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No. 10

Friday, February 16, 1996.

8.30 o'clock a.m.

Prayers.

Points of Privilege

Pursuant to Standing Rule 10, Hon. Mr. Lee, the Member for Charlotte, rose on a Question of Privilege concerning certain remarks quoted in the *Telegraph Journal* of February 15.

Pursuant to Standing Rule 9(2), Hon. Mr. Valcourt, the Member for Edmundston gave notice of his intention to raise a question of privilege and to move the following motion, seconded by Mr. Mockler:

BE IT RESOLVED that the Standing Committee on Privileges determine whether or not part of the general public, that is the media and their advisors, were provided privileged advanced information on the government's proposed budget of February 15, 1996, and whether said groups were provided budgetary information and details of application of said budget policy that were denied to Members of the Legislative Assembly, and, if so, whether such conduct on the part of the government constitutes a breach of the privilege of the honourable members.

Standing Committee on Ombudsman

Mrs. Jarrett, from the Standing Committee on the Ombudsman, presented the First Report of the Committee for the session which was read and is as follows:

February 12, 1996.

To the Honourable

The Legislative Assembly of

The Province of New Brunswick

Mr. Speaker:

Your Committee on the Ombudsman begs leave to submit this, their First Report.

Your Committee met on Thursday, February 8, 1996 in the Legislative Council Chamber.

On motion of Ms. de Ste. Croix, Mrs. Jarrett was elected Chair of the Committee. On motion of Mr. Devereux, Mr. Olmstead was elected Vice-Chair.

And your Committee begs leave to make a further report.

(Sgd.) Laureen Jarrett, M.L.A.

Chairman.

Ordered that the Report be received, that leave be granted, and the Committee continued.

Standing Committee on Privilege

Hon. Mr. Frenette, from the Standing Committee on Privileges, presented the First Report of the Committee for the session which was read and is as follows:

February 16, 1996.

To the Honourable

The Legislative Assembly of

The Province of New Brunswick

Mr. Speaker:

Your Committee on Privileges begs leave to submit this, their First Report.

Pursuant to Standing Rule 99, the Clerk of the House convened a meeting of the Standing Committee on Privileges on Thursday, February 8, 1996, in the Legislative Council Chamber and presided over the election of a Chairman and a Vice-chairman.

On motion, Honourable Mr. Frenette was elected Chairman of the Committee, and Honourable Mr. Tyler was, on motion, elected Vice-chairman.

And your Committee begs leave to make a further report.

(Sgd.) Honourable J. Raymond Frenette.

Chairman.

Ordered that the Report be received, that leave be granted, and the Committee continued.

Bills Introduced

The following Bills were introduced and read the first time:

By Hon. Mr. King,

Bill 15, *An Act to Repeal the White Cane Act*.

Bill 16, *An Act to Amend the Family Services Act*.

By Hon. Mr. Graham,

Bill 17, *An Act to Amend the Crown Lands and Forests Act*.

Bill 18, *Endangered Species Act*.

By Hon. Mr. Duffie,

Bill 19, *An Act to Repeal the Fishermen's Union Act*.

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

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

By Mr. MacLeod,

Bill 20, *An Act to Amend An Act to Incorporate Atlantic Baptist College*.

Ordered referred to the Standing Committee on Private Bills.

Committee of the Whole

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

And after some time spent therein, Mr. Speaker resumed the chair and Mr. MacDonald, the Chairman, after requesting Mr. Speaker revert to the order of Presentations of Committee Reports, reported:

That the Committee had directed him to report the following Bills as agreed to:

Bill 3, *An Act to Amend the Boiler and Pressure Vessel Act*.

Bill 4, *An Act to Amend the Electrical Installation and Inspection Act*

Bill 5, *An Act to Amend the Elevators and Lifts Act*.

Bill 6, *An Act to Amend the Industrial Relations Act*.

Bill 7, *An Act to Repeal the Mobile Homes Act*.

Bill 8, *An Act to Amend the Plumbing Installation and Inspection Act*.

Bill 10, *An Act to Amend the Financial Administration Act*.

Bill 11, *An Act to Amend the Financial Administration Act*.

Bill 12, *An Act to Amend the Financial Administration Act*.

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

Bill 2, *An Act to Amend the Legislative Assembly Act*.

And the Committee asked leave to make a further report.

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.

Question of Privilege

Mr. Speaker invited the Leader of the Opposition, the Hon. Mr. Valcourt, to raise his question of privilege.

