

*Privilege—Mr. Hawkes***PRIVILEGE****MR. HAWKES—RINGING OF BELLS BEFORE COMMENCEMENT OF SITTINGS**

Mr. Jim Hawkes (Calgary West): Madam Speaker, as near as I can tell, my question of privilege this evening is one which has not been argued before in the House of Commons. I feel it is important because it affects the privileges of all members, whether they happen to be cabinet ministers or backbenchers.

My question of privilege is built on the foundation of five citations. If I may begin, I should like to refer to Citation 16 which is contained in Beauchesne's fifth edition. This citation concerns the definition of "privilege", and it reads as follows:

Parliamentary privilege is the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually.—

I think an emphasis of the word "individually" is important. It continues:

—without which they could not discharge their functions and which exceed those possessed by other bodies or individuals. Thus, privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law.

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual members, because the House cannot perform its functions without unimpeded use of the services of its members;—

I think the following is a crucial statement: "without unimpeded use of the services of its members". It continues:

—and by each House for the protection of its members and the vindication of its own authority and dignity. Sir Erskine May, *Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (19th ed., 1976), p. 67.

I think Beauchesne felt that part of the thrust of that citation was important enough to be repeated in Citation 104 under the section entitled: "Access to the House of Commons" which reads as follows:

The time-honoured privilege of members to have free and unimpeded access—

Again we find the word "unimpeded". It continues:

—to the Parliament Buildings should be recognized even if there is some question as to the extension of the term "parliamentary precincts", and in particular whether the jurisdiction of the Speaker, exercised on behalf of members, extends beyond the limits of the Parliament Buildings themselves.

I think it is clear that extends to those within the Parliament Buildings.

I should like to refer to how that was interpreted by Erskine May in the nineteenth edition. Turning to Chapter X, "Breaches of Privilege and Contempts", the first paragraph reads as follows:

It would be vain to attempt an enumeration of every act which might be construed into a contempt, the power to punish for contempt being in its nature discretionary. Certain principles may, however, be collected from the *Journals* which will serve as general declarations of the law of Parliament. It may be stated generally that any act or omission—

I emphasize the word "omission". It continues:

—which obstructs or impedes either House of Parliament—

Again we find the words, "obstructs" and "impedes". It continues:

—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—

That is a tendency, directly or indirectly, to produce the result of obstructing or impeding. It continues:

—may be treated as a contempt even though there is no precedent of the offence.

Turning to page 220 of the nineteenth edition of Erskine May, there is a section entitled: "Access to the Houses of Parliament" which reads as follows:

To facilitate the attendance of members without interruption, both Houses, at the commencement of each session, by order, give directions that the commissioner of the police of the metropolis shall keep, during the session of Parliament, the streets leading to the Houses of Parliament free and open, and that no obstruction shall be permitted to hinder the passage thereto of the lords or members. The police accordingly give every facility to members and officers of the two Houses to cross the streets and approach the Houses of Parliament without interruption and where necessary hold up the traffic for this purpose. The Speaker has informed the House when for some special reason it is expected that the police will have difficulty in complying with the terms of the sessional order.

I have read that fourth citation simply because it brings to light, in a somewhat graphic form, the importance of that part of our traditions which has been attended to over the years in terms of the very important principle that something is wrong when the attendance of members coming to this House is impeded.

● (2010)

Madam Speaker, my question of privilege relates to those principles which I have read out of Beauchesne and Erskine May and which first came to my mind a couple of nights ago. I have spent some time gathering evidence related to the purpose of the bells. I think there are precedents in Erskine May and in the Standing Orders for the use of bells related to divisions, but I have searched our Standing Orders and there is an omission with respect to the use of bells to call members to the sittings of the House. The only reference which I could find which deals with the issue of warning is in the last reference, which I would like to read. It is found in Beauchesne's fifth edition, Citation 203. It deals with the opening of a sitting of the House. You may note, Madam Speaker, that it does not deal with the commencement after the dinner break, but simply with the opening of the House. I think the first three words of the citation are most critical, although not very precise. The citation reads as follows:

A few minutes before the appointed hour for the opening of a sitting, on the day following his election, and every sitting day thereafter, the Speaker and his suite leave his library for the chamber. They march in the following order: The Chief Constable and two sergeants, the Sergeant-at-Arms bearing the Mace, the Speaker, the Clerk of the House, the Clerks Assistant. A page, walking to the Speaker's right, carries documents to be read by the Speaker. They proceed to the Hall of Honour and the front corridor. At the chamber door, the men who precede the Mace halt and stand at attention whilst the others enter the chamber. Members, who may then be in their seats, rise as the Speaker walks to the chair. The Sergeant-at-Arms stops at the end of the Table, waits until the Speaker has taken the chair, then places the Mace on the Table, bows and goes to his desk. When there is a quorum present the Speaker reads Prayers (alternatively in English and French on successive days) the Clerk saying Amen at the end of each invocation.

The reason I read Citation 203, which is related to the opening of a sitting of the House, is that any reader of that