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Daily Sitting 25

Tuesday, April 4, 2000.

1 o'clock p.m.

Prayers.

Mr. Speaker delivered the following ruling with respect to the Question of Privilege raised on Wednesday last by the Member for Shediac—Cap-Pelé:

STATEMENT BY SPEAKER

Last Wednesday, I deferred my ruling on a question of privilege raised by the Member for Shediac-Cap Pelé. In his statement, the Member argued that the Main Estimates tabled in the House on March 28 did not contain comparative data with respect to expenditures for the previous fiscal year and lacked comparative data for full-time equivalent positions for the two years, adversely affecting the ability of Members to have sufficient information for full and complete debate, as has been the tradition in this House. The Member concluded his remarks by giving the requisite notice of a motion calling on the House to direct the Minister of Finance to provide full comparative data for the previous year for all items in the Estimates for the fiscal year 2000-2001.

Standing Rule 9 (2) states that the Speaker shall not accept such a motion unless satisfied that there is a prima facie case that a breach of privilege has been committed and that the matter is being raised at the earliest opportunity. To satisfy the "earliest opportunity requirement", a question of privilege must be raised at the time the event occurred or the next sitting day. The Main Estimates were tabled in the House last Tuesday and the Member rose on the question of privilege the next sitting day which, in my view, was the earliest opportunity.

Before proceeding to the substance of the question of privilege, I wish to comment briefly on the points of order raised when I sought the advice of other Members. It is important to explain the process which I attempted to follow and which previous Speakers of this House and other jurisdictions consistently follow. When a Member rises on a matter of privilege, the Chair hears the complaint, which should be stated concisely and briefly. If another Member is directly implicated in this matter of privilege, the Chair may permit that Member to make a comment. The role of the Speaker is to determine whether there is a *prima facie* case of privilege, i.e., whether the matter should have priority of debate (or consideration). The Speaker may seek the advice of other Members on the matter, to assist in determining whether the complaint infringed on the Members' ability to perform their parliamentary duties. However, other Members may only speak on the question with the leave of the Chair. I thank the Members for their comments.

At this stage, it may be useful to review the nature of parliamentary privilege. Parliamentary privilege relates to the rights and immunities that belong to Parliament, its Members and others, which are essential for the operation of Parliament. These rights and immunities allow the Legislature to meet and carry out its proper constitutional role, allow Members to discharge their responsibilities to their constituents and allow others involved in the parliamentary process to carry out their duties and responsibilities without obstruction or fear of prosecution.

Privileges are generally categorized under five headings which are: freedom of speech, freedom from arrest in civil actions, exemptions from jury duty, exemptions from attendance as a witness, and freedom from molestation. Breaches of privilege involve the protection of the Members from impediments to their functioning as Members of the House.

I cannot find that any of the aforementioned privileges have been affected in the situation described.

Contempts, on the other hand, cannot be enumerated or categorized. Contempts are offences against the authority or dignity of the House. They include situations which cannot specifically be claimed as breaches of the privileges of the House. Contempt is defined in the 22nd edition of *Erskine May, Parliamentary Practice*, at page 108:

Any act or omission which obstructs or impedes either House in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as contempt even though there is no precedent of the offence.

It is impossible to categorize what may fall under the definition of a contempt. Generally speaking, actions which, while not breaches of any specific privilege, are offences against the authority or dignity of the House, such as disobedience of its legitimate commands, or libels upon itself, its officers or its Members.

The basis of the Member's complaint on which I have been asked to rule is the omission of certain financial information which was traditionally contained in the Main Estimates and, which the Member claims, is absolutely necessary for a full and complete debate. The matter relates to the financial procedures of the House and the business of supply.

The financial procedures followed in the Legislative Assembly derive from the British Parliamentary system. Under this system, the government is assigned the responsibility for preparing a comprehensive budget, proposing how funds shall be spent, and actually handling the use of funds. However, only Parliament, on the recommendation of the Crown, can impose taxes or authorize the spending of public money. All legislation sanctioning expenditure or initiating taxation must be given the fullest possible discussion, both in the House and in committee. This is one of the primary functions of the Legislative Assembly.

The Crown, on the advice of its Ministers, makes the financial requirements of the government known to the House by tabling the Main Estimates, which set out in detail the government's projected expenditures for the upcoming fiscal year. In this regard, the Crown, subject to any legislative requirements, controls the form in which Estimates are presented to the House. This principle is enunciated in Erskine May's *Parliamentary Practice* at page 744:

As the Sovereign is responsible for the presentation of the Estimates, the Crown, acting through its Ministers, controls, subject to the requirements of the Exchequer and Audit Departments Act 1866, the form in which they are presented. That role has devolved on the treasury as the chief financial department, responsible under section 23 of the 1866 Act for the form of the accounts of each spending department...

