

Privilege—Mr. McGrath

advertising agency and for a courier like Purolator to be given the go-ahead and to be given copy for an advertisement on Thursday night at eight o'clock and for that advertisement to appear in papers across the country the next day, Friday. That is physically and logistically impossible. If Your Honour accepts my prima facie case, I would establish that in committee. I have already established it to my satisfaction by checking with Purolator, by checking with the airlines and by checking with various newspapers. Either the minister of housing has been badly misled or, more seriously, the minister is misleading the House. In any event, the House is entitled to determine the facts. That is all we want, an opportunity to determine the facts.

I do not know the origin of the myth that every time a member rises to state that he has evidence indicating a serious wrongdoing by the government, he has to stake his seat on it. That has no basis in historical fact, in my opinion. It is a dangerous myth which has crept into the proceedings of the House which can only serve to restrain further members of the House in appealing to the Chair as the custodian of our rights and privileges. I appeal to Madam Speaker, as the custodian of our rights and privileges, as one who has conferred upon her the mantle of infallibility. We cannot challenge your rulings, and rightly so. But the fact that we cannot challenge your rulings makes it incumbent upon Your Honour to think very carefully before you rule, because your rulings will stand as precedents by your successors and could in fact serve to restrict even further the rights and privileges of members of the House.

I submit that there is evidence. Evidence has been produced during the course of question period both yesterday and today. There is further evidence to be produced. Witnesses should be heard. They should be examined, if necessary, under oath. The minister of housing should be examined. The president of CMHC should be examined by the committee. The president of Vickers and Benson should be examined, the courier should be examined—all these people should be examined so that we can determine the facts. If there was no budget leak, that is well and good but if there was then obviously the convention dictates that the Minister of Finance (Mr. MacEachen) has to resign.

● (1510)

If you find that I have a prima facie case of privilege, I would therefore move, seconded by the hon. member for the Yukon (Mr. Nielsen):

That the advertisement which appeared in the *Brockville Recorder and Times*, on the morning of November 13 over the authorization of the minister responsible for housing, contains budgetary information which was in the hands of the said *Brockville Recorder and Times* prior to the reading of the budget in the House on November 12, 1981 and which constitutes a prima facie breach of the privileges of the House and that it be referred to the Standing Committee on Privileges and Elections.

Mr. David Smith (Parliamentary Secretary to President of the Privy Council): Madam Speaker, I think it is quite important to note that my friend on the other side has referred to Erskine May. The reason he has done that is that there is no

reference either in the Standing Orders or in Beauchesne that would suggest that in the event that a budget leak occurs, it constitutes a breach of privilege. There is no precedent for Your Honour to find a prima facie case of privilege on this alleged leak or any other leak, Madam Speaker.

My friend has referred to Erskine May, nineteenth edition, at page 787 where this statement appears: "—budget resolutions . . . which by their nature must be secret until the financial statement is made—." That is the only reference to it. The principle that is spelled out is that this may have become a political convention, it may have become a custom and it may have become a courtesy of the House, but in fact there is no precedent to suggest that this constitutes a breach of privilege.

Before a motion can be treated as privilege I would submit that you, Madam Speaker, must find that a prima facie case of privilege exists.

My friend has used the Reid case as an example. I think it can be distinguished quite clearly from the facts before us at the moment because in that particular case the motion presented by the hon. member for Kenora-Rainy River (Mr. Reid) claimed that it was his privilege as a member of the House that had been offended by a newspaper report. I think it appeared in the *Montreal Gazette*.

If we are looking for precedents in the House, that best occurred in 1924 and that was the Porter case. I should like to refer my friend to the *Journals* of the House of Commons for Thursday, May 22 1924 when a motion was made by Mr. Porter which reads in part as follows:

The Honourable James Murdock, Minister of Labour, did withdraw from the Home Bank at its Ottawa Branch on the 15th day of August, 1923, two days before such bank's failure, thousands of dollars on deposit therein to his credit, using certain information he had received, as such minister—

It goes on to say that he had done this to his advantage. The motion was passed and the matter went to committee, which had the power to call witnesses and make whatever investigation it thought appropriate. The second report of the committee was issued on June 17, 1924, and is reported in part at page 402 of the *Journals* for that date as follows:

The Committee finds that the Honourable Jas. Murdock did nothing in connection with the withdrawal of such money from the Home Bank contrary to his obligation as a Minister of the Crown, or in derogation of his office and the honour, dignity and traditions of Parliament, and that the charge submitted to this Committee for investigation, so far as it affects the honour of Mr. Murdock, is not only not proved but entirely disproved.

The significant word is "charge", Madam Speaker. I would refer my friend now to *Journals* for June 27, 1924. Mr. Porter, the member who had made that charge in the House, read a letter to the House which contained the following statement:

I shall therefore place myself without delay in the judgment of the electors of my constituency, the West Riding of Hastings, and ask them to pronounce upon my conduct, upon the one hand, and the conduct of the Minister of Labour and the government and its supporters, on the other.

He resigned his seat. A bye-election was held and the member who had made the charge, which the committee rejected after investigating the facts, was not re-elected in the bye-election.

If we are looking for a precedent, that one pertains to the facts that are before us today. This is not a place in which we