

Privilege—Mr. Baldwin

even though there exists among them a real independence, the power of the press has evolved progressively in an almost empiric fashion and today it has an outstanding role to play within the body politic. The power of the press has forced itself upon political institutions. To remain a genuine force in our democratic process, the press must obviously be subject to the rule of law and maintain a necessary independence.

Bill C-43 on Canadian telecommunications, because it is intended to regulate all the area of electronic media in Canada, affects the very nature of the relationships that ought to exist between the political entity and the press, the responsibilities they have towards one another and the institutions responsible for ensuring their respective independence. Therefore, we have to make sure that this bill provides the necessary guarantees so that one should not be subject to the other, that each may know the conditions of their respective endeavours and make sure that the rule of law guarantees strict compliance with their particular privileges.

Now, Bill C-43 contains provisions which, if they were to be passed in their present form, would in my opinion allow the political power to disregard totally or partially the legislation in the telecommunications area, without the political power having to prove before anybody, Parliament or the courts, the existence of certain conditions of fact or law which make compliance impossible and without any time limit restricting their duration. Those provisions are found specially in clauses 4 and 5 of Bill C-43 which stipulates that "the governor in council may, by order, subject to any terms and conditions specified in the order, exempt Her Majesty in right of Canada or a province and any agent thereof from the application of this act or any provisions thereof." Now, Mr. Speaker, that provision, stipulating an extraordinary exception to the effect that the governor in council need not require the authorization of the House or any court to justify his decision, was not incorporated in the Broadcasting Act passed in 1967. It strikes me as unconscionable and contrary to our rule of law tradition. When the law exists, it applies to all equally, and only for cause or proof can authorization be given to suspend its application for a time.

● (1210)

However, Bill C-43 in fact changes radically the nature of the CRTC. From an independent and quasi-judicial body that it has always been to date, the CRTC would become more or less an executory instrument partially subjected to the power of tutelage of the government; clause 11 of the bill would authorize the government to slough off the decisions of the CRTC, and oblige it to change them in all or in part; clause 10 would even require the CRTC to convey to the government all information obtained in the exercise of its functions. In short, the bill would in effect strip that body from part of the independence which was its strength and protected it from political interference.

One of the fundamental weaknesses of Bill C-43 lies in the fact that it does not recognize clearly, specifically, the right of the Canadian public to information. Need we be reminded that

[Mr. Joyal.]

there is an important difference between the right of expression as mentioned in clause 3(f) of the bill, and the right of the public to be informed, a right clearly and openly expressed which could be enunciated in the first clause, and be the very foundation of the bill. Mr. Speaker, the right of the public to information can be guaranteed in several ways. First of all, it could be legislated at the newspaper ownership level. Regulations could also apply setting admission criteria—

Mr. Speaker: Order, please. The feelings of the hon. member for Maisonneuve-Rosemont (Mr. Joyal) on such an important subject are certainly interesting and most sensible but we are now dealing only with the question of privilege. Any remarks he has to make, not on a general sense but on the question of privilege, are quite welcome. We are now listening to the hon. member speak on the general subject of deficiencies or otherwise in some legislation which is the very subject of the debate.

Mr. Joyal: I am grateful to you, Mr. Speaker. I will try to be brief. I merely wanted to remind the House, which did not have the opportunity to hear me previously on the very subject of my intervention, in what context I did suggest that Bills C-43, C-24 and C-25, which had been the object of my remarks on that particular occasion, did in my opinion contain excessive provisions which escape the powers of surveillance and control of the courts, which are the traditional tenets of our constitutional law, and in which manner it seems to me necessary to point out to this House the importance of a continuous surveillance and control by democratic institutions or by institutions empowered to ensure the primacy of the law, in which manner, I repeat, this house should continuously concern itself with incorporating provisions to that effect in any legislation that comes before us.

I will conclude my remarks rather briefly, Mr. Speaker. As many others in the House who care about setting up in this country a philosophy based upon human rights and liberties which could be the essence of our national unity, I am concerned to see in so many examples and in so many basic aspects of our political system an increasing trend towards powers of exception and intervention to deal with essential aspects of our democratic life.

[*English*]

Mr. Ray Hnatyshyn (Saskatoon-Biggar): Mr. Speaker, my contribution will be brief. The hon. member for Maisonneuve-Rosemont (Mr. Joyal) presented the House with a learned dissertation on the apprehension which most individual members, regardless of party affiliation, sometimes feel. I suggest that possibly the majority of members of this House are concerned about the public's right to know what is said in parliament. Hon. members want to be certain that comments made in the House can be reported to the general public in an unfettered way, free of any suggestion of arbitrary government interference.

My point is this: there have been discussions on the question of privilege raised by my colleague from Peace River (Mr. Baldwin) which show that hon. members are concerned about