

press which the judgment sets out. In this connection I would quote from one of your rulings, Mr. Speaker. In your ruling of December 19, 1974, at page 2383 of *Hansard*, in the case of remarks made by the late Mr. Real Caouette respecting possible bribery of press gallery members, you said:

I have additional concern about the fact that the allegations relate to the relationship between the members of this House and the members of the press gallery here, or at least some of the members of the press gallery, because to a certain extent the press gallery is an extension of the functioning of the House in bringing before the Canadian people, the electorate, the events of the House through the faithful and objective reporting of such events. This is not the sole responsibility of the press gallery but is a matter over which this House wants to exercise some interest—

That statement was an explicit recognition that free communication between a member and a constituent or the general public is more than a question of freedom of speech in the House. It is a recognition that the medium which transmits or interprets the message is part of the parliamentary process in a general sense and must not be subject to pressures or intimidations which do not permit conscientious and accurate reports to be made. The judgment of Mr. Justice Evans explicitly upsets the assumption made by you, Mr. Speaker, on the place of the press in this parliament. The judgment challenges our assumption that we are entitled to fair and accurate reports of our proceedings. May says, at page 80 of the nineteenth edition:

But the publication, whether by order of the House or not, of a fair and accurate account of a debate in either House of parliament is protected by the same principle as that which protects fair reports of proceedings in courts of justice, namely, that the advantage to the public outweighs any disadvantage to individuals unless malice is proved.

I would add here that if it is asserted that this quotation is inoperable because it is not the rights of individuals, but national security which is involved, should that be a criterion if the House has not taken the action which is its prerogative, that is, to resolve to sit in camera? Are members of the press, reporting on the comments of members, to be liable to prosecution because they did not, at the proper time, suddenly begin to act as if they were attending an in camera session at which their normal rights had suddenly vanished? To combine the points of fair reporting and the role of the press I would cite another quotation from May, the same edition, at page 81:

There is a distinction between the absolute privilege of members speaking in the House, or in any committee of the House, and the qualified privilege of a publisher reporting words spoken; in the latter case publication of parliamentary proceedings is protected, not specifically by privilege of parliament, but on the analogy of the publication of proceedings in courts of justice.

A specific case is cited, the conclusion being:

A fair and faithful report of the whole debate would therefore not be actionable.

I therefore submit, Mr. Speaker, that: first, the judgment by Mr. Justice Evans, in its comments upon parliamentary privilege are not in accordance with interpretations in this House on privilege as it relates to the relationship between members and the press. Second, the judgment is a clear and present source of intimidation to press gallery members which would prevent them from fairly and accurately reporting House proceedings. That is of vital concern to this House, as Your Honour has said. Third, the judgment usurps from the House

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the responsibility of determining itself when its proceedings are to be secretive and in-camera. Fourth, the judgment makes an addition to the body of legal precedent on the question of privilege which the House must challenge as soon as possible because it violates the right of the House to determine the extent of privilege.

I think, Mr. Speaker, that a committee of the House must look at this question as soon as possible. As I have said, there is no doubt that Mr. Justice Evans is entitled to rule as he did in keeping with judicial practice—and if we could, we would not want to call him as a witness. But we must act, as well, to protect the privileges of members. Because of the general, rather than the specific nature of the implied intimidation, you may consider it a matter for the Standing Committee on Rights and Immunities of Members. I believe the question is an urgent one, and I would move, if Your Honour finds a prima facie case of privilege:

That the portions of the judgment of Chief Justice Evans of the Supreme Court of Ontario, given November 9, 1977, which appear to restrict the right of members of parliament to full and accurate reporting in the press, be referred to the Standing Committee on Privileges and Elections.

**Hon. Ron Basford (Minister of Justice):** Mr. Speaker, the hon. House leader of the opposition raised this matter two days ago. At that time I indicated that, like him, I had not had a chance to study the judgment very carefully and wanted to reserve my right to say something on the subject. I did not know that this matter was being raised today and, therefore, I have not completed my study of the Chief Justice's judgment as I would like to do. There are a couple of things I should like to say first. There is nothing substantial that the hon. member for Grenville-Carleton has said with which I at this point would want to take exception, but I would ask that this motion not be put right now until the House leader on our side has had an opportunity of considering the remarks of today and the motion.

● (1512)

There is, undoubtedly, some confusion caused by the judgment, as there was, of course, on the question of whether the uranium information regulations affected the rights and privileges of members of parliament in so far as debates are concerned, or whether members' rights to consult legal advice was involved. Counsel for both the applicant and myself agreed on that position in court and, as I understand it, the judge clearly found the regulation to be subordinate to the privileges and immunities of members of parliament. There is the matter of the effect on publication raised by the hon. member. I understand there is an action arising from some comment made after the judgment was rendered as to the effect on publication.

It is quite clear, and certainly my understanding, Mr. Speaker, that questions on the publication and reproduction of *Hansard* are matters for the House and the Speaker, and it is up to the Speaker and the House to determine those matters and to determine that the practice has been that there is no bar to such publication or reproduction of *Hansard*. Therefore,