

Privilege—Mr. Nielsen

This House has the absolute right to establish procedures, rules and requirements. One of the absolute rights of the House, established over hundreds of years, is the right to hear the Government's budgetary proposal before anybody else, or simultaneously with anybody else.

Madam Speaker shakes her head. Madam Speaker has made up her mind in advance of any argument.

Some Hon. Members: Oh, oh!

Mr. Andre: Madam Speaker, it is argued that we have no right to demand from the Crown knowledge of the Crown's taxation plan prior to anybody else except those under an oath of secrecy. If that is true, think what follows. The laws of Canada result from legislation passed by this House, by the Senate, given Royal Assent and then proclaimed.

Throughout the history of our legal system, courts have ruled that retroactive legislation is, generally speaking, not enforceable simply because you cannot require people to obey a law that they do not know about and will not be passed until some time in the future.

The exception to that rule is laws emerging from a budget, because at the time of the budget, aside from the speech which is a political event, the substance of the budget is tabling notices of Ways and Means which say to this House and the rest of the country: "These are the Government's plans for alterations in existing tax law or new tax law", and so on. The law then becomes effective. It has been our practice that once the notices are tabled in this House, the taxman can start collecting, people can be required to fill out forms based on that notice of Ways and Means, and it is anticipated that there will be legislation passed to bring it back retroactively.

Madam Speaker: I am sorry to interrupt the Hon. Member, but I would like him to keep to the point. We have discussed this question of privilege now for over two hours and it is absolutely essential, if Members want to contribute to the enlightenment of the Chair, that they stick to indicating to the Chair how the privilege was breached.

The Hon. Member is now discussing the process of the presentation of the budget. I think all Members of this House are aware of that process and it is not necessary to describe the process so as to be able to adjudicate this question of privilege.

I would urge Hon. Members, because I will not be able to hear them indefinitely, to bring forward arguments that are of a nature that will help me to rule on this question. I would ask the Hon. Member to stick to the specific point of privilege.

Mr. Andre: Madam Speaker, I was endeavouring to do precisely that. Because of that fundamental method by which we impose taxes in this country, and if there is any purpose for an elected Parliament, it surely has to be to oversee the Crown's taxing plans and in fact to authorize them. The Crown cannot tax without authority.

● (1510)

If the Chair is suggesting that the Crown need not inform the House of its plans, that in fact the Minister of Finance, if he chooses, could give his budget and notice of change in income tax to his Chamber of Commerce, or to his friendly television reporter, or his tax adviser or somebody else, before giving it to the House, and that that is not an offence against the privileges of Parliament, then I humbly suggest there is no reason whatsoever for us to be here. If in fact the Chair is suggesting that the Minister does not have to give us the first public indication of his intention, and without violating the privileges of the House can give it to whomever he pleases, then frankly we might as well adjourn this House forever. If we have any purpose it surely has to be that. That is why the action concerning King John was taken at Runnymede, where Parliament came from—to prevent the Crown from going off and doing what it wanted. For the Chair to suggest that those centuries of tradition are immaterial and that the Minister of Finance can do whatever he blooming well wants is an absolute absurdity.

Nothing could be more fundamental to the privileges of every Member elected by Canadian citizens than that we be told of the budget by the Minister of Finance in this House and not learn about it from television reports or speeches that he makes to the Chamber of Commerce or by some other method. Nothing is more fundamental than that, Madam Speaker. Any self-respecting Minister of Finance would resign.

That is not your job. Your job is to protect the rights of this House. If you are not going to protect that fundamental right, you are not protecting any of our rights and there is no reason for us to be here.

I repeat, the most fundamental privilege of this House according to Beuchesne is to establish the procedures and rules, to establish processes, and not just the written ones. Citation 20 quite clearly sets out the common law practices. The centuries of tradition of the way budgets are presented is equally binding, equally part of our traditions.

One of the privileges that we as elected representatives of the people of Canada demand is that we be the first to be given public evidence of the declaration of the Crown's taxing plans. That is at the root of this institution and any failure to recognize that as a breach of our privilege is, in essence, a slap in the face to every Canadian who elected us and sent us here.

Mr. Doug Lewis (Simcoe North): Madam Speaker, I wish to address a few brief remarks to this question of privilege and perhaps to wrap up the argument for this side.

I would say at the start that it was our hope that the argument could continue on the basis of the precedent set in the case of the Hon. Member for Kenora-Rainy River (Mr. Reid). Immediately after the motions under Standing Order 43 were dealt with, on the orders of the day on July 24, 1975 at pages 7886-9, he made his argument on a question of privilege. It was on the basis of that precedent that we were attempting to argue at the start of Question Period that the