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Journals

(Unrevised)

Legislative Assembly

Province of New Brunswick

Hon. Herménégilde Chiasson
Lieutenant-Governor

Speaker: Hon. Michael Malley

Tuesday, April 11, 2006

Third Session of the 55th Legislative Assembly
Fredericton, New Brunswick

Tuesday, April 11, 2006.

1 o'clock p.m.

Prayers.

Honourable Members,

Mr. Speaker delivered a ruling with respect to a Question of Privilege raised on Thursday last by the Honourable Government House Leader with respect to a letter to the editor written by the Member for Saint John Lancaster which appeared in the *Telegraph Journal* on April 6, 2006.

STATEMENT

Honourable Members,

Last Thursday, the Government House Leader raised a question of privilege, stating that a letter from the Member for Saint John Lancaster published in the *Telegraph-Journal* on April 6 calls into question the integrity of this House, and the Office of the Speaker by questioning the House's selection of the Speaker.

In his submission, the Government House Leader argued that the Member's actions have brought into disrepute the role of the Speaker and the Legislature as a whole, and clearly demonstrate contempt for this House and contempt for the Speaker, who was democratically elected by the Members of the Legislature. He argued that the letter from the Member for Saint John Lancaster constitutes *prima facie* evidence that a breach of privilege has been committed and urges that the matter be referred to the Standing Committee on Privileges.

In speaking to the matter, the Opposition House Leader noted that matters concerning privilege are very serious and that genuine questions of privilege should come up very rarely.

The Opposition House Leader referred to Marleau and Montpetit, *House of Commons Procedure and Practice*, which states, at page 69:

The reluctance to invoke the House's authority to reprimand, admonish or imprison anyone found to have trampled its dignity or authority and that of its Members appears to have become a near constant feature of the Canadian approach to privilege.

The Opposition House Leader argued that the letter from the Member for Saint John Lancaster concerned only the process by which the Speaker came to office and that it did not reflect negatively on the Speaker himself. He argued that the comments may have been critical of the government but that they did not amount to a contempt for the Legislature.

Many matters, the Member noted, may constitute grievances but do not rise to the level of a genuine question of privilege.

I would like to thank both Honourable Members for their comments.

I want to outline to the Assembly what the role of the Speaker is in a matter of privilege. It is not the function of the Speaker to decide the question of substance, that is, whether a breach of privilege has in fact been committed. It is my duty to determine whether, in this instance, a *prima facie* case of privilege has been made which justifies this matter taking precedence over the regular business of the House.

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 fulfill his or her responsibilities as a Member.

The privileges extended to Members individually and to the House collectively are categorized under five headings which are:

Freedom of speech; Freedom from arrest in civil actions; Exemption from jury duty; Exemption from attendance as a witness; and Freedom from molestation.

As a result, when Members claim that a certain action constitutes a breach of privilege, they must specify which privilege is affected.

Contempts on the other hand cannot be enumerated or categorized. While our privileges are defined, contempt of the House has no limits. As noted in May's *Parliamentary Practice Twenty-third Edition* (page 75): "Each House also claims the right to punish contempts, that is, actions which, while not breaches of any specific privilege, obstruct or impede it in the performance of its functions, or are offences against its authority or dignity..."

Contempts, in other words, are offenses against the authority or the dignity of the House. They involve situations which cannot specifically be claimed as breaches of privilege. Joseph Maingot, a Canadian authority on privilege, refers to contempts at page 213 of *Parliamentary Privilege in Canada, First Edition*:

There are actions which, while not directly... obstructing the House... or the member, nevertheless obstruct the House in performance of its functions by diminishing the respect due to it. As in the case of a court of law, the House... is entitled to the utmost respect.

Honourable Members, I have carefully considered the contents of the letter in question and the submissions of both House Leaders.

I agree with the Government House Leader that the remarks contained in the letter undermine this institution and the work we perform. The Member's remarks reflect on the Legislature as a whole and on the Office of Speaker and make it more difficult for the Speaker to fulfill his duties by diminishing the respect owed to the office and to this institution.

Privilege as I have said is a very serious matter. The power of the House to punish for contempt should be reserved for the most serious offences.

As I stated earlier, my role is to determine whether an application based on contempt or breach of privilege is on first impression of sufficient importance to set aside the regular business of the House and go forward for a decision of the House. If I find that a *prima facie* case of contempt has been made, the matter will go forward for a debate and a decision by the House.

It is my opinion that this would not be productive and would only serve to give more significance to the remarks than they merit. For this reason and the reasons stated above, I find that a *prima facie* case of contempt has not been made.

There is however a need for a clear statement from the Speaker on this matter. I find that the publication of this letter is in poor taste and does a disservice to this House and the Office of Speaker.

While I cannot order an apology, I would suggest that the Member for Saint John Lancaster apologize to this House.

Mr. A. LeBlanc, Member for Saint John Lancaster, apologized to the House for comments he made in a letter published in the *Telegraph-Journal* on April 6, 2006.

During Congratulatory Messages, Hon. Mr. MacDonald, Member for Mactaquac, rose and apologized for certain remarks he made during a congratulatory statement the previous week of the session.

Mr. S. Graham, the Member for Kent, laid upon the table of the House a petition on behalf of the Weldford Parish Ambulance Committee urging the government to provide equal ambulance service for the residents of Kent County's four regions and to adopt public, hospital-based ambulance service. (Petition 20)

The following Bills were introduced and read a first time.

By Hon. Mr. Harrison, on behalf of Hon. Mr. Lord,
Bill 43, *An Act to Amend the Time Definition Act.*

By Ms. C. Robichaud,
Bill 44, *Healthy Students Act*.
Bill 45, *An Act to Amend the Education Act*.

By Mr. Lamrock,
Bill 46, *An Act Respecting Access to Community Colleges*.

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

Hon. Mr. Harrison, Government House Leader, announced that following second reading, it was the intention of government that the House consider Private Members' Motions; namely, Motion 52.

The Order being read for second reading of Bill 33, *An Act to Amend the Executive Council Act*, a debate arose thereon.

And after some further time, the debate being ended, and the question being put that Bill 33, *An Act to Amend the Executive Council Act*, be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 33, *An Act to Amend the Executive Council Act*, was read a second time and ordered referred to the Committee of the Whole House.

The Order being read for second reading of Bill 34, *An Act to Amend the Municipalities Act*, a debate arose thereon.

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. Betts took the chair.

And the debate being ended, and the question being put that Bill 34, *An Act to Amend the Municipalities Act*, be now read a second time, it was resolved in the affirmative.

Accordingly, Bill 34, *An Act to Amend the Municipalities Act*, was read a second time and ordered referred to the Committee of the Whole House.

The Order being read for second reading of Bill 35, *An Act to Amend The Residential Tenancies Act*, a debate arose thereon.

And after some time, Mr. Speaker resumed the chair and interrupted the debate for the hour of daily adjournment.

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