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Journals

(Unrevised)

Legislative Assembly

Province of New Brunswick

Hon. Graydon Nicholas
Lieutenant-Governor

Speaker: Hon. Roy Boudreau

Thursday, December 17, 2009

**Fourth Session of the 56th Legislative Assembly
Fredericton, New Brunswick**

Thursday, December 17, 2009.

1 o'clock p.m.

Prayers.

Mr. Speaker delivered the following ruling with respect to the question of privilege raised by Hon. Mr. Lamrock on Tuesday last:

STATEMENT BY SPEAKER

Honourable Members,

I am now ready to rule on the question of privilege raised by the Honourable Minister of Social Development on Tuesday of this week concerning the alleged actions of the Member for Dieppe Centre-Lewisville as the Deputy Speaker was leaving the Chamber, following the adjournment of the House on December 10, 2009.

Before beginning, I would like to thank the Honourable Minister of Social Development for raising the matter. I also want to acknowledge the contribution of the Opposition House Leader, the Honourable Member for Lamèque-Shippagan-Miscou.

I have considered the arguments, reviewed the parliamentary authorities, and consulted with my other Canadian colleagues.

I am satisfied that there is a *prima facie* case that a breach of privilege has been committed.

The matter involved an incident which occurred during the Speaker's procession from the House at the conclusion of the sitting day. Clearly, the procession, in which the Speaker is escorted from the House and led by the Sergeant-at-Arms, who is carrying the Mace, is part of the customary proceedings of the House. Indeed, Standing Rule 56 specifically recognizes this where it is stated:

When the House adjourns the Members shall keep their places until the Speaker has left the Chamber.

It goes without saying that during this time Members are to maintain order and decorum and be respectful of the Chair and this institution.

The Member for Miramichi-Bay du Vin, who was the Acting Speaker at the time of the alleged incident, has indicated to me that, as he was being escorted from the Chamber by the Sergeant-at-Arms, he clearly heard egregious remarks coming from the Member for Dieppe Centre-Lewisville and that he felt these remarks were being directed toward him personally. The Deputy Speaker has indicated to me that he felt intimidated by

the remarks and by the tone and manner in which they were delivered.

While discussing the matter in chambers, several Members of the Official Opposition entered my office and claimed that the Deputy Speaker was biased in his decisions. The mere fact that accusations of bias were made in the presence of the Deputy Speaker may be perceived as a form of intimidation. It was certainly perceived that way by the Deputy Speaker. It is especially disturbing that allegations of bias against the Deputy Speaker continued to be made outside the House by Members of this Assembly and these allegations were subsequently reported in the province's newspapers.

Honourable Members, the Speaker is entitled on all occasions to be treated with the greatest attention and respect by the individual Members. The Office of Speaker embodies the powers, dignity and honour of the House itself.

The parliamentary authorities are clear—the presiding officers of the House must at all times be free from acts of intimidation and allegations of bias. Any remarks or actions directed toward the Speaker or other presiding officers which can be perceived as intimidating or threatening are clearly out of order and can form the basis of a question of privilege.

I refer to the following passage from Maingot's *Parliamentary Privilege in Canada*, Second Edition, where it states at page 230:

Members are entitled to go about their parliamentary business undisturbed. The assaulting, menacing, or insulting of any Member on the floor of the House, or on account of his behaviour during a proceeding in Parliament, is a violation of the rights of Parliament.... Any form of intimidation ... of a person for or on account of his behaviour during a proceeding of Parliament could amount to a contempt.

As has been stated in previous rulings of this House, contempts are offences against the authority and dignity of the House. Not all contempts are breaches of privilege, however. Acts which diminish, demean or reduce the respect owed to the Assembly may be considered as contempts and, thus, breaches of privilege. The Speaker does not decide whether there is a contempt or a breach of privilege—that is a matter for the House to decide. My duty is to determine whether, on the face of it, privileges seem to be sufficiently involved to warrant the setting aside of the business of the House to debate the matter.

In the present situation, it is clear as related to me by the Deputy Speaker, that the remarks made by the Member for Dieppe Centre-Lewisville were demeaning, insulting, and grievous and made in the presence of colleagues, Officers of the House, and other staff of the Legislative Assembly. Acts of this nature against the Deputy Speaker are an affront to the Legislative Assembly and an attack on the authority and dignity of the House and cannot be tolerated.

As I have stated earlier, I consider this matter to be very serious and feel it is important that the House be seized with the matter. Accordingly, having found that there is a *prima facie* case of privilege before this House requiring immediate consideration, I will allow the Minister of Social Development to move his motion.

Following the ruling, Mr. C. LeBlanc apologized to the House for his conduct and the remarks in question. With the unanimous consent of the House, Hon. Mr. Lamrock withdrew the motion.

