

*Privilege*

[English]

According to the Financial Administration Act, every Special Warrant is to be published in the *Canada Gazette* within 30 days after it is issued. Within 15 days after the commencement of the next session of Parliament, the Government must also table in the House of Commons a statement showing what Special Warrants were issued.

• (1130)

Moreover, the amounts appropriated by special warrants are to be included in the next Supply Bill so that the payments made by Special Warrant will come before the House for review and decision.

The Hon. Member for Kingston and the Islands (Mr. Milliken) suggested that Special Warrants can only be used during the dissolution of Parliament. His colleague, the Hon. Member for Glengarry—Prescott—Russell (Mr. Boudria), made reference to 10 occasions when special warrants were used during this period. According to John Stewart's 1977 book, *The Canadian House of Commons: Procedure and Reform*, there are 12 instances where special warrants were used. Since 1977, we have found three other such occasions, for a total of 15.

The Hon. Member for Glengarry—Prescott—Russell referred to the fact that the only time that a Special Warrant was used outside of an electoral period was to repair the roof of the first Parliament Building in the 1890s. This Act was first adopted in 1878 under the title "An Act to Provide for the Better Auditing of the Public Accounts". In Section 2 of that Act we read:

If, when Parliament is not in session, any accident happens to any public work or building which requires an immediate outlay for the repair thereof—the Governor in Council may order a special warrant to be prepared—

It is important to note the phrase, "when Parliament is not in session". During the early years following Confederation, Parliament only sat for a few months of each year. As time went on, the business of Government became more involved and Parliament met more frequently. In 1951, an amendment to the Financial Administration Act actually defined what was meant by the phrase, "when Parliament is not in session". Further amendments were made to that definition in 1958 and this resulted in the version we have today, namely: "Parliament shall be deemed to be not in session when it is under adjournment *sine die* or to a day more than two

weeks after the day the Governor in Council made the order directing the preparation of the special warrant".

[Translation]

This part of the Act clearly states that a special warrant may be issued during periods when Parliament has been dissolved for an election, prorogued or during periods when Parliament is adjourned for a lengthy period. Hon. Members may be quite correct in stating that all previous special warrants (except for one) were issued after Parliament was dissolved for an election, but if one reads the Act itself, there is no inference that the words "not in session" were to be restricted to dissolution periods. It is an indisputable fact that when both Houses are in a state of prorogation, Parliament is "not in session".

[English]

All this being said, the Chair must now decide whether or not the matters raised by the Hon. Members constitute a *prima facie* question of privilege. The Opposition contends that the Government has been using the Financial Administration Act to circumvent the traditions and conventions of the supply process. The Government argues that the provisions of the Act have been followed, an Act validly passed by Parliament.

Having just explained the provisions of the Financial Administration Act in the matter of Special Warrants, the Chair finds itself in an awkward position for I do not want the House to misconstrue these comments as anything other than background for the information of all Hon. Members. The question of whether or not the terms of the Financial Administration Act have been respected in this instance is not a matter that was raised in the arguments put forward on April 6, nor indeed is it a matter upon which the Chair would be in a position to rule.

The Chair has no authority to venture beyond the realm of parliamentary practice and procedure into questions of law.

The Hon. Members for Kingston and the Islands and for Glengarry—Prescott—Russell argue that conventions in our Constitution have been breached in this instance. The Chair wishes to restate what my predecessors have so often reminded the House, that the Speaker has no role in interpreting matters of either a constitutional or legal nature. Let me quote Citations 117(6) and 240 from Beauchesne's Fifth Edition: