

Privilege—Mr. Hawkes

East (Mr. Belsher) on Friday, April 19, 1985 meets the requirements of the Standing Orders as to form.

The petition presented by the Hon. Member for Windsor-Walkerville (Mr. McCurdy) does not meet the requirements of the Standing Orders as to form.

* * *

PRIVILEGE**PUBLICATION OF PARLIAMENTARY COMMITTEE REPORT PRIOR TO PRESENTATION IN HOUSE—RULING OF MR. SPEAKER**

Mr. Speaker: I am now ready to rule on a question of privilege raised by the Hon. Member for Calgary West (Mr. Hawkes) on April 16. I am prepared to give the House a minute to settle down, if the House chooses.

The Hon. Member complained of a premature disclosure of a report of the Standing Committee on Labour, Employment and Immigration and provided the Chair with two newspaper reports by way of evidence.

Order, please.

The two reports, one from *The Toronto Star* and the other from *The Citizen*, clearly indicate that these two newspapers were in possession of the report prior to its tabling in the House of Commons.

The premature disclosure of committee reports and proceedings undoubtedly encroaches upon parliamentary privilege if the traditional criteria are rigidly applied. The Hon. Member quoted relevant citations from Beauchesne in support of his complaint. The Hon. Member for Windsor West (Mr. Gray), in the course of his intervention, indicated that the British practice, which is referred to in Beauchesne, had been altered. In the interest of clarity—

Order. I presume rulings on matters of privilege are of importance to the House.

Mr. Hnatyshyn: My friend is important to me, too.

Mr. Gauthier: Apologize.

Mr. Speaker: No apology is necessary. Order, please. All Members of this House are guilty at some point or other of talking when the Speaker is on his feet. That is an equal problem. I have made that point before and I will make it again. It is not for the Chair to have to cope with that matter, I think as all Members know; it is in the interest of those who wish to hear that all Members allow the Chair to be heard.

Some Hon. Members: Hear, hear!

Mr. Speaker: In the interest of clarity, I should perhaps indicate the current British practice in this regard as described on pages 716 to 717 in the Twentieth Edition of Erskine May:

Publication of reports of committees.

Any publication of a draft report, which has been submitted to a committee, before such report has been agreed to by the committee and presented to the House, is treated as a breach of privilege; and when the report of a committee,

which had been presented to the House, but was not yet available to Members in printed or photocopied form, was communicated to the press, the Speaker stated that the more regular practice was that the Members of the House should be the first to be put in possession of the results of the deliberations of a select committee. The practice was modified in 1967-68 by terms of Standing Order No. 92 which provides that all select committees should have power to authorize the Clerk of the House to supply copies of their reports to officers of government departments, to such witnesses who have given evidence to committees or their sub-committees as these committees consider appropriate, to lobby journalists and to such other press representatives as the committee thinks fit. Copies are to be supplied after they have been laid on the Table, but not more than forty-eight hours before the intended time of publication of the report; and they are to be regarded as strictly confidential until such publication.

In 1980 the British House also relaxed its position—

Order. Fair is fair. Perhaps Members of the Opposition Party would also care to allow me to be heard.

In 1980 the British House also relaxed its position respecting the publication of evidence given by witnesses at public committee hearings before such evidence had been reported to the House. The details may be referred to on pages 704 to 705 of Erskine May's Twentieth edition.

The British practice has therefore, as pointed out by the Hon. Member for Windsor West (Mr. Gray), been changed in recent years. However, the Canadian practice has never been entirely consistent with that of the British House, and in this regard I wish to refer to some important precedents.

On October 29, 1964, a question of privilege was raised complaining that an identified Member of the House had issued a press release concerning the report of the committee considering a national flag prior to the presentation of the report to the House. The Member concerned acknowledged that he had indeed done so. Mr. Speaker, Macnaughton took the position that since the complaint involved an attack on the conduct of a Member, there should be a specific charge by way of a substantive motion on notice, and he quoted from a ruling of Mr. Speaker Michener of June 19, 1959 as follows:

In my view, simple justice requires that no honourable member should have to submit to investigation of his conduct by the House or a committee until he has been charged with an offence.

The matter was not proceeded with.

On October 21, 1975, the Commons chairman of a joint committee raised a question of privilege in which he complained of the unauthorized publication of excerpts from a preliminary draft of the committee's report, each page of which had been clearly stamped "confidential until presented in the House." Mr. Speaker Jerome in his ruling acknowledged that "the publication of such a report would raise the strongest suggestion that some act had taken place which offended the privileges of the House". However, he went on to point out that the complaint was not specific in alleging an act of misconduct on the part of any identified individual or individuals.

Another important precedent concerning the premature disclosure of committee proceedings is to be found in a ruling given by Mr. Speaker Jerome on June 23, 1977. Again, Mr. Speaker acknowledged that the complaint contained the elements of privilege and was supported by clear precedents in the British House of Commons. At the same time he pointed