

*Speaker's Ruling*

In presenting his claim for breach of privilege the hon. member for Scarborough—Rouge River explained that on December 29, 1992, pursuant to section 59(2) of the Customs Tariff, the Governor in Council adopted Order in Council 1992-2715.

The hon. member's question of privilege concerned section 59(5) of the Customs Tariff which explicitly states: "The Minister of Finance shall cause a copy of any order made pursuant to subsection 2 to be made before Parliament on any of the first 15 sitting days after the making thereof that either House of Parliament is sitting".

Pursuant to this statute, the order referred to by the hon. member should have been tabled on or before February 15, 1993. However as the hon. member noted, the Minister of Finance failed to do so.

For the information of all members I would like to note that the document cited was tabled subsequent to the question of privilege being raised on February 25, 1993. Nonetheless, this eventual tabling of the order does not correct the situation or resolve the fundamental problem.

Let me begin by saying that I find this situation particularly disheartening because of the striking resemblance it bears to the situation which gave rise to the question of privilege raised a year ago. In both cases the Minister of Finance was required by section 59(5) of the Customs Tariff to table an Order in Council within a prescribed time.

I am not making any of these comments in any personal sense and members will understand that but there are people in departments who know these rules and are supposed to ensure they are carried out.

In both of these cases the government failed to do so until after the matter was brought to the attention of this House.

[*Translation*]

The key element of the question of privilege raised by the hon. member for Scarborough—Rouge River is based on a statutory requirement. That is, the ministry was legally obliged to table a copy of an order made by the Governor in Council within a time limit determined by the Customs Tariff.

[*English*]

I find it necessary to also repeat the hon. member's statement of one year ago that, and I quote the hon. member: "It is difficult to conceive of any command of this House that could have more legitimacy than one contained in a law passed by this House".

As the hon. member succinctly stated when this very issue was raised in February 1992: "Subsection 59(5) of the Customs Tariff is a statutory provision and statutes are the highest form of command that can be given by this House. In my view the disregard of that legislative command, even if unintentional, is an affront to the authority and dignity of Parliament as a whole and of this House in particular".

[*Translation*]

It is an opinion that I share and that I expect to prevail in this Chamber. The statutory laws which have been agreed to by members of this House do serve a purpose and are meant to be respected.

[*English*]

As a servant of the House of Commons it is my duty to uphold the dignity and authority of this place. It is an obligation of the Speaker with, of course, the support of the members. At the very beginning of a Parliament every speaker addresses the Crown as represented by the Governor General, by claiming all the rights and privileges, in particular that members may have freedom of speech in their debates, access to His Excellency's person at all reasonable times and that their proceedings may receive from his "Excellency the most favourable construction".

• (1515)

In the present case it is not merely an order of the House that has been violated, but a law duly assented to by the Crown as a constituent part of Parliament. The delegate of the Crown has not met the exigencies of the law of Parliament.

As I have said before, Canada is not an executive democracy nor an administrative democracy, but a parliamentary democracy. If the Speaker has to remind the Crown formally at the opening of every Parliament then those who serve it should take note.

As members are well aware, the tabling of documents constitutes a fundamental procedure of this House. It is a part of our rules and ensures that members have access to the information necessary to them to effectively deal with the issues before Parliament.