



STANDING COMMITTEE ON PRIVILEGES

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STANDING COMMITTEE ON PRIVILEGES

Hon. Corey Tochor, Chair
Saskatoon Eastview

Mr. David Forbes, Deputy Chair
Saskatoon Centre

Mr. Greg Brkich
Arm River

Hon. Ken Cheveldayoff
Saskatoon Willowgrove

Mr. Delbert Kirsch
Batoche

Mr. Paul Merriman
Saskatoon Silverspring-Sutherland

Mr. Randy Weekes
Biggar-Sask Valley

[The committee met at 17:15.]

The Chair: — Good evening. I call this committee to order. Today we're to review the reference that the Assembly has put forward for this committee. And first off I'm going to introduce the members that have joined us this evening and for their substitutions.

With us today we have substituting for Randy Weekes is Dan D'Autremont. For Paul Merriman, we have Jeremy Harrison. Ken Cheveldayoff is also a member of this committee. Delbert Kirsch is another member, Greg Brkich. And on the opposition we have Nicole Sarauer, Warren McCall, and David Forbes. And today we will have two witnesses, Cathy Sproule and George Soule.

And I'll open up the committee if anyone has opening statements. I recognize Ken Cheveldayoff.

Hon. Mr. Cheveldayoff: — Thank you very much, Mr. Chair, and good afternoon to committee members. Yesterday the member for Saskatoon Centre provided the committee with an opening statement to provide some context before today's deliberations. I want to thank the member for his reasoned remarks, and I'd also like thank him for providing me with a copy of his remarks following yesterday's meeting. I'd also like to state for the record that there is no debate that the member for Saskatoon Nutana, via the opposition caucus office, released embargoed 2016-17 budget information prior to the Minister of Finance rising in the Legislative Assembly on June the 1st.

The Leader of the Opposition, the Opposition House Leader and the member from Saskatoon Nutana all acknowledged that this budgetary leak happened in their remarks on June the 1st. These acknowledgements can respectively be found on pages 241, 245, and 255 of *Hansard*.

It is true that previous Speakers of this Assembly and previous Speakers of the House of Commons have maintained that budgetary secrecy is a matter of parliamentary convention rather than one of privilege. This is why the early release of the 2016-17 budget information was raised as a matter of contempt rather than one of privilege.

House of Commons Procedure and Practice states on page 62, and I quote:

Any conduct which offends the authority or dignity of the House, even though no breach of any specific privilege may have been committed, is referred to as a contempt of the House. Contempt may be an act or an omission. It does not have to actually obstruct or impede the House or a Member; it merely has to have the tendency to produce such results.

It goes on to state on page 82 that, and I quote:

There are, however, other affronts against the dignity and authority of Parliament which may not fall within one of the specifically defined privileges. Thus, the House also claims the right to punish, as a contempt, any action which, though not a specific breach of privilege, tends to obstruct

or impede the House in the performance of its functions; obstructs or impedes any Member or officer of the House in the discharge of their duties . . .

Mr. Chair and members of the committee, it is clear that the act of releasing embargoed budget information has the tendency to produce results that could negatively impact or impede members in the discharge of their duties. Therefore the House rightly determined that the pre-emptive release of the budget information constituted contempt of the Assembly. In his ruling the Speaker stated in regard to the use of technical briefings or lock-ups that, and I quote:

In the past when access has been denied, the Speaker permitted privilege cases to proceed. It's appropriate then, if a serious matter when a member is denied access to the briefs, that a breach of embargoed conditions by a member should be treated with equal seriousness.

This is indeed a serious matter. It is imperative for both the opposition and the government that there remains a strong respect for embargo guidelines. Embargoes are an effective tool for both sides of the House. In his remarks yesterday, the member for Saskatoon Centre stated that:

. . . our Speaker's ruling sets an extraordinary new precedent for matters of budgetary secrecy, the novel nature of its finding of contempt should be carefully considered when determining a remedy.

House of Commons Procedure and Practice states on page 83 that, and I quote:

The House of Commons enjoys very wide latitude in maintaining its dignity and authority through the exercise of its contempt power. In other words, the House may consider any misconduct to be contempt and may deal with it accordingly. This area of parliamentary law is therefore extremely fluid and most valuable for the Commons to be able to meet novel situations.

This committee is indeed faced with an extraordinary and novel situation. This is the first time in the digital age that the opposition caucus member has released embargoed information via an email that went to possibly thousands of people across the province and throughout the country.

The last time that embargoed budget information was leaked, it was done through an inadvertent fax. When embargoes have been breached previous governments, and our government, have taken action and imposed penalties on the offending parties. For instance, when Global News broke the 2010 budget embargo, it was determined that they would be subject to a six-month suspension from receiving any embargoed budget information. In 1999, when a Liberal staff person broke the budget embargo, the NDP [New Democratic Party] government at the time responded by unilaterally banning the Liberals from all embargoed events and barring the staff person from attending any government news releases held in the legislative radio room.

