

Privilege—Mr. W. Baker

Our activities as Members of Parliament are being restricted to the degree the secrecy provisions are being broken, as I am demonstrating, and press comment is allowed. Members of Parliament are supposed to have the primary right to see these estimates at the first disclosure from a member of the cabinet. We are denied access to the same information which the press is distributing from coast to coast. I find it hard to see a more clear infringement of the privileges of members of this House.

In order to support my case, I was trying to demonstrate that there are all kinds of precedents to these secrecy provisions and what would be the consequence of secrecy being broken. I am relating the present situation to what happens on budget night. On budget night the budgetary process commences. I intend to put on record where Treasury Board and the tabling of the estimates fits into the whole budgetary process. Your Honour will find, on reading the precedents, that the situation is very clear when a budget is involved. It is less clear in the case of the estimates which, of course, are part of the budgetary process.

Madam Speaker: I will interrupt the hon. member to say this. I would like him to distinguish between the rules which apply to government and its practice as the government and the executive and the rules which apply to this Parliament. What we are discussing now is not the way that privilege is defined for Members of Parliament. The hon. member must prove to me that his own privilege has been breached. The Chair cannot rule on what rules apply to the government. If there is some discrepancy between the rules and what a minister or several ministers might have done, that is not the concern of the Chair. What is the concern of the Chair is whether the privileges of a member of this Parliament have been breached.

Mr. Stevens: I do not want to take the time of the House to repeat the arguments made by the hon. member for Nepean-Carleton (Mr. Baker), but very clearly the thrust of our remarks is that there is a contempt of Parliament here. The precedents show that if contempt of Parliament is demonstrated, in fact, or at least in a prima facie sense, there can be no question that there is a question of privilege.

Contempt of Parliament is shown by the fact that estimates were not tabled first in this Parliament and did not go through the normal parliamentary process before being made public. That has not occurred in this instance. As I indicated earlier, there has been extensive publication of the estimates. That is a breach of the secrecy provisions which generally ensure that this type of contempt of Parliament does not occur.

In building my case to show why contempt of Parliament has occurred, naturally I have to point out why it does not normally occur. The reason is that the cabinet minister involved lives by his oath and does not breach the secrecy provisions which he swore to uphold.

Having said that, it is important that we review, as I was doing, the question of what happens in fact on budget night. There are all kinds of precedents to show that if the minister of finance of the day does what the President of the Treasury

Board did yesterday, there is absolutely no question but that he should offer his resignation.

Some hon. Members: Hear, hear!

Mr. Stevens: The process of this House is, first of all, to make a prima facie case, in the hope that Your Honour will find that there is such a prima facie case. Then, hopefully, the House votes to have the matter referred to the appropriate committee, at which time a complete airing of the matter can take place. That is what we ask.

If we want to refer to the precedents, we find that if it can be demonstrated that there has, in fact, been a breach of the privileges not only of mine but of those of other members of this House, it constitutes contempt of Parliament. I suggest, when we review the various authorities dealing with similar leaks or breaches of security, that contempt goes right back to the British North America Act. For example, we find that Section 54 of the British North America Act requires that measures requiring the spending of public funds must be introduced by the cabinet to this House. That did not happen yesterday. What happened was that the public had access to the spending plans of this government through the media before this House did.

The close control which is normally exercised by the cabinet—and I emphasize that it was not properly exercised yesterday—thus brings financial measures within the shield of cabinet secrecy and cabinet solidarity. Moreover, among the most sacrosanct of government documents is the annual budget. In fact, it is considered so confidential that even the cabinet colleagues of the minister of finance are not made aware of the budget proposals until shortly before its presentation in Parliament, and even then they are often provided only with the general outline.

● (1530)

Madam Speaker, it will be evident that if any information about government activity in the fields of planning, development, investment, etc., becomes known to private individuals, large profits could be made. Why, then, should they be considered any less serious a breach of secrecy than a leak of the contents of the budget?

I would refer you, Madam Speaker, in that connection, to a departmental committee on Section 2 of the Official Secrets Act that is referred to in the United Kingdom, Franks committee. In that document it is stated:

Governments take particular precautions to maintain the secrecy of the budget, of their fiscal changes and of changes in the bank rate. These precautions include the rigid restriction of who may have access to such information, which is usually the most effective form of protection. These matters are traditionally included in any catalogue of secret, official information.

Madam Speaker, having said that, I would point out that the Treasury Board and, in short, the President of the Treasury Board, is very much a part of this budgetary process. In a document prepared by the Treasury Board secretariat communications division in 1979, this is how the Treasury Board describes its own function. It states: