

Question of Privilege—Mr. Hamelin

[Translation]

PRIVILEGE

APPLICATION OF OFFICIAL LANGUAGES ACT TO PARLIAMENT

Mr. Speaker: On February 19, 1987, the Hon. Member for Charlevoix rose on a question of privilege concerning the application or lack of application of the Official Languages Act to Parliament, in particular to the House of Commons.

May I begin by stating that the function of the Speaker is to preside over the House of Commons and to decide upon procedural questions whether they be interpretations of the Standing Orders or matters relating to privilege or order.

What the Hon. Member for Charlevoix raised on February 19, 1987, is, I submit, not a procedural question but a question of legal interpretation. The extent of the application of any law is a question that the courts should be asked to decide and not the Speaker. The Honourable Member quoted several legal opinions when raising his question, which adds emphasis to my point that this is a legal matter, not a procedural one.

Beauchesne's 5th Edition, page 61, Citation 71(5) states: "The Speaker will not give a decision upon a constitutional question nor decide a question of law". The reason for this is obvious. A court may very well have to rule on the same question of law someday and clearly a court would not be bound by a Speaker's interpretation of the general or constitutional law of the land. The Speaker's duty is confined to interpreting the procedures and practices of the House of Commons.

● (1510)

[English]

In his presentation the Hon. Member for Charlevoix (Mr. Hamelin) did not establish how his privilege had been infringed by the application or lack thereof of this law. In other words, the fundamental right to speak freely in the House of Commons has not been abridged.

The Hon. Parliamentary Secretary to the Deputy Prime Minister and President of the Privy Council (Mr. Lewis) pointed out that Section 133 of the Constitution Act, 1867, states:

Either the English or the French Language may be used by any Person in the Debates of the House of the Parliament of Canada—and both those Languages shall be used in the respective Records and Journals of those Houses;

It goes on to say:

The Acts of the Parliament of Canada—shall be printed and published in both those Languages.

The Hon. Parliamentary Secretary read those sections to the Chamber during the intervention. In addition, the Hon. Member for St. Jacques (Mr. Guilbault) stated:

It is ironic that the application of the Official Languages Act to the House of Commons is being debated, because certainly this is the most bilingual of all federal institutions.

I concur totally with the Hon. Member for St. Jacques on this point.

[Translation]

Whether the Official Languages Act applies to the House of Commons in law or not, clearly and unequivocally, the intent of the Act is being applied. Let me briefly expand on this point.

As most Hon. Members will know, the Commissioner of Official Languages regularly conducts studies of federal institutions to determine the degree to which they apply the Official Languages Act. Such studies have regularly been done of the House of Commons. Indeed, the Chair has recently met personally with the Commissioner to discuss whether activities in the House of Commons are, in fact, adequately conforming to the spirit of the Official Languages Act.

In his most recent audit of the House dated June 1986, the Commissioner of Official Languages stated:

"The linguistic situation at the House of Commons has improved significantly since our earlier audit in 1979. In a relatively short time, the House Administration has successfully carried out an ambitious program of reform. The program's most notable achievement has been to make the face of Parliament bilingual by rendering all public signs, including engravings in stone on the historic buildings, in both official languages.

The House of Commons' official languages program is complete and forms an integral part of managers' administrative responsibilities."

He went on to state:

"Service to the public is available and spontaneously offered in both languages with few exceptions since a good proportion of House employees are bilingual... English and French are both widely used as languages of work at the House."

It should be clear from Mr. D'Iberville Fortier's report that the intent of the law is indeed being followed.

[English]

Several Hon. Members who participated in the debate on this question pointed out that all House documents are published in both languages, debates are held in both languages, and simultaneous translation is provided in both the House and in committees. Every care is taken to ensure that all Hon. Members are served in the House in their language of choice and can participate fully in either or both languages. If it were demonstrated that this was not the case in a particular circumstance, then the Chair might be required to intervene, but this is not the point that the Hon. Member for Charlevoix is making in this situation.

From a procedural point of view, the contention of the Hon. Member for Charlevoix that if the Official Languages Act does not apply to the House of Commons his privilege is infringed, is clearly not founded in precedent or practice. Whether or not the Act applies is a legal issue which the courts should decide, not the Speaker. It is clear, however, that Section 133 of the Constitution Act is applied and it is clear that the practices of the House adhere to the intent of the Official Languages Act. The second point, that privilege has been infringed if the Act does not apply, has not been demonstrated. Because of the Constitution Act, and because of the way the House operates, all Hon. Members are assured of their right to participate in debate in their language of choice.