

*Privilege—Mrs. Holt*

dence of distortion of their personal importance when the man who stole a confidential report out of, possibly, our own lobby is a hero, and an RCMP officer in the course of his duty in furtherance of the national security is a bum. I believe that they as reporters—as I was myself—are citizens before all else.

I never saw it more clearly and with more fear—yes, fear, Mr. Speaker—than in the case that I raise as an issue now. The damage that at least two of the parliamentary press corps, the Canadian publishers and news directors of the electronic media, have done to the public interest in the crucial area of correction and the penitentiary service of Canada cannot be measured. We, in the special subcommittee of the parliamentary committee on justice and legal affairs, have worked almost non-stop as a committee through night and day, some seven days a week, because of the urgency of our task. We scrubbed all party lines because the crisis in maximum security institutions, which we sought to resolve, was so volatile and crucial that we felt it must be dealt with co-operatively without confusion of the irrelevancy of party line.

For the same reasons, we dealt circumspectly with certain witnesses, hearing the evidence of a large number of them in camera, often not even recording their names or asking their names because we feared for their safety. If their names were leaked, we knew there could be retribution to the extent of maiming, even death. We are not exaggerating; we have evidence there is this great danger. I say this to explain the seriousness of my question of privilege, the need to determine once and for all whether confidential documents of a committee hearing should be published, even if they were available. Even if they were handed to a press person, I believe there is not the right to publish.

The *Globe and Mail* of May 4 published a Canadian Press story, which was also carried on radio and television, purporting to describe the contents of a draft report of the subcommittee on penitentiaries. First, Mr. Speaker, the document was not a draft report, but a report on which a draft would and might be based. The distinction is important because the document contained material too sensitive to be included in a published report but which would provide to an in-camera meeting of the subcommittee a justification and background for its conclusions, if the subcommittee agreed with it.

In every sense of the word, the matter was confidential and was never meant to be published. It contained statements that the committee might decide to reject, and did in fact reject. Therefore, obviously, it should not have been published. Its publication is a breach of the right of privacy of people who appeared before the committee, and the press report presents as facts propositions which had no subcommittee endorsement.

Secondly, Mr. Speaker, it was not the intention of any member to give this document to the press. We know that in some cases where leaks of draft reports occur, a member has intentionally given out a report and it is difficult to apportion blame to the press. In this case, however, a member of the committee claims that he accidentally put down his copy of the draft, and that the draft copy was clearly marked, in big

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letters, "Confidential". He did not realize until later that it was missing. It should be noted that this did not happen in a public place, Mr. Speaker; it happened as the member was pursuing his duties within the parliament buildings, through the halls and lobbies in which members of the press gallery circulate freely as a necessary privilege. Surely it is an abuse of this privilege, Mr. Speaker, to collect material clearly belonging to a member of parliament, to read through information marked as confidential, and even to retain portions of it when contacted by the member who requested its return.

We all have the greatest respect, Mr. Speaker, for the role of the press and its place in this institution. However, even with this in mind, I think it would be negligent of this House to dismiss lightly the actions of a particular gallery member who we can only assume "lifted" or "stole" this document. He did, in fact, brag before committee members at a reception that this was not the only confidential document which he had and had shown others. Material in those documents has been published across Canada. Not only is this unethical; it is a specific breach of privilege according to Beauchesne's citation 320(5), the last sentence of which reads:

● (1210)

The publication of proceedings of committees conducted with closed doors or of reports of committees before they are available to members will, however, constitute a breach of privilege.

Before citing precedent on which Your Honour can act, and before suggesting a motion, I want to emphasize two points. First, I know that even if a member has intentionally given out a copy of a draft report, the press still has no legal authority to print it, because if the rules on confidentiality are abided by there is privilege in that document. The subcommittee discussed this point thoroughly and is satisfied with the member's explanation of how the material fell into the hands of a reporter, and feels that it was unethical behaviour and an abuse of the privileges of that reporter.

Second, I do not believe the motion would result in the undesirable situation, which you have previously expressed, of one committee investigating another. What is in question is not anything to do with the actual proceedings of the committee or the activities of any of its members. Rather, it is the ability of that committee to carry out its mandate from the House without unreasonable invasion of its confidential discussions.

The authorities on the question of disclosure of proceedings in committee are clear. They stem from a resolution of the United Kingdom House of Commons of April 21, 1837, which reads as follows:

That the evidence taken by any select committee of this House and the documents presented to such committee, and which have not been reported to the House ought not to be published by any member of such committee or by any other person.

This is contained in May's nineteenth edition and Bourinot's fourth edition, pages 53-54. May's edition, at page 147, goes on to say:

The publication or disclosure of proceedings of committees conducted with closed doors or of draft reports of committees before they have been reported to the House will . . . constitute a breach of privilege or a contempt.