

Privilege—Mr. Beatty

put in place for those people who would choose to disobey the law. For the government to maintain one standard for itself of a disregard for elements of the act and a totally different standard for anyone else in the country is, I think, totally indefensible and certainly not something that Parliament—and you, Madam Speaker, as the custodian and the guardian of Parliament's rights—should be prepared to allow.

One of the important questions to be determined is whether, as I said earlier, this is simply a legal question which is up to the courts to decide or whether in fact it is a matter properly before Parliament. I argue that the fact is that this has become part of the procedures of this House. It has become part of the operating procedures of this House and, indeed, one of the subsections of Section 8 of the act, Subsection (4), specifically puts a positive onus on the House of Commons. We do not have the luxury of ignoring the law in the way the minister has. If in fact the order had been properly tabled in Parliament within ten days and if in fact 50 members of the House of Commons on either side had put down a motion to consider the order, Parliament would be required, within six sitting days, to act upon that motion, and Your Honour, as the Speaker, would be required to comply with the law of the land.

So Section 8 clearly affects the operating procedures of this House of Commons. Not only does it provide the ability to Parliament to discharge its responsibilities and to examine a piece of delegated legislation made under its authority, but it goes beyond that. Subsection (4) puts a positive onus on the House to act within a certain specified number of days and, consequently, it would be impossible to argue that this section of the act does not constitute part of the operating procedure of this House of Commons.

I bring to the attention of the Chair pages 138 and 139 of Erskine May, which deal with the question of the importance of such a matter being considered part of the operating procedures of the House. In Chapter X, "Breaches of Privilege and Contempts", under the section "Disobedience to Rule or Orders of Either House" Erskine May states:

Disobedience to the orders of either House, whether such orders are of general application or require a particular individual to do or abstain from doing a particular act, or contravention of any rules of either House is a contempt of that House.

At page 139 Erskine May lists examples of possible contempts, and "neglecting to make a return" is one of them. I argue that even if Subsection (4) of Section 8 of the act was not there and even if there was not a positive onus upon Parliament to act within a certain specified number of days, the citation from Erskine May would still be valid, but it is doubly valid because of the fact that when Parliament passed that act, we specifically put an onus on ourselves in complying with the law to act within a specified number of days, within six sitting days of a motion being put down for consideration and possible disallowance.

It could also be argued by the government that somehow this is a matter which could properly be considered by the courts. I suspect that if the government were to take a look at Section 7 and the provision which imposes a fine of up to

\$5,000 on people who are responsible for infractions of the act, the government would feel that did not apply to it, but it might very well say that questions relating to the enforcement of Section 8 of the act would require the courts to take a particular decision.

● (1520)

I would argue, in response, that the procedures described in the Safe Containers Convention Act are internal proceedings of the House and might very well be beyond the jurisdiction of the courts. In that respect I cite Erskine May's nineteenth edition, pages 199-201.

If you accept that point which complements the first point that I made, Madam Speaker, then it follows, using the May citation, that the courts may very well not be able to adjudicate the matter. Therefore, Madam Speaker, it must be your responsibility to ensure that the government complies with the law if what we are dealing with is something that the government may claim is beyond the enforcement powers of the court. I do not know that the government will make that argument, but if it does, clearly that strengthens your position as the sole custodian of Parliament's rights and the person charged with the responsibility of making sure that the law of the land is complied with.

Lest anyone claim that there was a relevant precedent on a similar matter on February 1, 1979, which would sustain the government's failure to act in this instance—its clear breach of the law—let me deal briefly with that point.

On February 1, 1979, as recorded at page 2789 of *Hansard*, my colleague the hon. member for Fraser Valley West (Mr. Wenman) rose on a question of privilege. He pointed out that the government had not complied with the law as it related to the tabling of the annual report of the Canada Council. In that instance the law required that within a certain number of days the annual report of the Canada Council be tabled in the House by the then secretary of state. In response the minister indicated that he did not have the report and therefore was not able to comply with the law and could not be forced to do so.

Mr. Speaker Jerome indicated very clearly that his decision was based precisely on that answer. At page 2791 he stated as follows:

For the moment the Secretary of State has put that point to rest because he has indicated he does not have the report. I must accept his word. If he does not have the report, he obviously cannot refer it to the House. If the report is in his hands at a later time, or if in fact there is some action to be taken against the chairman for failing to file the report with the Secretary of State, that may be so.

The essence of the hon. member's question of privilege at this time is the refusal of the Secretary of State to ensure examination of the report by Parliament. The minister told the House today, and I must accept it, that he does not have the report and therefore cannot ensure that at this time. There may be other matters the hon. member may wish to raise on further investigation. However, for the moment any question of privilege which is today related to a refusal of the Secretary of State has to be set aside subject, of course, upon further examination by the hon. member, to any action which might relate to a failure on the part of the chairman and the council itself.

Let us consider this very carefully, Madam Speaker. This particular precedent differs from what we are considering