

*Privilege*

as a witness, and freedom from molestation. As Erskine May explains on pages 70 and 71 of the twentieth edition:

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members; and by each House for the protection of its Members and the vindication of its own authority and dignity.

As a result, when members claim that a certain action constitutes a breach of privilege, they must specify which privilege is affected.

Contempts, on the other hand, cannot be enumerated or categorized. As Speaker Sauvé explained in a ruling on October 29, 1980, at page 4214 of *Hansard*:

—while our privileges are defined, contempt of the House has no limits. When new ways are found to interfere with our proceedings, so too will the House, in appropriate cases, be able to find that a contempt of the House has occurred.

Broadly speaking, contempts are offences against the authority or the dignity of the House of Commons. They include situations which cannot specifically be claimed as breaches of the privileges of the House. As noted at pages 71 and 143 of Erskine May's twentieth edition:

Each House also claims the right to punish actions, which, while not breaches of any specific privilege, are offences against its authority or dignity, such as disobedience to its legitimate commands or libels upon itself, its officers or its Members. Such actions, though often called "breaches of privilege", are more properly distinguished as "contempts".

It goes on:

It would be vain to attempt an enumeration of every act which might be construed into a contempt, the power to punish for contempt being in its nature discretionary—. It may be stated generally that any act or omission which obstructs or impedes either House of Parliament 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, produce such results may be treated as a contempt even though there is no precedent of the offence.

As already mentioned, it is not possible to categorize or to delineate what may fall under the definition of a contempt. It is not even possible to categorize the "severity" of a contempt. As a procedural authority on the Lok Sabha of India, that is the Indian Parliament,

explains in *Practice and Procedure of Parliament* at page 209:

Contempts of Parliament may, however, vary greatly in their nature and their gravity. At one extreme they may consist in little more than vulgar and irresponsible abuse; at the other they may constitute grave attacks undermining the very institution of Parliament itself.

In summary, all breaches of privileges are contempts of the House, but not all contempts are necessarily breaches of privilege. A 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. Matters ranging from minor breaches of decorum to grave attacks against the authority of Parliament may be considered as contempts.

[*Translation*]

In the present case, the Leader of the Opposition (Mr. Turner) contends that the advertisement by the Department of Finance prejudices the future proceedings of the House and the Finance Committee.

The Chair must determine which of the specific privileges of the House have been breached.

[*English*]

Certainly, freedom of speech has not been affected. The committee is continuing its deliberations and the House will no doubt be debating the several issues surrounding the proposed goods and services tax, either through Question Period or on the report of the finance committee which will be presented to the House no later than November 28, 1989. The House will also have the opportunity to debate any bills that the government may propose to the House and will also have an opportunity to vote on any Ways and Means motions, which necessarily precede the introduction of any such bills. The opportunity for debate and amendment are too numerous to list. Suffice it to say that those opportunities have not been diminished.

• (1120)

[*Translation*]

Now, has the House or have any Members been obstructed in the performance of their duties? In order for an obstruction to take place, there would have had to be some action which prevented the House or Members from attending to their duties, or which cast such serious