

Constituency Records

Mr. Dick: I would like to ask the question whether he would be so kind as to do that.

The Acting Speaker (Mr. Ethier): Order, please. I think the hon. member had mentioned that during his former speech.

Mr. Blaker: Mr. Speaker, very often there is a courtesy in the House that members will attempt to get the subject matter of the bill off to committee. I want to finish by explaining to the hon. member why he is wrong. If I believe he is wrong, it would be most improper of me to propose that the subject matter go to committee.

At one point the hon. member mentioned that he was discouraged because there was no remedy open to the citizen. I have tried to point out that we do not have any rational way of handling this information. I went through that entire story to make it very clear to the hon. member that his bill would require the handling of documentation in a manner of which most of us are incapable. As the years go by we are simply not capable of storing this kind of data. Barring access to space under the roof of this building—where at least one hon. member is storing his dossiers—there is no way in which we can do what the hon. member wants us to do. We simply do not have the ability to store and care for these documents under a law which would, in effect, impose a solicitor-client relationship upon a member of parliament and his constituents, or anyone else who may write to him.

● (1652)

Having said this, I want to point out what I feel is wrong in law with the proposal, and it is this. A remedy is already available to the citizen who claims his documentation has not been returned to him. Those documents, under the law of my province—and I assume this would apply to a citizen of the other provinces—are private property. Under the law he has a right to reacquire his file and the court will uphold that right.

The hon. member has included in his bill a provision that, in the event of the wilful or deliberate destruction or mutilation of the documentation, a fine may be imposed. Well, Mr. Speaker, the Criminal Code already handles that matter. The wilful destruction of property of other people constitutes an offence. That is why I do not want to see this kind of bill go before a committee. The law already provides a remedy for citizens who feel aggrieved in this regard.

I end by saying that I had hoped the hon. member would help us resolve some of the problems we have in this regard. I do not think he has done so. In the area with which he is dealing, there is already good common law and good civil law to make sure that the rights of citizens are well protected. I regret the circumstances in which this bill should not, in my view, be sent to a committee. As a matter of fact, it will not be me who will prevent it from going further through the usual method of talking it out. I realize the hon. member wants the whole subject to be considered in committee, but I believe we need a far better understanding of how this problem should be dealt with before we proceed further into the narrow issue of the handling of documents.

Hon. Martin O'Connell (Scarborough East): Mr. Speaker, I have no doubt that the author of this bill is well intentioned

but his proposals are, in my humble opinion, misguided and in part contradictory. I think he has placed before us a bill which is unworkable. We all recognize the attempt the hon. member has made to be reasonable in not seeking to sweep all correspondence or documents within the ambit of the measure, but the means he has provided for determining what is within its scope and what is not are ineffective. Moreover, I find some of them objectionable.

The hon. member himself suggested that this might not be the best bill for tackling the problem he outlined. I think he is right. He suggested it might be preferable to return important documentation to whomever had sent it to us. That is indeed a preferable procedure in the case of original documents. In my own case, as far as I can recall I do not accept original documents without asking the person concerned if he wants them back. If so, I photocopy and send the originals back.

My question is: Should we be legislating in this field? Should we not, rather, be developing more professional standards of conduct which would ensure the protection of original documents? I say this bearing in mind the vulnerability of members of parliament in their occupation. Ought not members simply to exercise good judgment in passing on a file?

I agree with the hon. member for Lachine-Lakeshore (Mr. Blaker) that documents should be passed on only with the consent of the authors. This is why I say that the bill is in part contradictory in its principles. I think we would all agree that correspondence between a constituent and a member of parliament involves aspects of trust. But is it not a contradiction to say that in other circumstances, or at some other time, because these documents constitute what are sometimes called constituency records, some generalized conception of the constituency, this trust can be interpreted as requiring that, in effect, it be broken and that the documents or correspondence be turned over to someone else? There is no requirement for consent. In fact, consent would be so difficult to obtain in the circumstances which arise when an MP is defeated or resigns that I think any proposal along these lines would be unworkable.

In closing, I will mention another aspect. Let us consider the means proposed by the hon. member for implementing the bill. He suggests the setting up of an arbitration committee composed of three persons. How would such a committee be established? It would be established by whips. Do we conceive of whips, who are members of parliament, as being non-partisan, judicious persons—members who are whips in this House at the present moment excepted, of course! Can the public be assured that the element of a judicious approach would be represented in such a body nominated by partisans and in proceedings which would lead to fines? Is parliament to get into the business of imposing fines on persons who do not comply?

The Acting Speaker (Mr. Ethier): Order, please. It being five o'clock, the hour for the consideration of private members' business has expired. I do now leave the chair until 2 p.m. on Monday, pursuant to Standing Order 2(1).

At five o'clock the House adjourned, without question put, pursuant to Standing Order.