

**Mr. Speaker:** I have received notice of this. I made it very clear to the hon. member that I think he was completely right. At the time when I received the notice it may not have been the day to raise it.

I am having a bit of difficulty. This is all a long time ago, and I would hope that the member could come to the point of alleged breach of privilege. There may be other members who will want to rise, but I think we should get to that as soon as possible in the argument.

**Mr. Milliken:** Mr. Speaker, I am trying to do that. I just wanted to refresh the memory of some hon. members in relation to the events, because they are very important in determining the breach of privilege that occurred.

I submit that it arose out of the statements on April 27 in large measure. This is not the only basis, but I think the statements on that day are very important. If Your Honour looks at page 1005 of *Hansard* for that day, you will see the following statement of the Minister of Finance:

**Hon. Michael Wilson (Minister of Finance):** The premature release of details of the Budget appears to have resulted from a breach of trust, a wilful criminal act against which there can be no certain security.

I could read extensively, but I will not bore Your Honour or the House with the additional quotations.

The Secretary of State for External Affairs referred to a thief being involved. The Minister of Justice referred to the fact that there had been a theft of budget documents. The Deputy Prime Minister made statements along the same line, and the Prime Minister himself alleged that there had been criminal activity involved in this case.

As a result of that, we all know that a series of charges were laid against, among others, Mr. Doug Small. We know that there was one conviction obtained of possession of a stolen document on a Mr. Brian McCuaig, but no other charges succeeded in court. All other accused were acquitted of any wrongdoing in connection with this case.

I wanted to read from the judgment of His Honour Judge Fontana. I submit that this is very relevant to the question of privilege before us because in his judgment the judge said:

### *Privilege*

Since Mr. Small is charged, specifically, only with possession, his conduct in disclosing the contents of the budget on a telecast is not an issue before this court. Some might argue, for instance, that he could have fulfilled his journalistic obligations by revealing only the fact that budgetary secrecy had been breached, without revealing the details and contents of the document. Whether such bare-fact disclosure, without details, would have carried the credibility and impact appropriate to such a serious problem is doubtful. A society that recognizes the importance to the democratic process, of the free dissemination of news, should not be offended if that dissemination takes place with the measure of dramatic flair demonstrated by Mr. Small. Notwithstanding Professor McLuhan's observation, sometimes message overcomes medium. Indeed, Small's revelations on television and the resultant immediate response by the Minister of Finance, may well be viewed as having forestalled any real mischief with regard to the "Mutual Life" leak. Staff Sergeant Jordan raised this speculation early in his deliberations. Mr. Small's conduct in his subsequent dealings with the law enforcement authorities appears to have been exemplary.

He goes on talking about another case which I need not deal with. The hon. judge goes on to conclude:

If budget confidentiality continues to be a matter of quasi-constitutional concern in this electronic, technological age, then it is for Parliament to address the issue promptly with appropriate specific statutory provisions.

He concludes with:

There is no legal canon prohibiting the application of common sense. Based upon all of the foregoing considerations, I find that abuse of process has been made out in this case on a balance of probabilities. An order will go staying the further prosecution of these charges against all accused persons.

I submit that what happened is that we had a situation where these persons who are alleged to have committed wrongdoing had, at worst, stolen confidential information. There is a case in the Supreme Court of Canada—

**Mr. Speaker:** I will hear the hon. member. I am impelled to raise a matter. I, of course, have read the judgment of the court, part of which has been cited to us by the hon. member.

Whatever was said that is being complained about, was that directed at any particular person?

**Mr. Milliken:** Mr. Speaker, if Your Honour is referring to what was said in this House, I am saying yes, it was. It was directed at that time at Mr. Small or at the persons who supplied Mr. Small with the information.

**Mr. Speaker:** Were those people named in this Chamber? What we seem to be dealing with here is that the hon. member feels that what was said in this House ought not to have been said, especially in view of the judgment. When it was said, was it said and directed at