

Privilege—Mr. McGrath

Mr. McGrath: I can read the proclamation into the record, Mr. Speaker. The proclamation is PC 1978-3243, October 26, 1978. It reads:

His Excellency the Governor General in Council, on the recommendation of the Minister of Employment and Immigration, pursuant to sections 4 and 146 of the Unemployment Insurance Act, 1971, is pleased hereby to approve amendments made on October 20, 1978 by the Canada Employment and Immigration Commission to the Unemployment Insurance Regulations approved by Order in Council PC 1955-1491 of 29th April, 1955, as amended, in accordance with the schedule hereto, effective January 1, 1979.

Schedule

1. Section 54 of the Unemployment Insurance Regulations is revoked and the following substituted therefor:

54(1) Subject to subsections (2) and (3) the employment with an employer in any week of a person,

(a) whose earnings are calculated in whole or in part on a time-worked or fixed-salary basis and who is employed and remunerated for less than 20 hours by his employer, or

(b) whose earnings are calculated on a basis other than that described in paragraph (a) and whose cash earnings from that employer are less than 30 per cent of the maximum weekly insurable earnings,

is excepted from insurable employment.

For purposes of my argument, that is the only part of the order in council and proclamation that I need to record into the record. The rest of it is not entirely relevant to my argument.

Now I should like to read clause 2 of Bill C-14 now before the House. It reads as follows:

2. Subsection 4(3) of the said act is amended by deleting the word "and" at the end of paragraph (f) thereof, by adding the word "and" at the end of paragraph (g) thereof and by adding thereto the following paragraph:

Here is the key paragraph:

(h) any employment with an employer in which persons are employed for less than 20 hours in a week or in which the earnings of persons are less than 30 per cent of the maximum weekly insurable earnings.

As you will see, it is almost the same, word for word, as the order in council and the proclamation.

The explanatory note to clause 2 of the bill is very important, and I will develop why it is important in a subsequent argument. The explanatory note for clause 2 reads as follows:

Clause 2: New. This amendment would provide authority to make regulations providing that a week of employment must contain at least 20 hours or must provide a salary equal to or greater than 30 per cent of the maximum weekly insurable earnings to be considered insurable.

The government wishes to have the authority to make this regulation which it has made already by order in council which I read earlier, and in the proclamation in the *Canada Gazette*. If ministers did not need the authority, what are they asking parliament for? If they need it, then there is contempt of parliament in that order in council.

I should like to mention something in support of my argument, but I hate to do this because I do not want Your Honour to pick upon this as an excuse for ruling out my argument on a technicality. So if I may ask the jury to leave, while I mention this part of my case, may I continue by saying that yesterday, when this matter was raised in committee we received from the Minister of Manpower and Immigration, and from the deputy minister, an apology. They said, in so many words, "I am

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sorry, the committee and parliament should have been told about this, and we regret very much you were not told."

The minister and the deputy minister took the blame and they said that there should have been a further explanation in the explanatory note, that parliament should have been told when the bill was introduced that the order in council had been passed. "Mea culpa, mea culpa, mea maxima culpa." I appreciate the minister saying he is sorry. That is what I would expect from the minister because he is that kind of person. He is a good parliamentarian, and that is in keeping with my perception of his good character. But an apology is not enough because we are still faced with the dilemma of having before us a bill, a part of which has already been enacted by order in council. That is my case.

I could argue that the committee was deceived, that the House was deceived, and, in support of my argument I could refer Your Honour to a citation in May's nineteenth edition entitled "Conspiracy to deceive either House or committees of either House." The citation reads:

It has already been seen that the giving of false evidence, prevarication or suppression of the truth by witnesses while under examination before either House or before committees of either House is punished as a contempt; and that persons who present false, forged or fabricated documents to either House or to committees of either House are guilty of a breach of privilege. Conspiracy to deceive either House or any committees of either House will also be treated as a breach of privilege.

● (1252)

The minister and the deputy minister admitted that they withheld this information from parliament, namely, the passage of the order in council and its proclamation, when Bill C-14 was presented for second reading debate and committee stage.

I submit there is a prima facie case. The minister is in contempt of the House, either by virtue of anticipating or second guessing the House, or by ignoring the House in making a proclamation for a section of the bill which has not been passed by this House, or in withholding information from the House and one of the committees of the House relevant to a bill or a measure before the House. The minister is in contempt either way.

Accordingly, I move, seconded by the hon. member for Grenville-Carleton (Mr. Baker):

That the Minister of Employment and Immigration by an order in council dated October 26, 1978, and proclamation in the *Canada Gazette* of November 8, 1978, enacted section 2 of Bill C-14, an act to amend the Unemployment Insurance Act, which is still before the House, and thereby showing contempt for this House; and that the said order in council and the said proclamation of November 8, 1978 be referred to the Standing Committee on Privileges and Elections.

Mr. Speaker: There are six or seven members who want to contribute. I presume all members of the committee want to make a contribution. It seems to me the ground is fairly clear.

The first thing which must be solved is whether the order in council enacts what the section would enact. The second is whether, if that is the case, it constitutes a contempt of the House. If that is not the case, the matter stops there. It would seem to me the argument of the hon. member for St. John's