Mr. Chair, we chose to take a different path. Instead of

unilaterally imposing a remedy on members of the opposition, our members chose to allow the House to decide. We take hon. members at their word, and yet it is important to remind members that the House is indeed its own court of law.

Mr. Chair and members of the committee, we are simply here to get the facts of the matter and to ensure that the early release of any embargoed information does not happen again. Thank you, Mr. Chair.

The Chair: — Thank you. At this time, I'm going to call Ms. . . . Sorry, go ahead, David.

Mr. Forbes: — If I may, just a quick response. And I want to thank the member opposite for his thoughtful response outlined today. And we agree completely; this is a serious matter and it's one that we don't want to see happen again. And so I want to thank the government side for their words today. Thank you.

The Chair: — Thank you, David. At this time, we're going to call Ms. Sproule and Mr. Soule to the witness table please. Before we entertain questions, if there is any opening remarks from either Ms. Sproule or Soule. Am I pronouncing that correctly?

Mr. Soule: — Yes, we're both the same. Okay, yes, both the same pronunciation, so Sproule and Soule.

The Chair: — I'll open the floor to questions now . . . [inaudible interjection] . . . If you have opening remarks, I thought you passed on it, but that's all right. If you have opening . . . Do you have opening remarks that you would like to make to the committee?

A Member: — Yes, both I guess.

The Chair: — All right then.

Ms. Sproule: — Thank you very much, Mr. Speaker. Thanks to the committee for assembling today. I just want to make a quick statement as in terms of what's been alleged in the House and to inform the committee members of my actions on budget day, June 1. We hosted an embargoed press release, press conference in our room, 255. Following that I reviewed and approved an embargoed press release, and that's the extent of my involvement in this matter.

The Chair: — And Mr. Soule.

Mr. Soule: — All right. So on Wednesday, June 1, several members of our staff attended an embargoed briefing in the morning and undertook to prepare our embargoed press conference as well as the press release. Following the Finance minister's embargoed press conference, our embargoed press conference was held at approximately 11:15. All journalists were required to sign in to the press conference and confirm that they understood the information was embargoed. In both the invitation and at the press conference, reporters were reminded that the contents of the press conference were under embargo until the Finance minister began to present the budget in the House at approximately 2:15.

Following the press conference, the press release was finalized,

approved by me, and then the Finance critic, the member from Nutana. Then it was sent out. The intention was for it to be sent exclusively to the list of journalists who had signed into our press conference. Unfortunately it was sent to a different list. This list contains primarily media and at some point was open for individuals to add themselves. As was already submitted as evidence by the government, some of those people are employees of the government, including some who had used Gmail accounts and some who openly used their government staff emails.

I will now add my apology to that of the House Leader, our leader, and the member. I apologize for this error. It was a simple mistake, but not one that anyone in our caucus or our staff takes lightly.

Shortly after, our office received a call from an employee of Executive Council to tell us that they saw the release had been sent out. I missed the call, but was informed of it. I immediately informed the House Leader, who at the first opportunity stood in his place and apologized. Later I prepared a memo outlining the new policy for the distribution of embargoed press releases in response to embargoed documents. I'll now read that memo for the record. So this is a memo that was sent to the staff dated June 1st:

Hello everyone. Please be advised that, as of today, distribution of all embargoed press releases responding to documents or information received under embargo is to be done exclusively by distributing physical copies to only those journalists who have confirmed in writing that they have signed commitments to respect the embargo imposed by the government, ministry, organization, or agency.

Distribution of the physical copies must be approved in writing by the leader or the appropriate critic and the director of communications or the chief of staff. No other form of distribution, including email or fax, is to be used for embargoed press releases responding to documents or information received under embargo.

And I go on to say:

If you have any questions about the policy, please do not hesitate to contact me and I'll be happy to provide clarification.

Thank you for the opportunity to speak. I look forward to your questions. The one further piece of clarification that I was going to wait for questions, but since it was noted earlier, I will say that the wrong list used a program called MailChimp, which tracks when emails are opened and after they're distributed. Unfortunately, in the haste of trying to resolve this issue and discuss the issue with the caucus members, I did not do a screen capture prior to 2:15 on June 1st, but as of Monday — so two days ago — 124 people had opened the email. So from the time it was distributed until two days ago, 124 people, primarily journalists. But again not to take away anything but just to clarify the number that's been passed around — 124. And I have the screen capture here. Thank you very much.

The Chair: — Thank you, Mr. Soule. Now we'll open it up for questions. I recognize Jeremy Harrison.

