

Privilege—Mr. Domm

It may be stated generally that any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.

Parliamentary privilege is based on the need to protect members from any action tending to obstruct, or intimidate them or impair their effectiveness in the discharge of their duties. It is not designed to protect them from criticism, however strong, even when the language used might be excessive. The hon. member himself quoted the words of a British select committee report, cited in a ruling of my predecessor on June 23, 1977, which is as follows:

—the House should be slow and reluctant to use its penal powers to stifle criticism or even abuse, whether of the machinery of the House, of a member or of an identifiable group of members, however strongly the criticism may be expressed and however unjustifiable it may appear.

He went on to quote further words from the same report:

Nevertheless, a point may be reached at which conduct ceases to be merely intemperate criticism or abuse and becomes or is liable to become an improper obstruction of the functions of Parliament. For such cases, however rare, the penal powers must be preserved and the House must be prepared to exercise them.

I would point out that the whole thrust of the report from which the hon. member quoted was to discourage the raising of questions of privilege based upon abusive language. It is recommended that where a member feels he has been libelled or slandered, he should seek his remedy through the courts. I shall quote two of the recommendations of that select committee report:

In the future exercise of its penal jurisdiction the House should follow the general rule that it should be exercised (a) in any event as sparingly as possible and (b) only when the House is satisfied that to exercise it is essential in order to provide reasonable protection for the House, its members or its officers, from such improper obstruction or attempt at or any threat of obstruction as is causing, or is likely to cause, substantial interference with the performance of their respective functions.

In the ordinary case where a member has a remedy in the courts he should not be permitted to invoke the penal jurisdiction of the House in lieu of or in addition to that remedy—

It is relevant to refer at this point to the case alluded to by the hon. member for Yukon (Mr. Nielsen) in the course of his intervention. That case, in which certain members who represent the province of Quebec in this House were described as traitors in an advertisement published in a Quebec newspaper, was not raised here as privilege. Rather, the members concerned sought a remedy through the courts.

The question for the Chair to determine, therefore, is whether it is possible to sustain an argument that the words complained of by the hon. member constituted an obstruction of the hon. member in the discharge of his functions. Has his effectiveness as a member been impaired? Have the words uttered prevented the hon. member from discharging his duties in any way?

In a free society we must accept that the line between fair comment and abuse is sometimes thin indeed. Those of us who enter public life are frequently the targets, not only of criticism, both justified and unjustified, but also of abuse. As the hon. member for Yukon pointed out, it has been many years

since anyone was brought before the bar of this House to answer for a contempt. I suggest that if such action were taken on every occasion when a member of this House was a target of abuse, we should be summoning a very large number of people to the bar.

Although the hon. member finds the word “redneck” to be contemptuous and insulting, I cannot find that this alone amounts to a prima facie case of contempt of Parliament. With regard to the other comment, I suggest that the use of the words “that is not true” do not of themselves constitute an accusation of lying. Two people may dispute the facts of a matter in completely good faith without either of them being liars.

There are several relevant precedents of this House, and I will now refer to one in particular dealing with virtually the same point. On June 18, 1975, the hon. member for Leeds (Mr. Cossitt) made a submission, claiming he had been the victim of attempted intimidation when he was attacked on a CBC radio program and described as a “McCarthyite” and a “screwball”. The Chair gave an immediate ruling in the following terms:

—his privileges as a member of the House of Commons, his right to appear here and to participate fully as an active member of the House, his right to speak and to express his opinions, have not in any way been interfered with. Nor do I see that his rights would be interfered with by any commentary, editorial writer, speaker, television president or otherwise throughout the country. No member is subject to such intimidation, and certainly it does not seem to me that the hon. member has been intimidated in theory or in fact. Therefore, I do not consider that a question of privilege is involved.

I must therefore decline to accord this matter precedence over the regular business of the House, particularly in view of the fact that it does not appear to have been raised at the earliest opportunity. This requirement is not a mere technicality, but indeed in some respects a test of the validity of the complaint.

MR. BEATTY—ALLEGED BREACH OF SAFE CONTAINERS CONVENTION ACT

Hon. Perrin Beatty (Wellington-Dufferin-Simcoe): Madam Speaker, on Friday I gave notice of my intention to raise a question of privilege today. When I did so, I did not realize that the significance of the particular regulation in question would be underscored by the accident which took place near Orillia yesterday.

The reason for raising this question of privilege is that Parliament is being impeded in discharging its responsibilities due to the failure of the government to comply with the law as passed by this Parliament. I should also indicate that I have given notice to the Minister of Transport (Mr. Pepin), who was the minister sponsoring the particular order in question, of my intention to raise this question of privilege.

Mr. Pepin: Five minutes ago.

Mr. Beatty: The particular regulation which I have in mind is an order under Section 8 of the Safe Containers Convention Act. The order itself is the Safe Containers Convention Act