

Thursday, May 16, 2002.

1 o'clock p.m.

Prayers.

Pursuant to Standing Rule 9(2), Mrs. Mersereau gave notice of her intention to raise a Question of Privilege concerning responses provided by the Minister of Education to questions during Oral Questions on May 2 and May 3, and gave notice of her intention to move the following resolution seconded by Mr. Richard:

WHEREAS, on May 2, the Minister of Education answered one of my questions by again mentioning that the AEFNB had been consulted, and I quote: "The NBTA and the AEFNB have been consulted since January of this year with regards to all these numbers";

WHEREAS, the next day, in reply to a question from the member for Shediac—Cap-Pelé asking him whether he had had any discussions before releasing the Mercer report, the Minister of Education said, and I quote: "This report was delivered in January. There were discussions with NBTA and the AEFNB in the last interim period between Christmas and now";

WHEREAS, on May 8, an article published in *L'Acadie Nouvelle* stated: The Minister of Education also wanted to point out that preparation of the report was carried out in collaboration with the teachers' associations and school administrations as well as with data from Statistics Canada;

WHEREAS the minister's comments were contradicted by AEFNB President Pierre Paillard in a letter written to the minister, of which we obtained a copy and which stated: **It is important to point out that the AEFNB in no way collaborated in this study for the simple reason that we were never invited to collaborate. Nor were we ever made aware of the preliminary results during the study process, and, what is even worse, it was through opposition Education Critic Marcelle Mersereau that we learned that the report from this study had been submitted to the Legislative Assembly and that we obtained a copy of it,** continued the letter;

WHEREAS the misinformation stated by the Minister has created an obstacle to my performing my duties as a Member of this Legislative Assembly which would constitute a breach of privilege;

BE IT THEREFORE RESOLVED that the Speaker rule that the Minister of Education has committed a breach of my privilege by preventing me from exercising my functions as a Member of the Legislative Assembly as a result of providing me and other Members with incorrect information which he should have known to be not factual.

The following Bill was introduced and read a first time:

By Hon. Mr. Betts,

Bill 51, *An Act Respecting Service New Brunswick*.

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

Mr. S. Graham gave Notice of Motion 84 that on Thursday, May 23, 2002, he would move the following resolution, seconded by Mr. Haché:

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 internal or external correspondence, e-mails, memos, reports, letters on the possibility of creating a nurse practitioner's course at the Université de Moncton.

Ms. Weir gave Notice of Motion 85 that on Thursday, May 23, 2002, she would move the following resolution, seconded by Mr. Haché:

That an address be presented to Her Honour the Lieutenant-Governor, praying that she cause to be laid upon the table of the House by the Minister of Family and Community Services a complete listing and inventory of all documents, including files, submitted to the Child Death Review Committee for the period from May 31st, 2001, to May 31st, 2002.

Hon. Mr. Green announced that it was the intention of the government that following Private Members' Motions, the House would resolve itself into a Committee of Supply to continue consideration of the estimates of the Department of Education and the Maritime Provinces Higher Education Council.

Debate resumed on the proposed amendment to Motion 6, moved by Mr. Steeves, seconded by Mr. Green, as follows:

AMENDMENT

That Motion 6 be amended by:

Adding the following clause preceding the first whereas clause:

"WHEREAS economic growth and job creation in the province were stagnant in the twelve years leading up to the June 7th 1999 election, and"

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

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

And after some further time, Mr. Haché, seconded by Mr. Allaby, moved a sub-amendment, as follows:

SUB-AMENDMENT

That the amendment to Motion 6 be amended by:

In the amendment, delete the word "twelve" and insert the word "seventeen" and delete the words "June 7, 1999" and insert the words "October 13, 1987".

Mr. Speaker put the question on the sub-amendment and then interrupted proceedings.

After inviting Mrs. Mersereau to state her question of privilege and Hon. Mr. Furlong, the Minister of Education, to also speak on the matter, Mr. Speaker took the matter under advisement to report to the House later in the sitting.

Following the interventions of the two Members, Mr. Speaker advised that he would allocate 20 additional minutes to the time allotted for consideration of Private Members' Motions to allow for the interruption.

Debate commenced on the sub-amendment to the amendment to Motion 6.

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

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

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

The House, according to Order, resolved itself into a Committee of Supply with Mr. Ashfield in the chair.

The Chairman delivered the following ruling with respect to the point of order raised on Wednesday last by Mr. McGraw, the Member for Centre-Péninsule:

STATEMENT BY CHAIRMAN

Honourable Members:

Yesterday I deferred ruling on a Point of Order raised by the Member for Centre-Péninsule, regarding a lapel sticker worn by the Member for Saint John Harbour.

The Member for Centre-Péninsule referred to a previous ruling of Speaker Harrison given on May 4, 2000.

I have since have had the opportunity to review that ruling, which I will quote:

“The traditions of the House are clear...buttons are not to be worn in the House, particularly buttons that have things on them of any description. We normally except the wearing of a flower or a ribbon that is symbolic of a charity or of a group of people that the whole House appears to be supporting by times. However, buttons are not to be worn in the House.”

The ruling goes on to state:

“...that buttons that have a message, and particularly a political message, should not be worn in the House”.

As Chair I have no hesitation in extending the term “button” to include a lapel sticker such as the one worn by the Member for Saint John Harbour yesterday.

It is not for the Chair to determine whether the message contained on such a button or sticker is a noble one or supporting a just cause or concern. Simply put, it has consistently been ruled that lapel buttons, stickers or similar items or props which contain messages of any nature are not allowed to be worn in the House.

The only exceptions are those noted in the ruling of the Speaker which allow for the wearing of items such as symbolic ribbons or ornamental pins.

Accordingly I will not allow Members to wear in committee buttons or stickers similar to that worn by the Member for Saint John Harbour yesterday.

Mr. Bernard took the chair.

At 6 o'clock p.m. the Chairman left the chair, to resume again at 7 'clock p.m.

7 o'clock p.m.

The Committee resumed with Mr. Ashfield in the chair.

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

And after some further time, Mr. Ashfield took the chair.

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

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

had had under consideration the matters referred to them, had made some progress therein, and asked leave to sit again.

Pursuant to Standing Rule 78.1, Mr. Speaker then 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.

Mr. Speaker delivered the following ruling with respect to a question of privilege raised earlier in the sitting by Mrs. Mersereau, the Member for Bathurst:

STATEMENT BY SPEAKER

Earlier today, the Member for Bathurst gave notice of a question of privilege in accordance with Standing Rule 9.

The Member submitted that, in responding to questions posed during Question Period on May 2nd and May 3rd, the Minister of Education provided her and other Members of the House with incorrect information which the Minister should have known was not factual. The Member claimed that the Minister of Education provided the House with inaccurate and misleading information in stating that the AEFNB had been consulted during the drafting of the Mercer Report prior to the report having been made public.

In stating the Question of Privilege, the Member for Bathurst quoted from a letter from the President of the AEFNB, where it is stated that the AEFNB did not collaborate in the study, nor were they made aware of the preliminary results during the study process.

The Member for Bathurst further suggested that the misinformation stated by the Minister created an obstacle to her performing her duties as a Member.

The Minister of Education, in speaking on the matter, stated that "at no time was there any attempt or knowledge of any attempt to mislead the House, nor was there in fact any misleading of the House." The Minister of Education apologized to the Member if there was any misunderstanding regarding the information he provided to the House.

I have reviewed and considered the information provided by both honourable members and I am now ready to give my ruling.

When a claim of privilege is raised by a Member, it is the duty of the Speaker to decide

- 1) whether there is a *prima facie* case that a breach of privilege has been committed; and

2) whether the matter is being raised at the earliest opportunity.

Privilege, as all Members know, is a very serious and very important issue. The essence of privilege or breach of privilege has to do with the ability of a Member to fulfil his or her responsibilities as a Member.

It is a well established principle that a dispute or disagreement arising between two Members over fact cannot form the basis of a question of privilege.

According to citation 19 of *Beauchesne's Parliamentary Rules and Forms, 5th Edition*, "a dispute arising between two Members as to allegations of facts, does not fulfil the conditions of parliamentary privilege."

I have listened to the submissions made and reviewed the transcripts of the relevant proceedings. I find that this matter appears to involve a dispute over facts. Debate in the Assembly of whether something is fact or not cannot be ascertained by the Speaker and does not constitute a question of privilege.

I recognize that the Member for Bathurst is concerned by what she considers to be a matter of privilege. However, the Minister of Education has stated unequivocally that at no time was there any attempt or knowledge of any attempt to mislead the House, nor was there in fact any misleading of the House.

There is no evidence before me to suggest that there was any attempt made to impede the Member for Bathurst in carrying out her parliamentary duties. This matter involves a dispute or disagreement between the Members over facts.

I therefore find that a *prima facie* case of privilege has not been established.

And then 10 o'clock p.m., the House adjourned.