Hon. Mr. Harrison: — Yes, thank you. Thank you very much, Mr. Speaker. And thank you to the member for Nutana and to Mr. Soule for the presentation. It is appreciated. I do have some follow-up questions though with regard to those submissions.

So I just want to clarify. So the intention had been to send the embargoed release to only the journalists that had been at the embargoed press conference, but it was sent to another list. Sorry, could you just clarify what the other list was to which it was sent?

Mr. Soule: — As I stated in my statement, it was a different email list with some journalists on it as well as others who had at one point in time were . . . People were able to add themselves, which is how government employees were included on that list. And as I said, as of two days ago 124 people had opened that.

Hon. Mr. Harrison: — So was this the general list that you would send, you know, any sort of press release that the caucus put out? Would that have been the email list to which this was sent?

Mr. Soule: — No.

[17:30]

Hon. Mr. Harrison: — So this was a separate list and you just said that, you know, at one point individuals could just sign up to that. Would that have been when they, you know, visited your caucus website and they're prompted to put in their email address if they'd like information? Would that have been how certain, you know, individuals would have been on that mailing list then?

Mr. Soule: — That is actually unclear.

Hon. Mr. Harrison: — Well I'm just having a bit of a challenge in understanding because I know . . . You know, if you're to go to, say the Sask caucus website, for instance, right, you have the option of putting in your email address if you are looking to receive information or press releases or that sort of thing, you know, which leads to . . . A substantial number of people end up on those mailing lists. So, you know, I guess it's a bit surprising that only 124 would have been on the caucus mailing list if it was a non-journalist mailing list.

I guess I'm just a bit confused as to, if that wasn't the case people at one point could have signed up that way, but they can't now sign up that way or that they're not on that list if they sign up that way now. How it would have ended up in, you know, folks who had signed up who were government employees who had signed up for whatever reason to keep track of what caucus was sending out, how they would have ended up on that list but not kind of your average supporter of the New Democrat caucus.

Mr. Soule: — That's because this was not the broader list to which people can sign up, which is considerably lucky.

Hon. Mr. Harrison: — Right. Well you know I hope I'm not being obtuse here, but I'm just trying to determine how this list came to be. I mean, do you have 20 different email lists that you

send information out to? Do you have two? Do you have three? I mean how is it possible that you are able to . . . or how is it that it just went to this limited list but not to the general non-media list?

Mr. Soule: — Because it was never our intention, so the others are labelled differently. It was never intentioned to send it out to a broader list or to our normal media list. And so the wrong list was chosen.

Hon. Mr. Harrison: — So how are these lists labelled then? Was this list labelled, you know, journalists who . . . I mean, I don't know. How was this list labelled differently than your general supporter list, which you'd have had thousands of names on?

Mr. Soule: — The labelling is done differently.

Hon. Mr. Harrison: — Okay. Well I'm just trying to determine here how it was only to this one particular list. What was the label on this list? Why was it this list selected to send this information to when it wouldn't have been a broader list or journalist list or other non-media list or one of the other, you know, 20 or 30 different lists? I mean how many do you have?

Mr. Soule: — I guess it's my turn to hope I'm not being obtuse but I have a screen capture of it showing 124 people have opened it. The list is titled list media. It is not one that we use any longer and it was chosen in error, as has been noted several times, and again I apologize for.

The Chair: — I recognize Ken Cheveldayoff.

Hon. Mr. Cheveldayoff: — Thank you, Mr. Chair. I use MailChimp myself in my constituency office so I have some knowledge of how it works. You've mentioned a number of times that 124 people opened it. And I know MailChimp tells you how many are on your list and how many open it. So can you tell us how many in total were on the list, those that opened it and those that didn't open it?

Mr. Soule: — Well again, on the screen capture that I am making available here it says 250 recipients were on the list. So 49.6 per cent opened it, which is 124.

Hon. Mr. Cheveldayoff: — So 256. Is that correct? . . . [inaudible interjection] . . . Sorry?

Mr. Soule: — 250.

Hon. Mr. Cheveldayoff: — 250.

Mr. Soule: — And 124 opened it.

Hon. Mr. Cheveldayoff: — 124 opened it. So it's fair to say that's the entire list then, is 250.

Mr. Soule: — That's correct. But again, as you know, MailChimp follows these things, so only 124, as of six days after it was sent out, opened it.

Hon. Mr. Cheveldayoff: — Yes. I just want to establish what the entire . . . the size of the entire list. And it sounds to me that

it's 250 people, of which approximately half have opened it. Now you have then the information on exactly each one of those 250 people. Can you tell us how many would be out of province and how many would be in province?

Mr. Soule: — No, I don't have that information. I mean I have email addresses, but I don't know their addresses.

Hon. Mr. Cheveldayoff: — But you do have information on each and every one of those 250 people, correct?

Mr. Soule: — Their email addresses.

The Chair: — I recognize Jeremy Harrison.

Hon. Mr. Harrison: — Yes. Just kind of on, not on this same exact topic, but with regard to your intention in the matter, which you said was to send an email to, an embargoed email to only the journalists who had been at your embargoed press conference, how did you . . . Did you collect the list of email addresses from the journalists when they were there? Did you collect their names and have their names in a database of some sort? I just kind of find it strange that you would have a distribution list of only the journalists who would have attended the press conference itself.

Mr. Soule: — Well as I said in my remarks again, we had people sign in. We obviously have the email addresses of journalists so a list was created and was intended to be used, and the wrong list was clicked on. So as I said . . . and I have that here. I don't have copies, unfortunately, but just to show the list of the journalists who did sign in. And so a list was created with that, and the wrong one was clicked on.

Hon. Mr. Harrison: — So you're saying that you wouldn't have intended to send out the embargoed briefing to your entire media list?

Mr. Soule: — Of course not. We intended to send it out at 2:15-ish. And certainly that would have been ready to go once it was no longer embargoed.

You know, we went through several steps to try to make sure the embargo was respected. Obviously we are here because an error was made, and again it's been apologized for. And that is why we went to the lengths, under direction of the caucus, the leader, and the House Leader, and through discussions, to implement a much more rigid and stringent process so that they're only done in paper copy. And so this won't happen again.

I mean as much as it sounds . . . I see you struggling with how silly it was in some ways, just like, how could it possibly be a different list? Well this is a problem and that's why we won't do this anymore.

Hon. Mr. Harrison: — So how many journalists attended the embargo that would have been getting the email?

Mr. Soule: — Sorry, I'm just going to count. Twenty-seven.

Hon. Mr. Harrison: — So your intention then was to create a separate email list for those 27? I'm just kind of wondering why

you wouldn't have just, you know, bcc'd it all to them in a single email rather than creating an email list to which you could have selected one or another and then hit the wrong one.

Mr. Soule: — Well again, a mistake was made. There was an attempt to make it more efficient and we failed at that, clearly. Which is why, again, we won't do this ever again. Which is why . . . And again, the memo, I'm happy to distribute following the meeting to show our policy. I think most internal policies we will keep internal but this one, obviously there's a reason for it to be shared here, and how serious the caucus and the staff take this matter.

Hon. Mr. Harrison: — Well, I appreciate that. I mean, in terms of the new policy, how you describe the new policy, that seems appropriate to me in terms of a physical copy, I guess. I mean your explanation is that you were, you know, looking to put a new system in place in terms of how you distributed it as opposed to just giving a physical copy at the embargo. Or did you create the embargo to release subsequent to the press conference?

Mr. Soule: — Yes. Again as I said in my opening remarks, the release was completed after the media availability by the member. Partly it was just to, you know . . . Still going through and seeing what other interests were being brought up in the availability itself.

Hon. Mr. Harrison: — So was the email distributed by a member of your caucus office? And I'm not going to ask for the individual name of the person who did it, but was it a caucus office staffer from the caucus office who hit the wrong button in distributing this? Or was it done through a third party?

Mr. Soule: — It was a staff member within our caucus. But again to clarify . . . And I appreciate you won't ask for the name but you know, as chief of staff I take responsibility for the actions of our staff.

The Chair: — I recognize Greg Brkich.

Mr. Brkich: — You said two days later is when you checked and 124 had opened it, roughly. I forget . . . It was Monday when you checked to see. Okay, sorry, Monday, a few, quite a few more days later. Out of them 124, did any of them reply back? And do you have a time that they replied back to you?

Mr. Soule: — No, there was no reply. And I will say that, again for those familiar with MailChimp, if you have a larger campaign . . . In fact I have now learned more about MailChimp than I knew a week ago. But if it's over 10,000 there is a function in which you can cancel what they call a campaign, which is a mass email list. Obviously at 250 it's somewhat below 10,000, so that function isn't available. So had it been a large list, over 10,000, we could have, as soon as we were made aware, hit a button and cancelled the email. With such a small list that isn't possible.

We did look. And I didn't present that number earlier because frankly, I don't remember for sure. I believe when I was checking, as it got closer, we were somewhere in the few dozen, or couple dozen, but I don't remember exactly a number and I don't want to mislead this committee. So that's why I brought

this, because it was on Monday when I thought, hey we should get a screen capture of this to prove that number. And while it's quite late, I think it still demonstrates . . . Not to take anything away from the severity of the leak in and of itself, but just a note that it is not in the thousands. It's 124 people, even five days later or whatever that is, that got the email.