The Main Estimates provide a detailed listing of the resources required by individual departments and agencies for the upcoming fiscal year in order to deliver the programs for which they are responsible. The document identifies the spending authorities (votes) and the amounts to be included in subsequent Appropriation Bills that the Legislature will be asked to approve to enable the government to proceed with its spending plans.

Marleau and Montpetit's *House of Commons Procedure and Practice, Edition 2000*, describes the essential elements of the Main Estimates at page 728:

The Main Estimates provide a breakdown, by department and agency, of planned government spending for the coming fiscal year. The Estimates are expressed as a series of "Votes", or resolutions, which summarize the estimated financial requirements in a particular expenditure category, such as operations, capital or grants. The Votes are expressed in dollars amounts, the total of which, once agreed to, should satisfy all the budgetary requirements of a department or agency in that category, with the exception of any expenditures provided for under statutory authority. Each budgetary item, or Vote, has two essential components: an amount of money and a destination (a description of what the money will be used for). Should the government wish to change the approved amount or destination of a Vote, it must do so either by way of a "supplementary" Estimate or by way of new or amending legislation.

According to Marleau and Montpetit, the form and content of the Main Estimates in the Canadian House of Commons have been modified on only four occasions since Confederation: in 1938, 1970, 1981 and, most recently in 1997. In each instance, the impetus behind the reforms was a desire to improve the quality and utility of the information provided to Members of Parliament.

In New Brunswick, the form and content of the Main estimates has remained relatively consistent over the years. The comparative data which is not found in the present set of estimates, has traditionally been provided in one form or another since at least the early 1950s.

However, the essential elements that must be contained in the Estimates, namely, the amount of money required for each program or "Vote" and a destination - a description of what the money will be used for - can be found in the 2000-2001 Main Estimates.

The omission of comparative data from the Main Estimates document may constitute a legitimate grievance on the part of Members. However, I do not find that such information constitutes an essential component without which the Members could not carry out their parliamentary duty. Although such information undoubtedly proves valuable in assisting Members to understand and consider the expenditures they are being asked to support, such information can be obtained by other means.

As all Members are aware, there will be a full and open discussion of the estimates in the Committee of Supply, with ample opportunity for all Members to ask detailed questions of Ministers. The comparative and other information that is not contained in the Main Estimates could be requested at that time. In addition, members are free to file a tabling motion in the House.

Accordingly, I find that the matter raised fails to establish a *prima facie* case of breach of privilege which would merit the setting aside of the regular business on the Order and Notice Paper.

My ruling, however, does not prevent the Member from presenting this matter as a Private Member's Notice of Motion.

Mr. S. Graham gave Notice of Motion 106 that on Tuesday, April 11, 2000, 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 documents, including but not limited to memos, letters, correspondence, electronic mail, minutes of meetings, reports since June 21, 1999, regarding the privatization of veterinary services.

Mr. S. Graham gave Notice of Motion 107 that on Tuesday, April 11, 2000, he would move the following resolution, seconded by Mr. Richard:

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 documents, including but not limited to memos, letters, correspondence, electronic mail, minutes of meetings, reports, since June 21, 1999, regarding the current restructuring of government.

Hon. Mr. Green announced that it was the intention of government that following Private Members' Motions, the House would resume the adjourned debate on the motion that this House approves in general the budgetary policy of the government.

Before Orders of the Day, Mr. C. Thériault rose and moved,

Pursuant to Standing Order 45(1), that the House do now adjourn for the purpose of considering urgent critical matters arising from the government's announcements last week affecting farmers, fishermen and the public and the Department of Agriculture and Food and the Department of Fisheries and that the House urge the government to rescind the dismissal or redeployment of employees of the two departments, and their proposed amalgamation, and that this House further urge the government to immediately propose to the Legislature the establishment of a Royal Commission to receive public input and report to this House on the full impact that the amalgamation, dismissal and redeployment of the departments' employees would have on agriculture, fisheries, public health, the environment and food production in the Province of New Brunswick.

Mr. Speaker delivered the following ruling with respect to Mr. C. Thériault's motion for an emergency debate:

STATEMENT BY THE SPEAKER

The Honourable Leader of the Opposition has asked leave to introduce a motion asking for an emergency debate for the purpose of considering urgent critical matters arising from the government's announcements last week affecting farmers, fishermen, and the public. The request came to my office in the time required by the Standing Rules. Since notice was received this morning at 11 o'clock a.m., I have had an opportunity to review the issues raised by this request.

