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**Journals**  
(Unrevised)

Legislative Assembly

Province of New Brunswick

Hon. Graydon Nicholas  
Lieutenant-Governor

Speaker: Hon. Roy Boudreau

**Tuesday, March 16, 2010**

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

Tuesday, March 16, 2010.

1 o'clock p.m.

Prayers.

Mr. Speaker delivered the following ruling with respect to the point of order raised by Hon. Mr. Lamrock on Thursday last concerning Notice of Motion 49:

STATEMENT BY SPEAKER

Honourable Members,

On Thursday last, the Minister of Social Development raised a point of order with respect to Motion 49 standing on the Order and Notice Paper in the name of the Leader of the Opposition. The honourable Minister cited *Standing Rule 49* of the *Standing Rules of the House* and claimed that the subject matter of the motion dealt with a matter that is before a Court for determination.

The Minister of Social Development submitted that the subject matter of the motion, which directs the Standing Committee on Public Accounts to meet immediately and to review all transactions between the Province and the Atcon group of companies, is the subject of a civil proceeding, reference to which would create a real and substantial danger of prejudice to participants, one of whom is the taxpayers of New Brunswick.

As honourable Members know, the prohibition against referring in debate to matters that are before the courts is an established and well understood principle.

Legislatures have voluntarily imposed restrictions on the Member's right to free speech in order to prevent the possibility of such debate having prejudicial effects on the rights of a citizen to a fair trial. The *sub judice* convention has been described as a voluntary restraint imposed by the House on itself in the interest of justice and fair play.

The *sub judice* convention is embodied in *Standing Rule 49* which states in part:

49 In debate, a Member shall be called to order by the Speaker if the Member

(b) refers to any matter that is the subject of a proceeding

(i) that is pending in a court or before a judge for judicial determination, or,

(ii) that is before any quasi-judicial body;

where it is shown to the satisfaction of the Speaker that further references would create a real and substantial danger of prejudice to the participants;

New Brunswick is one of only four Canadian jurisdictions that has incorporated the *sub judice* convention in its standing rules. The application of the rule to matters that are before the courts is well documented in precedents of this House and in many jurisdictions. The rule has been applied fairly strictly in criminal cases but somewhat less rigidly in civil cases.

Essentially, the *sub judice* rule forbids reference being made in debate, as well as in motions and questions, to matters awaiting or under adjudication in all courts exercising criminal jurisdiction, and in courts exercising civil jurisdiction from the time the civil case has been set down for trial or otherwise been brought before the court. The rule does not apply to debate on Bills before the House, as Parliament must not be hampered in its ability to legislate on any matter within its jurisdiction.

When called upon to apply the rule to debate, the Speaker must balance the interests of the parties in a judicial proceeding who merit protection from the potential harmful effects of public discussion with the right of Members to freedom of speech. In a December 9, 1993, decision of this House, Speaker Dysart ruled that a motion could not proceed because the motion dealt with a subject matter that was before the Courts. The motion asked the government to consider holding an inquiry into the actions of an individual, which were the subject of a civil action launched against the individual by a crown corporation.

In the matter before me today, I have confirmed that Atcon related companies are parties in two applications currently before the Court of Queen's Bench, Judicial District of Miramichi. Unlike the 1993 decision, the subject matter of Motion 49 - the review of all transactions between the Province of New Brunswick and Atcon - is not a matter directly before the Court. The matters raised in Motion 49 deal with matters of important public policy and the actions of government which should not be unduly restricted in debate in the Legislature.

Accordingly, I will allow Motion 49 to stand on the Order Paper. However, I will be listening carefully, and I caution Members on both sides of the House to exercise restraint when debating this motion and avoid referring to the matters that are before the Court.

With respect to question period, the responsibility should principally rest upon the Member who asks the question, and the Minister to whom it is addressed. Should a question touch upon a matter that is before the court, the Minister should be able to judge whether answering the question might cause prejudice.

I also want to caution Members to exercise great care in making statements about persons who are outside the House and unable to reply. During question period last week, I heard statements and innuendos concerning private individuals who are not here to defend themselves. I expect Members to heed this warning.

Mr. Speaker delivered the following ruling with respect to Notice of Motion 54:

STATEMENT BY SPEAKER

Honourable Members,

I would like to direct your attention to Notice of Motion 54 which stands on the Order and Notice Paper in the name of the Leader of the Opposition.

I have compared Motion 54 with Motion 6 which was debated and defeated during the current session of the House. Motion 54 calls on government to delay the signing of any contract between Hydro-Québec, NB Power and the Province of New Brunswick until after the people have had an opportunity to vote on the issue. For the reasons stated in my ruling to this House on Tuesday, March 9, 2010; I find Motion 54 is out of order as the question has already been decided during the current session. Accordingly, I order that the motion be removed from the Order and Notice Paper.