The Chair: — Ken Cheveldayoff.

Hon. Mr. Cheveldayoff: — Thanks very much, Mr. Chair. Now you'd mentioned off the top that you have several different email lists that you use. Are they all done by MailChimp or do you use a third party for some of them?

Mr. Soule: — I guess the answer's no to both of your questions. We do have some email lists that we use in different ways, so through bcc's, as was suggested, for our general media list. We do that, sent out from a staff person's email account to send them out that way.

As has been noted in the House a couple times, I'm new here, so I am working through those processes and was looking forward to the House not sitting to get into more of the detail on how these work, which is partly why I can't answer more in detail how this list was created, the MailChimp one. But yes, we do have our general email list, as journalists would be aware, comes from one of our staff people, and their emails are bcc'd. Beyond MailChimp we do not use a third party.

Hon. Mr. Cheveldayoff: — Okay. I'd seen during the election and subsequent to the election a company called cStreet that does some of your work. So they had no involvement with your lists or anything in that manner.

Mr. Soule: — The party did have. Or actually I'm not sure of the current relationship, but during the campaign the party, as opposed to the caucus, did have a relationship with that company, but we do not.

Hon. Mr. Cheveldayoff: — All right, so I'm clear then in that you solely use MailChimp or the bcc process of distributing to all the list that you referenced earlier.

Mr. Soule: — And now the printer. And now the printer for the hard copies.

Hon. Mr. Cheveldayoff: — Okay, yes. All right.

The Chair: — Dan D'Autremont.

Mr. D'Autremont: — Thank you. I'm pleased to hear from the chief of staff that he takes responsibility for the actions of his staff. And yet, Ms. Sproule, you have stated that while you signed the release documents, that you are not responsible for any subsequent actions taken, even though they were released under your name and you signed the oath not to release such information. Isn't there a double standard there between your acceptance of your responsibility in this case and the responsibility that your chief of staff has voiced?

Ms. Sproule: — I'd like to thank the hon. member for his question. I absolutely accept responsibility for what happened because my name was on it, and I don't think I ever said I

didn't accept that responsibility. In fact I apologized in this very Assembly for the fact that it happened. So I'm not sure if that answers your question, but I never once have denied responsibility, and I fully accept responsibility that this happened.

[17:45]

Mr. D'Autremont: — In your earlier statement, you made the comment that you had signed the release, but that you weren't responsible for the subsequent actions that took place.

Ms. Sproule: — If that's what I said, what I meant to say was that I wasn't aware of how it came to be distributed to the wrong list. I would like to apologize once again if I misled the committee in any way.

Mr. D'Autremont: — The time on the news release, and it's been corroborated here by the chief of staff, that it was to be released at 2:15 p.m. The Minister of Finance was not on his feet at 2:15 p.m., so wasn't it a bit presumptuous of you? Or was it a planned release that was going to take place regardless of whether or not the Minister of Finance was on his feet at 2:15? Because on the statement that you have made, it was you planned to make that release at 2:15.

Mr. Soule: — I apologize if I was less clear . . . [inaudible] . . . but in my statement I said approximately. So there was no timer set, and in fact it would have been a separate distribution because again that would have been a separate distribution list that, had everything been going fine . . . and I will note that we actually ended up not sending out the press release until the following day, or two days later, to make sure that we had kind of gotten through some of this.

But the plan was to then use our normal email list through the bcc process to send it out once the minister stood. I'm saying approximately, and I was saying approximately 2:15 because that is approximately when it would have happened. But there was no timer set, it was not . . . It would have been visually watching the Finance minister stand up, the embargo lifted, and then we would have sent it out.

Mr. D'Autremont: — Thank you. I'm going to offer a hypothetical, and you can choose to answer or not answer as the case may be, but if a member of the Bar were to enter into a condition of trust, as set out in a document signed by the lawyer involved in which the lawyer subsequently breached that condition of trust, would there be any ramifications for that lawyer? Would that place said lawyer in a breach of trust? If it was determined that it was a breach of trust, what kind of remedies might the Law Society impose and what would be the likely remedy that the Law Society might impose?

Ms. Sproule: — Thank you very much for the question. To the member, that question really has nothing to do with the matter at hand, and I think I'd have to do a lot of legal research on it before I could give a proper answer, but it's irrelevant to what we're talking about right now.

Mr. D'Autremont: — Well we have an undertaking by the members of this House to hold in confidence the budget, a oath not to release it, and a condition of trust. If it was released by a

government member, there would certainly be calls for certain actions to take place, just as if a lawyer was to release information being held in trust, there would be certain calls for actions to take place.