I want to thank the Honourable member for raising this important matter. Pursuant to Standing Rule 45(1), a Member may move a motion for the adjournment of the House for the purpose of discussing a specific and important matter requiring the urgent consideration of the House. Although the issues raised are clearly of importance to New Brunswickers, in the opinion of the chair, the matter proposed for discussion does not satisfy the requirements of Standing Rule 46, in particular paragraphs (a) and (f). The matter does not relate to a genuine emergency and could be dealt with by way of a motion giving due notice. I feel that an emergency debate on this issue is not warranted today, but there are other means of pursuing the issue, if the member so wishes.

Debate resumed on Motion 2, moved by Mr. C. Thériault, as follows:

WHEREAS over the past several years a climate of economic confidence has been developed in New Brunswick through the cooperative efforts of governments at all levels, communities, entrepreneurs and the citizens of this Province;

WHEREAS this climate of confidence has prepared us better to participate in the global community;

WHEREAS this climate of confidence is jeopardized by this government's inaction and general paralysis in each area of government responsibility,

BE IT THEREFORE RESOLVED THAT this Legislature urge the government to build on New Brunswick's climate of confidence, by immediately setting forth an agenda on economic development, tourism, job creation, transportation, education and health care.

And the debate being ended, and the question being put, Motion 2 was negatived on the following recorded division.

YEAS - 10

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| Mr. Blanchard | Mr. B. Thériault | Mrs. Mersereau |
| Mr. Allaby | Mr. Haché | Mr. Richard |
| Mr. C. Thériault | Mr. S. Graham | Ms. Weir |
| Mr. Lee | | |

NAYS - 37

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|-----------------------|---------------|---------------|
| Hon. Mr. E. Robichaud | Ms. Poirier | Mr. Jordan |
| Hon. Mr. Green | Mr. Cosman | Mr. Landry |
| Hon. Mr. Mockler | Mr. Carr | Mr. Laforest |
| Hon. Mr. Furlong | Mr. Weston | Ms. Keddy |
| Hon. Mr. Mesheau | Mr. Malley | Mr. Huntjens |
| Hon. Mr. MacFarlane | Mr. Stiles | Mr. Savoie |
| Hon. Mrs. Jardine | Mr. MacDonald | Mr. Cyr |
| Hon. Mr. Sherwood | Mr. Forbes | Mr. Ashfield |
| Hon. Mrs. MacAlpine | Mr. Holder | Mr. MacKenzie |
| Hon. Mr. P. Robichaud | Mr. Kinney | Ms. Crossman |
| Hon. Mr. N. Betts | Mr. McGraw | Ms. Dubé |
| Ms. Fowlie | Mr. Steeves | Mr. Alward |
| Mr. LeBlanc | | |

Hon. Mr. Green noted the presence in the gallery of Mr. Hazen Myers, Progressive Conservative Member for Kings East (1982-1987) and (1991-1995).

Mr. Richard rose on a Point of Order, his point of order being that the government had not been respecting the precedents of the House by making announcements of government policy and initiatives outside the House while the House was in session.

Several Members spoke on the point of order.

Mr. Speaker ruled that although the Member had raised a valid point, he had ruled previously that such incidents did not technically amount to points of order, but rather involved a matter of courtesy and tradition. Mr. Speaker stated that Members should, as much as possible, strive to protect the integrity of the House and its Members.

Mr. Richard requested the unanimous consent of the House to withdraw Motion 3 which, he submitted had become moot, and unanimous consent was denied.

It was agreed by unanimous consent that Mr. Richard be permitted to amend his own motion and to recess the House for five minutes to allow time for drafting or preparation of the amendment.

At 3.31 o'clock p.m., Mr. Speaker declared a recess.

Mr. Speaker resumed the chair.

With leave of the House, Mr. Richard, seconded by Mr. Lee, moved the following revised resolution:

WHEREAS New Brunswick's tourism industry has been growing at a record pace over the last number of years;

WHEREAS this success is largely due to the active participation of thousands of New Brunswickers who are directly involved in the tourism industry;

BE IT RESOLVED that the Legislative Assembly urge the Government to maintain the previous level of support for the tourism industry of New Brunswick.

And the question being put, a debate ensued.

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

Mr. Speaker, at the request of Hon. Mr. Green, reverted to the Order of Government Motions for the Ordering of the Business of the House.

Hon. Mr. Green moved, seconded by Hon. Mr. Robichaud: (Motion 108)

THAT when the House adjourns on Friday, April 7, 2000, it stand adjourned until Saturday, April 8, 2000, at 9 o'clock a.m.

Mr. Speaker set the motion over for consideration until Friday, April 7, 2000, since it was the type of motion requiring two days notice before it could be considered.

The Order of the Day for resuming the adjourned debate on the motion (Motion 77),

That this House approves in general the budgetary policy of the government, having been read,

The debate was resumed.

And after some time, on motion of Hon. Mr. Green on behalf of Hon. Mr. Furlong, the debate was adjourned over.

And then, 6.00 o'clock p.m., the House adjourned.