Mr. C. LeBlanc withdrew from the House for the remainder of the sitting day.

Mr. Speaker delivered the following ruling with respect to the question of privilege raised by Hon. Mr. Jamieson on Tuesday last.

STATEMENT BY SPEAKER

While I am on my feet, I will give my decision on the question of privilege raised by the Honourable Minister of Tourism and Parks, on Tuesday of this week, concerning statements made by Members of this Assembly outside the House which cast doubt on the impartiality of an Officer of the Assembly, namely the Deputy Speaker, the Honourable Member for Miramichi-Bay du Vin.

I want to thank both the Minister of Tourism and Parks and the Member for Rothesay for their comments.

I have considered the remarks in question and the allegations of bias made against the Deputy Speaker by the Leader of the Opposition and by the Member for Saint John Portland and published in *The Daily Gleaner*, the *Telegraph-Journal*, and the *Times & Transcript* of December 12, 2009, and in the *Miramichi Leader* of December 14, 2009.

I have reviewed the Parliamentary authorities, and there is no question regarding the seriousness of reflections and allegations of this nature on chair occupants. Reflections on the character or actions of the Speaker or other Presiding Officers have been ruled to be breaches of privilege.

Remarks critical of the Speakership, be they uttered inside the House or outside the Chamber, particularly when uttered by a Member of the House, are very serious and in themselves have been ruled to be breaches of privilege as noted in Citation 168(1) of *Beauchesne's Parliamentary Rules & Forms*, 6th Edition at page 49:

Reflections upon the character or actions of the Speaker may be punished as breaches of privilege. The actions of the Speaker cannot be criticized incidentally in debate or upon any form of proceeding except by way of a substantive motion.

Allegations of bias are in themselves a form of intimidation or attempted intimidation. I would like to quote from Marleau and Montpetit's *House of Commons Procedure and Practice*, Second Edition, 2009 where it is stated at page 116:

...the intimidation or attempted intimidation of the Speaker or any other Chair Occupant is viewed very seriously by the House. On three occasions, the House has viewed criticisms of the impartiality of the Chair as attempts at intimidation and, therefore, as privilege matters. On December 22, 1976, the House adopted a motion finding that a statement made in a newspaper article about Speaker Jerome was "a gross libel on Mr. Speaker and that the publication of the article was a gross breach of the privileges of the House". On March 23, 1993, Speaker Fraser ruled that a Member's comments about the impartiality of a Chair Occupant constituted a prima facie case of privilege, noting that an attack against the integrity of an officer of the House was also an attack against the House.

Colleagues, as the Speaker, it is my duty to protect this institution and the officers who serve and represent it. They must be protected against reflections on their actions.

Only by means of a substantive motion, for which the required two days' notice has been given, may the actions of the Chair be challenged, criticized or debated.

I therefore find that there is a *prima facie* case of a breach of privilege.

I am prepared to leave the matter in the hands of the House to decide whether this matter will go forward to the Standing Committee on Privileges.

However, I understand that there may be a willingness on the part of the Members involved to withdraw the remarks made in reference to the Deputy Speaker and reported in the newspapers and to apologize to the House.

If a voluntary withdrawal resolves the matter, I am prepared to abide by the will of the Assembly. If the Leader of the Opposition and the Member for Saint John Portland wish to proceed by withdrawing the comments attributed to them in the newspapers, I will permit them to do so at this time.

Following the ruling, Mr. Alward and Mr. Holder withdrew their comments in relation to the Deputy Speaker and apologized to the House for their comments in relation to the Deputy Speaker, at which time the motion by Hon. Mr. Jamieson was deemed withdrawn.

Mr. Fitch, Member for Riverview, laid upon the table of the House a petition on behalf of residents of Fords Mills, Blackville, Miramichi, Renous, Quarryville, Gray Rapids, Warwick, Sunny Corner and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 80)

Mr. D. Graham, Member for Carleton, laid upon the table of the House a petition on behalf of residents of Storeytown, McNamee, Doaktown, Canterbury, Ludlow, Fredericton, Carrolls Crossing, Holtville and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 81)

Ms. Blaney, Member for Rothesay, laid upon the table of the House a petition on behalf of residents of South Esk, Blackville, Miramichi, Lower Derby, McKinleyville, Barnettville, Maple Glen and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 82)

Mr. Steeves, Member for Albert, laid upon the table of the House a petition on behalf of residents of Blackville, Upper Blackville, Barnettville, Gray Rapids, Quarryville, Matthews Settlement and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 83)

Mr. Harrison, Member for Hampton-Kings, laid upon the table of the House a petition on behalf of residents of Miramichi, Derby, Saint John, Maple Glen, Glenwood, Sunny Corner, Bay du Vin, Blackville, Lyttleton, Lockstead and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 84)

