

To expand on that quote, we find in Mr. Jennings' work a very interesting observation concerning the nature of cabinet secrecy and cabinet minutes themselves. In due course, I will be pointing out that the estimates are a cabinet document. That is the nature of the estimates. That is why they must be guarded with the utmost secrecy. In his book at page 267, Mr. Jennings said this:

The cabinet deliberates in secret; its proceedings are confidential. The Privy Councillor's oath imposes an obligation not to disclose information; and the Officials Secrets Acts forbid the publication of cabinet as well as other official documents. But the effective sanction is neither of these. The rule is, primarily, one of practice. Its theoretical basis is that a cabinet decision is advice to the Queen, whose consent is necessary to its publication. Its practical foundation is the necessity of securing free discussion by which a compromise can be reached, without the risk of publicity for every statement made and every point given away.

A minister who resigns from the cabinet usually desires to make an explanation in Parliament.

I will come to that point a little later. It is customary for a minister, caught in the present position of the President of the Treasury Board (Mr. Johnston), to offer his resignation. I am quite surprised that the minister has not tendered his resignation to the Prime Minister (Mr. Trudeau), but perhaps if he is given an opportunity to speak in due course, he will indicate that he is prepared to take that step.

Let me continue with Mr. Finsten's brief as follows:

It is not merely to protect cabinet solidarity and the publication of government policy prematurely that secrecy is maintained. There is also the aspect of private gain resulting from advance knowledge of government policy.

That is the crux of what we are talking about today. For example, Mr. Jennings, in the work to which I have just referred, at page 110 of his book quotes from a decision found in Westminster's *Hansard* in which the spokesperson, speaking on behalf of the prime minister of the day, put this very interesting comment on the record:

—inasmuch as the secrets of the Government are specially in charge of cabinet ministers, no minister, and particularly, no cabinet minister, must in any circumstances put himself in a position where he is not able to be the complete guardian of those secrets in that there is any possibility of any private interests being served through a knowledge of those secrets.

Clearly, the President of the Treasury Board has put himself in that position. He failed to maintain a position where he was the complete guardian of the secrets which had been entrusted to him.

What is the nature of the oath which the President of the Treasury Board took, and indeed all privy councillors take? Again, I would emphasize when we speak about impropriety, we must bear in mind that what happened yesterday was in direct violation of the oath of secrecy taken by every privy councillor, and presumably by this President of the Treasury Board. The oath, in part, reads:

—you will keep close and secret all such matters as shall be treated, debated and resolved on in Privy Council, without publishing or disclosing the same or any part thereof, by word, writing, or any otherwise to any person out of the same council, but to such only as be of the council, and yet if any matter so propounded, treated and debated in any such Privy Council, shall touch any particular person, sworn of the same council upon any such matter as shall in any wise concern his loyalty and fidelity to the Queen's Majesty, you will in no wise open the same to him, but keep it secret, as you would from any person, until the Queen's Majesty's pleasure be known in that behalf.

### *Privilege—Mr. W. Baker*

In effect, what that oath required the President of the Treasury Board to do was to keep in his custody, and guarantee that custody, the information contained in the estimates until the Queen's message is received by you in this House. Subsequent to the Queen's message being received, then, of course, the minister would have been free to table the estimates and make whatever disclosure, once having tabled the estimates, as he saw fit.

Let us be practical. We all know there have been lock-ups, we all know there have been pre-briefings, but up to this point, whatever the lock-up was, sufficient precautions have always been taken to ensure that no leak occurred, such as occurred yesterday. That is what is so different about this situation and other such situations which occur.

In short, I have determined, after some questioning, that on budget night, for example, it is customary really to have two briefing sessions prior to the budget being formally introduced by a minister of finance in this House. The first is a briefing session for the press on the understanding that nothing is to go out from the press corps until the minister rises in his place in the House and commences to deliver his budget. That is understandable. The press are given an opportunity—and in no way are we saying that they should not be given such an opportunity—to consider the budget beforehand so that presumably they can muster their thoughts, develop their line of reasoning, and write their stories. But the important thing is not to publish it by putting it on any wire or communicating with the outside world—

● (1520)

**Madam Speaker:** I must interrupt the hon. member to ask him to restrict himself to discussing the question of privilege. Whatever the hon. member is complaining about concerning the press does not touch on the privilege. I must remind him that privilege is defined as follows. In discussing the question, we must discuss whether freedom of speech has been impeded, whether it concerns freedom from arrest or molestation or freedom of access. Those are the matters that have to be discussed in a question of privilege.

I ask hon. members to keep very close to that. Otherwise it will be impossible, with the arguments made in the House, for the Chair to look at the question on its merits. Usually members are allowed to speak in order that the Chair can be better informed. In making their arguments, hon. members have a responsibility to stick to the strict question of privilege and not discuss the substance of the matter as though a motion were before the House, the Chair having already recognized that there is a case of privilege.

**Mr. Stevens:** Madam Speaker, granted, in such complicated matters as the one before us today it is difficult always to be sure that our particular points fit into the mosaic to which you were referring. It is important that we understand that to mean that, in addition to the privileges to which you have referred, one of the most sacred rights we have in Parliament is the right to examine the government's expenditure plans.