I think there is some equivalency between the conditions set here for confidentiality that were breached, and this committee is the one that is charged with determining whether that breach took place and what the remedy might be. And so perhaps I could ask one of our officials at the table, who might be familiar with the Law Society, if there was a breach of undertaking of a trust by a member of the bar, what potential ramifications would there be?

The Chair: — I recognize David.

Mr. Forbes: — I would say that — not to be confused with other people, the first name — I just have to say in terms of the question, that might be a question for the committee later, and we can ask. But I think to draw in the witnesses on that, I think the committee . . . The witnesses are here to talk about the events of that day, and they weren't asked to speculate on other things. And that was what the realm of their discussion was: what happened that day? And this is going beyond what happened that day.

The Chair: — Thanks, Mr. Forbes. I'm going to let Ken Ring answer that question, but along that trail of thought, I don't want this to be a drawn-out affair where we're going to be in committee again and again and again. So if there's some specific questions that the member has, I'll let Ken briefly respond.

Mr. Ring: — Mr. D'Autremont, my remarks will be specifically to your question, and it will be in terms of two lawyers interacting with respect to trust conditions which would be . . . Well, I'll just leave it at that. It's very specific to two lawyers engaging in trust conditions.

Generally this happens with real estate transactions, and when a lawyer sends something to another lawyer, they can send it under what are called trust conditions. When the other lawyer receives the trust conditions, that lawyer can decide not to accept the trust conditions if they feel they cannot fulfill them. And if that's the case, then there are no trust conditions.

However if the lawyer receiving them does adhere to the trust conditions, then they are bound to maintain those trust conditions. If they do not, if they cannot abide by the trust conditions, they ought not have accepted the trust conditions at the time. They could have negotiated other ones.

However if the trust conditions are breached, the other lawyer may bring that issue to the Law Society for determination. It will go initially to a complaints committee. They will decide if there is something sufficient enough to deal with the situation. Once that happens, it will go to a professional discipline committee who will investigate the facts and decide what disciplinary action ought to occur.

That's strictly with respect to interactions between lawyers is when the Law Society becomes involved. And the range of discipline can be quite broad but, with respect to trust

conditions, it generally is in the lower end of the scale.

The Chair: — Thank you, Ken. Any other questions? Jeremy Harrison, please.

Hon. Mr. Harrison: — Yes, not so much a question, I just want to thank members for, well the member for being here and the chief of staff for being here as well. And I know the member well and I know her to be an honourable member and I appreciate her forthrightness in presenting to the committee. I appreciate the answers, which I believe to have been honestly proffered by the chief of staff and the member as well.

As all members realize, this is a serious matter and we've, you know, approached it in a serious fashion. As government, we have only on two occasions put or advanced matters through privilege applications, which is how contempt is brought, and we treat this is in a very serious way.

When it comes to budget matters, I mean this is a very serious matter. And it's a bit of a dilemma frankly for government members in that, you know, we have an overriding responsibility to maintain the secrecy of budget documents for a number of reasons. I'll get into that in a second, but we have that responsibility as government. But there is a very real obligation as well on the part of our entire House such that the opposition are in a position to criticize and to propose and to make informed intervention with regard to embargoed material. So that's why we believe it to be appropriate and necessary for the official opposition to be fully informed of budget matters prior to the Minister of Finance rising in the Assembly to deliver this.

And you know, in terms of the reason, I mean, I think some watching or perhaps who have read a bit about this may see this as being a technical or esoteric or kind of legalistic sort of matter. It really isn't. What this really comes down to is protecting the taxpayer. This isn't about the government. It's not about the opposition. If budget matters are released publicly prior to, or known generally prior to the Minister of Finance rising to deliver a budget, if there were to be royalty changes, if there were to be taxation changes, the taxpayer of the province could literally be on the hook for millions of dollars. Which is why there has been a convention historically if there have been significant budget leaks the Minister of Finance has been expected to resign his position.

It's the same reason why this matter has been brought before the committee because of the seriousness of the potential implications for taxpayers. It's not about us. It's not about the opposition. It's not about the member here. It's about protecting taxpayers and protecting that revenue for government. So you know, if there had been a leak from government, I have little doubt that we would have heard calls for the resignation of the Minister of Finance from across the spectrum.

So I mean, these matters are taken very seriously. In Saskatchewan, we've historically operated on the honour system. I know the chief of staff would know that in Ottawa there's actually a budget lock-up for media where they're not even allowed to leave or communicate out of it until the minister rises. And you know, our honour system has worked pretty well historically, and that's why we've continued along

with it with only two occasions. The House Leader had canvassed those two occasions: 1991, where there had been a leak from the Liberal caucus at that time who had inadvertently faxed out a copy of budget materials, and there was a severe penalty that had been imposed by the government. We've chosen to advance the matter through the House, which I think is the appropriate form, as opposed to the government imposing a penalty. That penalty was banning the caucus from all embargoed materials for a period of a year, and the staffer responsible for the leak personally had been banned from all government news conferences and media events, all of them. So that had been the penalty at that point.

In 2010 . . . We've canvassed as well the Global News matter where elements of the budget had been posted prior to the actual release of the budget. The penalty at that point . . . It wasn't a caucus or a member responsible for it, but there had been discussion, you know, within government and some canvassing of gallery opinion as well, and a penalty of six months or, sorry, a six-month prohibition from embargoed material was seen as being appropriate. So there have been . . . Those are the two precedents that we have in kind of the modern era.

You know, the difference here is that in 1999 the Liberal caucus wasn't the official opposition and there were three parties in the House, so there was still the opportunity at that point for the government to be held to account by the official opposition. In this instance it's different in that we only have two parties in the House, and the official opposition, you know, are the party who were responsible.

So you know, we take it very, very seriously that we need to have an opposition that's in a position to offer informed criticism, thoughts, proposals for the House, for members of the House, for members of the public, you know. And for that reason I think we're inclined . . . I mean we had a bit of a discussion around, you know, and there was no decision. I think I'll maybe offer some thoughts on what perhaps an appropriate remedy might look like.

But you know, I'm not inclined to be punitive about this. I think that, you know, the precedents we have in front of us are significantly, you know, out of line with the balance we're trying to strike between ensuring the secrecy of budget materials. And from what I hear from the chief of staff and from the member from Nutana is that there has been, you know, what seems to be a pretty robust policy put in place to ensure that this can't happen again. It seems to be that there's a recognition of the seriousness of the matter by the members, and I know there's a number of hon. members in the Chamber who I have a lot of respect for, so I take those members at their word about how seriously they take this.

[18:00]

So in terms of a remedy, you know, that being said, I think there needs to be a consequence. There had been in past instances even when those were both inadvertent, inadvertent distribution of embargoed material as well, there were significant consequences from them.

What I would think is that we would, you know, be proportional

in the sense that for perhaps next budget we would have an instance where the official opposition would get the budget materials in advance, but the official opposition wouldn't get them, you know, 24 hours in advance, which has been traditionally the case. And perhaps the official opposition would get the materials three hours in advance of the Minister of Finance rising in his place, which would still give an opportunity for review.

And perhaps it's a symbolic sort of thing, but I think, you know, there does need to be a remedy that the embargo agreement would be signed for and the budget documents would be picked up by a single opposition MLA [Member of the Legislative Assembly] who would be responsible for those documents. It would be one copy of the budget, that there wouldn't be a technical briefing for the next budget. And if it were to happen again, that there would be a prohibition on embargoed material for the rest of the term. And I know that won't happen. From all I've heard, there's been some very significant work put into ensuring that that can't happen.

But I'm not sure . . . I mean this is very kind of quick for the Clerks to put any of that in the form of a motion for discussion or debate. But perhaps if we were to ask our Clerk to put together a report for discussion in the very near future, whether that be, I don't know, tomorrow or Monday evening, the committee could consider that draft report which has laid out the process in our standing orders for doing so, along the lines of what I have suggested perhaps, on behalf of government members. So I would put that out on the table.

And again I would just like to, you know, thank the chief of staff, thank the member for Nutana for their explanation and for their submission and for their actions to rectify this.

The Chair: — We'll open this up to comments on the remedy that was put forward by the Government House Leader. I recognize Mr. Forbes.

Mr. Forbes: — Thank you very much, and I appreciate the comments made by Mr. Harrison. And I also want to thank the witnesses for coming and being forthright at all the questions. This is breaking new ground. And I think somebody over there mentioned the fact that we're now in the digital age; it was a fax last time, and we're seeing something new. And I don't know if this has happened in any other legislature, but it sure is something that's easy to do. And I think, not in terms of leaks, but I can relate to my own where I've kind of thought about, maybe I shouldn't send this email, but I push the button and it's been a big mistake. But I do think that this has been very helpful.

I want to comment on a couple of things. First again, how serious this is, and that while it's a given, it can't be stated too many times. Because I think that we agree with the government side about how important the embargo nature is so that we can have a full discussion about the budget as quickly as possible once it's released. And I appreciate the comments about how politics in Saskatchewan has evolved now; we do have two parties and sometimes that makes it even more critical that there can be a full debate.

The idea of the remedy because, as Mr. Harrison said, that the

path chosen was to do it within the House, that this would be the only remedy that would be laid out. There wouldn't be one outside the House for the same error.