Mr. D. Graham, Member for Carleton, laid upon the table of the House a petition on behalf of residents of Centreville, Summerfield, Good Corner, Glassville, Wicklow, Florenceville, Greenfield, Woodstock, Edmundston, Upper Kent, Aroostook and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 232)

Mr. Olscamp, Member for Tantramar, laid upon the table of the House a petition on behalf of residents of Miramichi, Perth, Napan and surrounding areas who oppose the sale of NB Power to Hydro-Québec. (Petition 233)

Mr. Williams gave Notice of Motion 55 that on Friday, March 19, 2010, he would move the following resolution, seconded by Mr. Robichaud:

That an address be presented to His Honour the Lieutenant-Governor, praying that he cause to be laid upon the table of the House the number of full-time jobs created in the New Brunswick civil service since October 3, 2006, with figures reported both by department and by region.

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Mr. Williams gave Notice of Motion 56 that on Friday, March 19, 2010, he would move the following resolution, seconded by Mr. C. Landry:

That an address be presented to His Honour the Lieutenant-Governor, praying that he cause to be laid upon the table of the House the number of full-time jobs in the New Brunswick civil service that have been lost through attrition, retirement, or dismissal since October 3, 2006, with figures reported both by department and by region.

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Mr. Robichaud gave Notice of Motion 57 that on Friday, March 19, 2010, he 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 a detailed list of meetings and discussions that took place between provincial and federal ministers and civil servants in order to develop the Action Plan for Self-Sufficiency in Northern New Brunswick, announced last January 23, as well as all information and correspondence exchanged with the federal government on the subject, before and after this January 23 announcement.

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Mr. Robichaud gave Notice of Motion 58 that on Friday, March 19, 2010, he would move the following resolution, seconded by Mr. C. Landry:

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 studies and research used to come up with the figures mentioned at the announcement of the new Action Plan for Self-Sufficiency in Northern New Brunswick, to the effect that \$600 million in investments are required and that 2,700 jobs will be created.

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Hon. Mr. Byrne, Government House Leader, announced that it was the intention of government that the House resolve itself into a Committee of Supply to consider the estimates of the Department of Environment, Department of Fisheries, Department of Agriculture and Aquaculture, and the Regional Development Corporation.

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

And after some time, Ms. Robichaud took the chair.

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

And after some time, Mr. Speaker resumed the chair, and Mr. Fraser, the Chair, after requesting that 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, had passed several items, 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.

The following are the items reported:

#### MAIN ESTIMATES, 2010 - 2011

##### ORDINARY ACCOUNT

##### DEPARTMENT OF FISHERIES

Resolved, That there be granted to Her Majesty a sum not exceeding \$4,675,000 to defray the expenses of the following program allocations for the fiscal year ending the 31st of March, 2011:

Management Services.....	516,000
Fisheries Development.....	3,212,000
Strategic Assistance.....	1,000,000
Less amounts authorized by law.....	53,000
Voted .....	4,675,000

##### DEPARTMENT OF AGRICULTURE AND AQUACULTURE

Resolved, That there be granted to Her Majesty a sum not exceeding \$36,098,000 to defray the expenses of the following program allocations for the fiscal year ending the 31st of March, 2011:

Management Services.....	5,246,000
Agriculture .....	26,625,000
Aquaculture .....	4,280,000
Less amounts authorized by law.....	53,000
Voted .....	36,098,000

##### CAPITAL ACCOUNT

##### DEPARTMENT OF AGRICULTURE AND AQUACULTURE

Resolved, That there be granted to Her Majesty a sum not exceeding \$400,000 to defray the expenses of the following program allocation for the fiscal year ending the 31st of March, 2011:

Marshland Maintenance.....	400,000
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LOANS AND ADVANCES

DEPARTMENT OF FISHERIES

Resolved, That there be granted to Her Majesty a sum not exceeding \$2,000,000 to defray the expenses of the following program allocation for the fiscal year ending the 31st of March, 2011:

Fisheries Loan Program.....	2,000,000
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DEPARTMENT OF AGRICULTURE AND AQUACULTURE

Resolved, That there be granted to Her Majesty a sum not exceeding \$6,100,000 to defray the expenses of the following program allocation for the fiscal year ending the 31st of March, 2011:

New Brunswick Agricultural Insurance Commission.....	1,600,000
Loan Programs .....	4,500,000

WORKING CAPITAL - MAXIMUM BALANCES

2010 - 2011 Voted

WORKING CAPITAL ADVANCES

Fisheries .....	100,000
Agriculture and Aquaculture.....	1,000,000

PETTY CASH ADVANCES

Agriculture and Aquaculture.....	24,000
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INVENTORIES

Agriculture and Aquaculture.....	2,000,000
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The said items were concurred in by the House.

And then 6 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:

Annual Report 2008-2009	
Ombudsman	March 12, 2010
Annual Report 2008-2009	
Regional Development Corporation	March 12, 2010
Documents requested in Notice of Motion 46	March 12, 2010