

an-related activities of the Russian Intelligence Service", marked "Top Secret—For Canadian Eyes Only", can the Minister of Justice inform the House whether and, if so, why, at least eight copies of the 58 were distributed to foreign countries? Was this done on ministerial authority?

● (1502)

Hon. Ron Basford (Minister of Justice): Mr. Speaker, my department is not in charge of the distribution of these documents, but as the Solicitor General so wisely said a little while ago in this House, it would not be proper to outline in the House the distribution of such documents. It is evident there is no purpose in informing those who want to obtain those documents of the method of distribution or to whom they are distributed.

Mr. Jarvis: May I ask the Minister of Justice, who is represented by a top official on each committee, whether it is possible that a document marked "Top Secret—For Canadian Eyes Only" could be distributed to a foreign government or to its agencies, in the absence of ministerial authority and, if that is not the case, which minister is responsible for giving that authority?

Mr. Basford: I will have to take notice of the question as to who specifically directs the distribution of these documents.

Mr. Baker (Grenville-Carleton): Probably the Queen's Printer.

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PRIVILEGE

MR. RODRIGUEZ—ALLEGED ELECTRONIC SURVEILLANCE OF HON. MEMBER

Mr. Speaker: Order. The hon. member for Nickel Belt (Mr. Rodriguez) has several times raised a question of privilege, specifically on March 16, regarding electronic surveillance of members of parliament. He has put forward a motion requesting that an instance of such surveillance in which he was allegedly involved be submitted to the Standing Committee on Privileges and Elections. For the benefit of hon. members I will read the motion:

That the allegation by one Warren Hart, in a sworn affidavit, that he taped electronically, on one or more occasions, the member for Nickel Belt, together with the admission by the Solicitor General that the said Warren Hart was for a time in the employ of the RCMP, be referred to the Standing Committee on Privileges and Elections, for the purpose of inquiring into the said allegation and the circumstances relating to any such electronic surveillance of the said member, including an inquiry as to what happened to any tapes of the said member that may have been made by the said Warren Hart.

I have suggested, while attempting to deal with this matter in the past, that it is obviously one which is entirely new to our jurisprudence in that there is, of course, no precedent in any of the earlier practices of this House or of Westminster which relate in any way to electronic surveillance. It would have been helpful to the Chair if, in these circumstances, the alleged surveillance had taken place within the precincts of parlia-

ment. The case has another dimension altogether when it is alleged to have taken place elsewhere.

On the face of it, it seems to me that the electronic surveillance of a member could be regarded as a form of harassment, or obstruction, or molestation, or intimidation of a member, all of which phrases have been used in our precedents to support the position that such conduct is a contempt of the House. In this case I confess that the novelty of the basic problem, the ingredient that though it happened outside the precincts of parliament that it did occur while the agent allegedly, according to his sworn statement, was under contract to the national police force, are aspects which leave me in considerable doubt.

We have already established the fact that this was not a conflict between statements made or assurances given by the Solicitor General (Mr. Blais) to the hon. member with respect to the fact that this man was under no instructions to carry out this form of activity. Nevertheless, there is the ingredient that he was under contract. This has been established and it raises a number of elements which, frankly, puzzle me in deciding whether or not in these circumstances electronic surveillance of the sort alleged might be considered by the House to be an infringement of the privileges or a harassment or a molestation of one of its members in keeping with the terminology used in the past when electronic surveillance did not exist.

In this connection I wish to refer the House to some excellent language contained in the *Report of the Select Committee on Parliamentary Privilege* dated 1967, in the United Kingdom. I have the reference here and I will table it with my notes today for the benefit of the reporters. The document is dated February 20, 1967, and I call attention to the following passage which appears on page 111:

From this circumstance it might be inferred that the test applied by the Speaker in deciding whether to give precedence over the orders of the day to a complaint of breach of privilege—or rather to the motion which the Member who has made the complaint desires to move in reference thereto—is, Does the act complained of appear to me at first sight to be a breach of privilege? Rigorously applied, it would mean that no complaint of breach of privilege could ever be entertained unless the Speaker was of opinion that the act or conduct complained of was a breach of privilege. The result would be that the House, which alone is competent to decide whether a particular act is a breach of privilege, would have no opportunity of deciding the question unless the government gave time for its discussion. Borderline cases and arguable ones would be excluded automatically because in such cases the Speaker could not say that he was of opinion that the act or conduct which was the subject of complaint *prima facie* constituted a breach of privilege.

I ask hon. members to note the phrase "which alone is competent to decide". That is the point I wish to stress. To continue quoting:

In my submission the question which the Speaker should ask himself, when he has to decide whether to grant precedence over other public business to a motion which a Member who has complained of some act or conduct as constituting a breach of privilege desires to move, should be, not—do I consider that, assuming that the facts are as stated, the act or conduct constitutes a breach of privilege, but could it reasonably be held to be a breach of privilege, or to put it shortly, has the Member an arguable point? If the Speaker feels any doubt on the question, he should, in my view, leave it to the House.

That is the position in which I find myself here. In all the circumstances, I hesitate very much to take away on procedural grounds the possibility of reaching a decision on a