

Point of Order—Mr. Epp

degree of confidentiality that every citizen should have the right to expect will exist in any correspondence between himself or herself and his elected representative and, in particular, between him and his Government. We have to make it clear that a situation can never again arise when a Minister will rise—

Mr. Lalonde: Or the Opposition.

Mr. Deans: Or the Opposition.

Mr. Lalonde: They use such documents quite often.

Mr. Deans: Let us not get into that. An occasion should never again arise when a Minister, in an effort to shore up an argument for political purposes, makes reference to a document written by a private individual to that Minister's Department. Mr. Speaker, if you were to decide that, on the face of it, there was a breach of House etiquette and maybe even a breach of House rules, I will, of course, abide by your decision happily and willingly. If you were to make the decision that a broader matter be referred to the committee for determination as to how citizens can be guaranteed that their documents, letters and correspondence are given the kind of confidentiality that they would expect to be given, we might begin by taking another look at Beauchesne's Citation 327.7 to see whether we ought to write in that no Minister of the Crown may in fact make reference—

Mr. Lalonde: Or Members.

Mr. Deans:—fair enough, that no Member of Parliament, Minister of otherwise, may make reference to any letter sent to him by a citizen other than with that citizen's prior permission.

Some Hon. Members: Hear, hear!

[*Translation*]

Hon. Yvon Pinard (President of the Privy Council): Mr. Speaker, regarding the point of order raised by the Member or Provencher (Mr. Epp) the question at issue is, basically: Was the tabling of correspondence by the Minister of Finance (Mr. Lalonde) irregular, that is, was it against the Standing Orders of the House or Parliamentary practice? If the Chair concludes that there was no infringement of the Standing Orders or of Parliamentary practice on that occasion, there can be no doubt that the point of order raised by the Member from Provencher (Mr. Epp) is not valid.

We must therefore ask ourselves, first of all, whether the tabling of these letters is against Parliamentary practice or the Standing Orders of the House. I would immediately draw the attention of the Chair to the fact that the examples given by the Member for Provencher (Mr. Epp) do not apply in the circumstances, since in the situations mentioned by the Hon. Member, it was either a case of legislation specifically prohibiting a person from making certain documents public, which is not the case here—there is no legislation that prevents the Minister of Finance (Mr. Lalonde) from publicizing the corre-

spondence in question—or of the Minister of Finance, if he did not break the law, infringing the Standing Orders. However, none of the Standing Orders of the House prohibits the tabling of these documents.

● (1550)

In addition to the examples where legislation prevented a Minister from tabling documents, the Hon. Member for Provencher also quoted citations on the subject of correspondence between a Member and a Minister, which do not apply here either, because the correspondence with which we are concerned was exchanged between a Minister and a person who at the time of the exchange was not a Member of the House. I would therefore like to make it quite clear to the Chair that all the precedents and references brought to bear by the Hon. Member from Provencher do not apply here, because the Minister has not broken the law and, furthermore, we are not concerned here with correspondence between a Member and a Minister.

Secondly, considering the fact that there was no infringement of Parliamentary practices, since none of the precedents quoted could be said to apply specifically here, the question arises whether the Minister infringed one of the Standing Orders. Previous speakers were unable to refer the House to any specific Standing Order that would prevent the Minister of Finance from tabling such a document. The Hon. Member from Provencher referred to Standing Order 46(2) but this happens to be the Standing Order I intend to use to support my argument that the Minister had the right to table the document, and we must therefore consider S.O. 46(2) in its proper context.

However, before considering the Standing Order under which the Minister had the right to table correspondence, as well as other facts to which I intend to draw the attention of the Chair, may I say, with respect, that it is not up to the Chair to decide whether a Member has or has not broken the law. You are the servant of the House, and it is your duty to maintain order and see to it that the Standing Orders are enforced. There is certainly no doubt, and I say this with respect, that those are your responsibilities. Although I said earlier that the Minister had not broken any laws, I do not think it is up to the Speaker of the House to decide whether a Member has or has not broken the law. I do not think it is up to the Chair to give a legal opinion or to sentence members under the laws of this country, and perhaps I may refer you to Beauchesne's Fifth Edition, Citation 240, page 80, which provides, and I quote:

The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege.

That being said, how do we balance the Privacy Act and the Access to Information Act? Where do we draw the line between what is to be made public because of the individual's right to access to information and what is to be kept private