

it deems it can give to the Senate and information which in fact it is denying the elected Members of the House of Commons.

In closing, I would ask Your Honour to look at the records of both Houses as well as those of the Senate Banking Committee to see if there is information which was being denied to us which was being asked for by the Hon. Member for Ottawa Centre. If that is the case, then I believe there has been a real breach, not only of the privileges of this House but certainly of the whole idea of parliamentary accountability.

**Mr. Cassidy:** Mr. Speaker—

**Mr. Speaker:** I was about to indicate to the Hon. Member for Ottawa Centre (Mr. Cassidy) that the Chair has probably heard enough on this point. However, if the Hon. Member wishes to say a few more words then the Chair will hear him.

**Mr. Cassidy:** Mr. Speaker, I will be brief. Of course, if you wish me to move a motion then I will do so.

Perhaps I can just bring to Your Honour's attention a couple of the specifics and the contrasts in what was being reported about what took place in the Senate at that time. I asked the following question:

Did the Government have specific information on the quality of the loan to the Bank of British Columbia that led it to judge that the expenditure—

**Mr. Speaker:** Order, please. The Chair suggests to the Hon. Member that the point he is now addressing may very well be pertinent. Would the Hon. Member be satisfied to send this information to the Chair through the Table Officers? The Chair has the points and has heard sufficient argument to deal with the matter. I will deal with it carefully and seriously and report back as soon as I can.

**Mr. Cassidy:** Thank you, Mr. Speaker. I will be glad to do that.

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### POINTS OF ORDER

#### STATEMENT UNDER S.O. 21 RESPECTING SENTENCING OF PETER FENWICK

**Mr. Jim Fulton (Skeena):** Mr. Speaker, I seek clarification from the Chair regarding a motion from which I was reading during Statements by Members.

As Your Honour is aware, before I was elected to this place I was an officer of the court in British Columbia. One of the roles that I had as an officer of the court was to make recommendations in relation to sentence. In speaking today about the sentencing of Peter Fenwick, who is the Leader of the New Democratic Party in Newfoundland, I was not referring to the judgment of the court or of the learned judge. What I was referring to was Canadian tradition generally in terms of jail sentences. There are certain criteria in all the courts of

#### *Point of Order—Mr. Fulton*

Canada—provincial, federal and territorial—with respect to certain matters which should be taken into account when one is sentencing someone to jail. Certainly, the person has to be some kind of danger to society, or there must be the potential for considerable negative effect on individuals or on groups within society, if he is to be given a jail term. Jail is not a place generally in which Members of the Legislature or Members of this House are taken as a result of attending public functions, public duties, or, in this case, a picket line, where there are large numbers of their own constituents. In this case, Mr. Fenwick was on a picket line for just a few moments and was selectively chosen from the crowd and then selectively prosecuted. That is to what I was referring in my remarks.

**Mr. Speaker:** The Hon. Member raises a matter, of course, which the Chair views as one of concern. The difficulty that the Chair is in in this case, and in others, is that the Hon. Member was making a statement and that the Chair is not always able to know exactly what will come in a statement. The Chair is concerned about the distinction between Hon. Members being critical of the law and cognizant that the Chair has an obligation—and it is a tradition—to constrain Members whose comments may in fact be an attack or a criticism of a judgment exercised by a court. That is the dilemma that all of us as Hon. Members have to find our way through.

As I think I said to the Hon. Member for Burnaby (Mr. Robinson) some days ago, there is a distinction between criticism of the judge and a court and criticism of the law under which that judge or court may be mandated to act.

The other difficulty is that the Hon. Member is really now into an explanation of why the Hon. Member, and no doubt others, as has been reported—and the Chair is cognizant of that—may feel that a sentence meted out by a court under particular circumstances was not appropriate. The difficulty here is that the court is presumed to have all of the relevant information upon which it acts. All of that information is not here before us in this Chamber which, as some people have said and which has been historically considered, is the highest court of the land. As a consequence, it puts judges and courts in a very difficult position indeed if Hon. Members are in effect second-guessing the judgment of that court. I know that the Hon. Member did not intend to do that. However, I also know and take cognizance of the fact that the Hon. Member is not happy with what happened. That of course is the Hon. Member's right. However, the Chair feels in this case that perhaps it is enough to accept the intervention of the Hon. Member, and I made it very clear to the Hon. Member that I would hear him out at this time.

I would ask all Hon. Members to bear with the Chair in this difficult distinction between the undoubted right of Members of Parliament to criticize laws and the right that those who have to administer the laws not be subjected to attack for exercising what they are in fact mandated to do. I ask the Hon. Member to accept the sincerity of the Chair in this matter. I have taken note of it. I shall be, as I try to be, very