lord	Hon. Mr. Ashfield	Mr. Carr
Hon. Mr. Green	Hon. Mr. Fitch	Mr. MacDonald
Hon. Mr. Graham	Hon. Ms. Fowlie	Mr. Holder
Hon. Mr. Mockler	Hon. P. Robichaud	Mr. C. LeBlanc

The Order of the Day for resuming the adjourned debate on the motion (Motion 65),

THAT this House approves in general the budgetary policy of the government, having been read,

The debate was resumed.

And after some time, due to the unavoidable absence of Mr. Speaker, Mr. C. LeBlanc, the Deputy Speaker, took the chair as Acting Speaker.

And after some further time, Mr. C. LeBlanc, the Deputy Speaker, took the chair as Acting Speaker.

And after some time, the debate was, on motion of Mr. Carr, adjourned over.

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The House resolved itself into Committee of the Whole with Mr. Holder in the chair.

And after some time, Mr. Speaker resumed the chair and Mr. Holder, the Chairman, after requesting that Mr. Speaker revert to the Order of Presentations of Committee Reports, reported:

That the Committee had directed him to report the following Bill as amended:

Bill 28, *An Act to Amend the Municipal Elections Act*.

And the Committee asked leave to make a further report.

Pursuant to Standing Rule 78.1, Mr. Speaker put the question on the motion deemed to be before the House, that the report be concurred in, and it was resolved in the affirmative.

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And then, 6 o'clock p.m., the House adjourned.