Mr. Olscamp, Member for Tantramar, laid upon the table of the House a petition on behalf of residents of Blackville, Quarryville, Newcastle, Renous, McKinleyville, Warwick Settlement, Dieppe and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 85)

Ms. Poirier, Member for Rogersville-Kouchibouguac, laid upon the table of the House a petition on behalf of residents of Bathurst, Doaktown, Renous, Howards, Miramichi and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 86)

Mr. Williams, Member for Kent South, laid upon the table of the House a petition on behalf of residents of Saint-Antoine, Cocagne, Notre-Dame, Bouctouche, Shediac and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 87)

Hon. Mr. Arseneault laid upon the table of the House the following document: *Working Together for Adult Literacy: An Adult Literacy Strategy for New Brunswick, Be part of it, December 2009.*

Following Oral Questions, Mr. Robichaud rose on a point of order and submitted that it was unparliamentary to use the term “brain freeze” in reference to the Members of the Opposition. Hon. Mr. Murphy also spoke on the point of order. Mr. Speaker ruled the point not well taken, given the context in which the words were spoken.

Mr. Fitch gave Notice of Motion 22 that on Thursday, December 24, 2009, he would move the following resolution, seconded by Mr. Alward:

WHEREAS the net debt of the Province of New Brunswick has grown from \$6.9 billion in the 2006-2007 budget to a projected \$9.5 billion in the 2010-2011 budget; and

WHEREAS the Government of New Brunswick is projecting that the net debt of the province will increase by \$1.2 billion dollars during the next fiscal year; and

WHEREAS the Government of New Brunswick has pushed back their date for balancing the budget until 2015 with no plan to decrease the debt of the province; and

WHEREAS the net debt-to-GDP ratio will have reached 33.3% by fiscal year end 2011; and

WHEREAS the Auditor General of New Brunswick has called repeatedly for the province to implement a debt reduction program to manage and decrease the province’s debt burden;

BE IT RESOLVED that this Legislative Assembly form a special bipartisan Debt Reduction Committee to study the province’s debt burden and report back to this House with recommendations to reduce the debt load of New Brunswick.

Ms. Poirier gave Notice of Motion 23 that on Thursday, December 24, 2009, she would move the following resolution, seconded by Ms. Dubé:

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 information in government possession, however recorded or stored, concerning the management agreements and construction contracts for the two schools being built in partnership with the private sector in Moncton and Rexton.

The Order being read for second reading of Bill 25, *An Act to Amend the Motor Vehicle Act*, a debate arose thereon.

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

And after some further time, the debate being ended and the question being put, the motion for second reading was carried.

Accordingly, Bill 25, *An Act to Amend the Motor Vehicle Act*, was read a second time and ordered referred to the Committee of the Whole House.

Debate resumed on the motion that Bill 23, *No One Left Behind Act*, be now read a second time.

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

And the debate continuing, after some time, Mr. Speaker interrupted proceedings and advised that the hour of daily adjournment had arrived.

Mr. Speaker delivered the following statement:

STATEMENT BY SPEAKER

Honourable Members,

During yesterday's sitting, the Minister of Tourism and Parks rose on a point of privilege to complain of an incident which was alleged by the Member for Rothesay to have occurred while she was in my office following the adjournment of the House on December 10, 2009.

The Minister claimed that at no time when he entered the Speaker's Office did he push the door and maintained that the Member's statement attempted to impugn his character and integrity. The Minister requested that I review the matter and report back to the House. The Opposition House Leader subsequently rose on a point of order stating that the matter as

raised was not a point of privilege. I believe that the matter, as raised, is more of a question of order.

I have reviewed the transcripts of the remarks made by the Member for Rothesay and subsequently, at yesterday's sitting, by the Minister of Tourism and Parks.

In speaking on a question of privilege at Tuesday's sitting, the Member for Rothesay characterized her perception of an incident which she stated had occurred in the Speaker's Office.

At the time the Member for Rothesay made her remarks, she was speaking on a question of privilege. Her comments concerned me at the time they were made but I did not feel it was appropriate for me to interrupt the Member, as she was making her case on the question of privilege.

Since I have been asked to clarify the matter, I do so now.

Normally, as Speaker, I would not intervene in a dispute between Members as to facts. In this instance, however, the facts complained of allegedly took place in my office and during my presence. I am therefore making it my business.

For the record, I was present at the meeting which took place in my office where four Members of the Official Opposition were present, including the two Deputy Speakers.

I did review the tape, and I do not recall the Minister of Tourism and Parks pushing the door leading into my office and the Member for Rothesay falling back into the room. The security tapes clearly indicate that the Minister of Tourism and Parks knocked on my door and the door was opened from the inside by one of the Members, and the Minister entered the office.

I believe this closes the matter.

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