In stating his question of privilege, Hon. Mr. Valcourt submitted that the media and their advisors were provided with privileged advance information on the government's proposed budget of February 15, 1996, that was denied to the Members of the Legislative Assembly.

The Leader of the Opposition then claimed that it is a breach of privilege for the public to be privy to certain budgetary information while it is denied to Members of the House. The Leader of the Opposition contended that Members of the Legislative Assembly must be given the same opportunity as the media. In support of his submission, Hon. Mr. Valcourt quoted from *Beauchesne's Parliamentary Rules and Forms*, 6th Edition, citation 24 and 25:

24. Parliamentary privilege is the sum of the peculiar rights enjoyed by . . . Members of each House individually, without which they could not discharge their functions and which exceed those possessed by other bodies or individuals . . . privileges . . . are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members.

25. . . . Privilege is what sets Hon. Members apart from other citizens giving them rights which the public does not possess. . . .

In speaking to the question of privilege, the Government House Leader cited a 1969 precedent of Speaker Lamoureux in the House of Commons which dealt with a complaint that opposition party representatives were being denied the opportunity to receive confidential briefings on the budget prior to its presentation in the House by the Minister of Finance.

He noted that the decision before the House in that ruling was whether the decision by the Minister of Finance to deny party representatives access to advance budget briefings constituted a breach of parliamentary privilege.

The Government House Leader further submitted that the decision by the Speaker at the time was that, while it may well be that the whole practice should be reviewed, that cannot be done by way of a question of privilege.

Ms. Weir also spoke on the question of privilege and noted the practice currently used in the House of Commons for separate budget briefings: one for the media and their experts; one for the opposition parties.

Speaker's Ruling

Mr. Speaker delivered the following ruling:

Honourable Members, I want to thank you for your interventions; they certainly have been beneficial. I did have some time during the meeting of the Committee of the Whole to study this matter, with the able assistance of our Clerk, as well. From what I have heard here today, I think I can give a ruling now without having to delay this.

My feelings are that, in raising the point of privilege, the honourable Leader of the Opposition claims the possibility, at least, that the media were provided with privileged, advanced information on the government's proposal.

He further claims that Members were denied the opportunity to receive confidential briefings on the budget prior to its presentation in the House by the Minister of Finance, similar to the briefings provided to the media.

When a question of privilege is raised, the Chair must determine, firstly, whether there is a *prima facie* case of privilege, and secondly, that the matter is being raised at the earliest opportunity. I have no problem with the second point. The first one, concerning whether or not there is a *prima facie* case, is the question for me here. The Chair has been greatly assisted in resolving this question by a precedent to be found in the *Journals of Debates of the House of Commons*, (*Journals*, 3rd June 1969; *Journals* 26th of January, 1961); it may be the very same case that the honourable House Leader uncovered.

In that ruling, Speaker Lamoureux held that it has been long established that budgetary information is made available to the press, under the terms of the strictest secrecy, some hours before the same information is made available to the House. Speaker Lamoureux ruled that there is no *prima facie* right on the part of the House to insist that the government shall not give a summary of the budget information to the press prior to its presentation in the House.

I would also like to take this opportunity, on another level, to say that *Beauchesnes Parliamentary Rules and Forms*, sixth edition, page 13, 31(5), is also helpful here. It states that

Budget secrecy is a political convention, and if breached, the Minister may be attacked through a substantive motion, but not through a question of privilege. (*Debates*, April 19, 1983, p. 24649)

I think that that was also taken into consideration in some of the rulings that were given in the past, and these are the precedents that we have to base our rulings on here as well.

I would refer to two rulings of the House of Commons, found in the *Journals of Debates* of November 18, 1981, and April 19, 1983. Speaker Sauv held that the matter of budget secrecy is a political convention and, if breached, may be attacked through a substantive motion but not through a question of privilege.

This statement of principle is enunciated in citation 31(5) of *Beauchesnes Parliamentary Rules and Forms*, sixth edition, as I just mentioned. This principle has been consistently followed by Speakers of this House. Therefore, it is my decision to adopt the reasoning of Speaker Lamoureux and Speaker Sauv, under similar circumstances. I must therefore find that I am unable to deal with this matter as a question of privilege, but the member may, of course, present this matter through other means, by proposing a motion for which the required two days notice has been given.

You do have that option before you, honourable Leader of the Opposition.

And then, 12:21 o'clock p.m. the House adjourned.