

Amendments Order, 1981, which was made on January 21 of this year and registered on January 22. It is SOR 82-156. The point that I would like to make this afternoon in explaining my question of privilege is that the government's failure to comply with the law as stated by Parliament prevents Parliament and the members of this House of Commons from discharging their responsibilities as members of the House.

I listened very carefully to the description which your Honour gave, I think quite properly, earlier this afternoon about what constitutes privilege. You stressed the fact that to demonstrate that privileges were being breached one had to demonstrate that action had been taken which impeded Members of Parliament from discharging their responsibilities, which affected the ability of this House of Commons to act. While that is a relatively conservative construction of what constitutes privilege in this House, I think it is absolutely correct, and I think it is absolutely applicable in this particular case I am raising today.

• (1510)

I refer Your Honour to the Safe Containers Convention Act and, in particular, Section 8 of the act, which gives the government the authority to amend, by order, the schedule to the act. Section 8(2) of the act provides the following:

An order under Subsection (1) shall be laid before Parliament not later than the tenth sitting day of Parliament after it is issued.

In this particular case the order was issued on January 21. It was registered on January 22. It is now March 1. Parliament has sat for more than a full month since the issuance of that order, and yet, as best I have been able to ascertain, the government has still not yet complied with Section 8(2) of the act.

Why is this particularly important to Parliament? It is important for a very good reason, and that is that Section 8(4) of the act provides:

Where a motion for the consideration of the House of Commons or Senate is filed as provided in Subsection (3) with respect to a particular order referred to in Subsection (2), that House shall, not later than the sixth sitting day of that House following the filing of the motion, take up and consider the motion, unless a motion to the like effect has earlier been taken up and considered in the other House.

Subsection (3) provides:

An order referred to in Subsection (2) shall come into force on the later of

- (a) the thirtieth sitting day of Parliament after it has been laid before Parliament pursuant to that subsection, and
- (b) the day provided in the order

unless, before the twentieth sitting day of Parliament after the order has been laid before Parliament, a motion for the consideration of either House, to the effect that the order be revoked, signed by not less than fifty members of the House of Commons in the case of a motion for the consideration of that House and by not less than twenty members of the Senate in the case of a motion for the consideration of the Senate, is filed with the Speaker of the appropriate House.

In other words, what the law provides is, first, that the government must lay before Parliament within ten sitting days an order issued under the act. Second, it provides that 50 members of this House can put down a motion to disallow the order amending the schedule to the act which was previously laid before Parliament. Presumably it is not possible for 50

members of the House of Commons to lay down a motion proposing that the order be disallowed unless that order is first before Parliament. As yet the government has not complied with the law. Its failure to comply with the law prevents members of Parliament from putting down the motion that is specifically referred to in Subsection (3). Indeed, the government's failure to comply with the law prevents the consideration of the motion which is specifically provided for in Subsection (4). The House of Commons is required to hold a debate to consider that motion within six days of the motion's being tabled to consider the order which has been laid before the House. Parliament cannot do that. This House of Commons cannot hold that debate because we cannot yet put down a motion to disallow the order which has not been placed before Parliament.

If it were simply that the government was acting illegally and that did not in any way affect Parliament's rights and responsibilities or its ability to act under the provisions of the law, then it could properly be stated that this was a matter for the courts to determine and it was not a matter properly before Parliament. In an instance such as this, however, the government's law-breaking affects the ability of each member of Parliament to discharge his or her responsibilities in this House.

I want to expand briefly upon that because I think that is the crux of the issue Your Honour will be asked to decide this afternoon. The first point I would like to make is that this was not a matter which was frivolously put in there by Parliament. It was recommended by the government that the government have a positive onus put upon it to lay the order before Parliament within ten sitting days. That decision was consciously made by the government. It was consciously passed by this Parliament. It was not a frivolous decision.

Second, there is clear and valid reason for that being included in the act. The government and Parliament both felt it was sufficiently important that Parliament should have the opportunity to consider an order made amending the schedule to the act and possibly to strike down that order or disallow it if need be that they wrote that provision in there, and Parliament cannot act in that way unless the government has first complied with the law. Its failure to comply with the law impedes Parliament in discharging its responsibilities.

I should stress that the government itself in passing the law provided in Section 7 that it would be an offence to contravene provisions of the law and, indeed, it provides for a fine of up to \$5,000 for anyone contravening a provision of the law. Section 7(1) reads as follows:

Every person who contravenes a provision of this act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

The government may very well claim that the Minister of Transport (Mr. Pepin) is somehow immune from that section, but what it does underscore is that when this law was passed Parliament and the government felt that compliance with the law was sufficiently important that there should be sanctions