

Privilege—Mr. W. Baker

1, 1972, and December 31, 1975, involving uranium production in Canada.

The type of person that is caught there, clearly not only under the first regulation but also under the newly amended regulation—which is presumably still a valid regulation—is a governmental official who has had some hand in the formation and operation of the cartel during those years I have referred to. I refer to those that are members still, or who were at that time members of the various producing companies active in the uranium industry, and who have some hand in uranium cartel activities.

● (1532)

The reason it is rather urgent that we get an interpretation as to our privilege is that we have some first-hand knowledge from some of those people who are still covered by the amended “gag” regulation that we would like to reveal, not only to this House but to the Canadian public generally. The unfortunate thing that has now arisen is that if we offer that information in the House, clearly our privilege, according to the Chief Justice is guaranteed, if you like—he does not question that within the House—but he makes it very clear and says the privilege stops at the press.

I am in this odd position. I have some danger in going to an official either within a producing company or within the government and seeking the information that some have indicated they are willing to give us. That might be aiding and abetting that person breaking the regulation as amended. I emphasize that. Second, when I get that fresh information and I offer it in the House—and I think the hon. member for Winnipeg North Centre touched on this—unless I alert the tv cameras and those who might be listening that I am about to reveal certain information that the Chief Justice indicates I have the right to reveal, but the press does not have the right to communicate, there is going to be an offence committed. We would be in a rather awkward position. Presumably, I have to give Your Honour an indication that I am going to reveal information. Your Honour could call for a black-out or something like that in case there is some offence. That is the rather ridiculous position we are in.

The Minister of Justice indicates that he is not sure whether a ruling is needed. I would emphasize that a ruling is needed very quickly. Contrary to what the minister has conveyed, the Chief Justice deals very specifically with what he regards to be the rules within the House of Commons. He cites various precedents; he goes into that; he does not stop simply with a judicial interpretation. But perhaps the confusion comes up at page 42 of his judgment. If I may, I would like to quote his words:

Following the authorities set out above, I have come to the conclusion that a member of parliament may utilize information proscribed by reg. 76-644 in parliament and may release that information to the media. However, I hold that the privilege of the member cannot be extended to protect the media if they choose to release the information to the public. Nor do I consider that the “real” and “essential” functions of a member include a duty or right to release information to constituents. The cases indicate that the privilege is finite and I would not be justified in extending the privilege to cover information released to constituents.

[Mr. Stevens.]

What the judge is apparently relying on is a House of Commons decision in England of a special committee that was set up there in 1938-39 entitled “a select committee on the Official Secrets Act”. He refers extensively to comments made in that committee which were subsequently adopted by the House in England and presumably are now part of the privileges as defined in the House in England.

Where the confusion seems to have arisen is that the Chief Justice has likened the “gag” regulation, with which we are now dealing, with something that might fall under the Official Secrets Act. He is, in effect, saying that if they are one and the same, the limit to privilege under the Official Secrets Act of England would presumably apply to members of the House of Commons in Canada. With all due respect to His Lordship, I do not feel that is a fair comparison—in, there is nothing about this “gag” regulation that can be looked upon as an official secrets type of activity. In short, it is simply a gag on those who have first-hand knowledge with regard to what transpired in the production, distribution and sale of uranium between the years that I have indicated. In fact, members of the government have often tried to tell us that there was nothing secret about what happened.

We are in the awkward position where the government by order in council has said it is an offence to reveal anything, certainly of a first-hand nature. With regard to what transpired touching on this subject within those years, we have the Chief Justice indicating that our privilege does not extend beyond this House in the sense that we cannot communicate with our constituents or the press on their own if they want to release this information. We need an early indication of what, in fact, is the privilege we enjoy in this House and to what extent it extends to other members of the Canadian public.

Mr. Speaker: Order, please. The Minister of Justice (Mr. Basford) has already made an intervention. I do not know if he is seeking the floor on a point of order or for clarification.

Mr. Basford: Mr. Speaker, I was hoping to move on. I want to raise a question of privilege on my own. However, with regard to the last intervention I just want to say, as the House knows, that the President of the Privy Council has been very seriously ill for some time. I would at least like some time to be able to consult with him before a decision is taken on this matter.

Mr. Speaker: The hon. member for Grenville-Carleton gave notice earlier in the week, supported by the Minister of Justice, that the matter ought to be raised in a preliminary indication of the contents of the judgment by the Chief Justice of the Supreme Court. Upon the request of the Minister of Justice today to consider the matter before making an intervention, I am certainly prepared to accede to that, provided any further intervention on the part of the government is made as quickly as possible. We would certainly be looking for that advice at the earliest possible moment. It is, therefore, appropriate that I should reserve on the matter pending the further intervention, and take some careful consideration of the judg-