The other thing, and I can share this with the members. I did ask the Legislative Library to do a search for me on a question. And I can table this with this; maybe that could be part of the report that is . . . or whatever. But I did ask them the question, in your jurisdiction's equivalent to the Standing Committee on Privileges, which sanctions have been handed out over the past 20 years? In addition, can you provide any sources for the rationale of those sanctions?

And so, I wanted . . . I don't know what's been happening in the other provinces, but clearly this is a brand new thing, but that's fair enough because we are dealing with brand new ground when we are dealing with the digital age. This is breaking new ground, so that's the way it is, how you have new precedents evolve. And that's fair enough; that's what we do as legislatures and as the parliament. So I can share that, and I'm open to the idea. I think we're open to the idea.

I don't know. I'm getting a little signal here from the House Leader. If we could have a . . .

The Chair: — I recognize Warren McCall.

Mr. McCall: — Just if I could beg the indulgence of the committee to speak. I'm certainly here in attendance observing, but I don't . . . As per the composition of committees, Mr. Forbes is our sole member of this committee. But with the indulgence of the committee, I wouldn't mind asking a couple of things.

But certainly one, I just want to thank committee members for their thoughtful consideration of this. I also want to state again that we take this very seriously and certainly have apologized as such. I think it is fair enough to take some time to reflect in terms of what the possible remedy is above and beyond the apologies which have been, again, proffered unreservedly and sincerely.

I appreciate the reference to the other two circumstances where there were similar situations that have taken place in the history of this Assembly, or recent history of this Assembly. I guess, certainly my understanding of the global situation was that it was a six-month ban that was subsequently reduced to three months. I think that's something that we should, you know, that I would hope the committee, as they go away to consider the possible remedy, takes into consideration.

I would also urge the committee to consider how it is to balance . . . And you know, if there's a further penalty to be assessed, again we're in the hands of this committee. But there's also the question of balancing off another well-understood, well-argued principle in terms of, that this should not result in the media's access to embargoed documents and embargoed briefing being curtailed or constrained in any way, shape, or form.

And in the consideration of that, there is also a well-understood principle that, you know, there's a roughly . . . Briefings and materials that are provided to the media, there should be relative fairness in terms of how they're also distributed to the

opposition. So I guess I would urge members in their consideration of the report and in terms of the outlines which Mr. Harrison has referred to here, that that be considered as the remedy is determined and then subsequently reported back to the Assembly.

The Chair: — I recognize Jeremy Harrison.

Hon. Mr. Harrison: — Sure. Thanks very much, Mr. Speaker. And I appreciate the interventions from across the way. I should have added at the conclusion of my thoughts in terms of a report would be that, as far as the proposed terms contradict or need to be reflective of previous rulings, so that would mean if we needed a specific provision in the motion with regard to the Milliken ruling, which my friend is referring to as confirmed in this Assembly by Speaker Kowalsky in the 2005 ruling, that that would be reflected in the motion with regard to any discrepancy from that and understood by members if there were to be a discrepancy for that one particular purpose of this remedy.

The Chair: — I recognize Greg Putz, our Clerk here in Saskatchewan.

Mr. Putz: — Mr. Harrison, you had asked us to prepare a report based on your proposed remedy. I was wondering if you had a text that you could provide us that would serve as a basis to prevent us from making any errors in interpretation, or alternatively we could wait for the verbatim. But I would prefer if you had some sort of text to provide us that would prevent us from making any errors in interpreting what you're suggesting is the government's remedy for all of this would be appreciated.

The Chair: — Mr. Harrison.

Hon. Mr. Harrison: — Right. Well in terms of kind of what I'd laid out, would it be useful if I were to give a copy of that to both the Clerk and the opposition? I don't have a clean copy because we are just kind of working on some of it. If I could give that to both the opposition and the Clerk in the next hour or so, but it's very much identical to what I had . . .

Mr. Putz: — Mr. Harrison, you said possibly a meeting tomorrow, and if we have to wait for the verbatim to be published, then that's going to make it maybe difficult for us. I don't want to make any errors in interpreting what you are suggesting is the government's remedy.

Hon. Mr. Harrison: — Right. No, and I think we all want to deal with the matter as rapidly as possible. So I'm not sure if it's tomorrow or if it's on Monday, but by Monday I think that our view would be that we would like to have this matter disposed of.

The Chair: — Thank you. Any other comments or questions? So at this time, we'll wait for the remedy and we'll meet tentatively on Monday. There'll be a notice drawn up to consider the remedy put forward by the Government House Leader.

I'd like to thank the member from Saskatoon Nutana and Mr. George Soule for appearing in front of this committee. And with that, I'll entertain a motion for adjournment. All right,

Cheveldayoff seconds it. All those in agreeance?

Some Hon. Members: — Agreed.

The Chair: — Carried. This committee stands adjourned until the call from the Chair.

[The committee adjourned at 18:14.]