

*Privilege—Mr. Friesen*

rendered on July 16, 1955, page 6246 of *Hansard*. In addition, the Speaker goes on to say:

—if the hon. member wishes to complain further about the non-compliance with the order, it is not a point of order or a point of privilege, and he must do so by moving the proper motion if he deems that advisable.

I respectfully submit, Madam Speaker, that in the case affecting my motion, in contrast to that decision rendered almost two decades ago, there is sufficient cause to justify a *prima facie* case of privilege. In my view, in this case no consideration of public policy can be urged against the motion for these papers since many of these documents are readily available now through the provincial Legislatures.

I also refer to a decision rendered on March 20, 1962, found at page 1967 of *Hansard*, where the Speaker states:

Perhaps the hon. member who feels the order of the House has not been sufficiently complied with would inform the minister of the specific documents which he says have not been produced. Then if he is not satisfied there is provision under our rules for a debatable motion to produce documents. This procedure gives a remedy for that matter which the hon. member for Laurier now raises.

In contrast to this decision, I have, first of all, already alluded to those documents which have not been produced. Second, I am satisfied that an order of the House was not discharged. In my view, a blatant contempt of that order has been demonstrated by the Government for its failure to produce these documents. How is it possible for a Member to indicate that all of the documents have not been produced before the Government decides to table those documents which it wants to? It is an impossible task.

I might refer to page 3793 of *Hansard*, May 11, 1956. You will note that in that particular case the Government did indicate its responsibility to table all documents and undertook to look into any oversight which may have occurred. However, in this case no oversight could possibly have occurred by the very magnitude of the number of documents which I have uncovered are missing.

You will note that at the bottom of pages 562 and 563 of May's twelfth edition and at pages 256 and 257 of May's fifteenth edition, there are footnotes which refer to the *Journals* and *Hansard* from which these specific cases were extracted. Going back to the *Journals* of 1834, 1835, 1841, 1876 and 1820, and also *Hansard* for these periods, you will note that the House has in the past ordered certain officers to produce certain documents. These points are a subject of the Speaker's remarks on Saturday, July 16, 1955, at page 6245 of *Hansard*, to which I have already alluded.

You will note that the Speaker refers to one case in which the Clerk of the Peace of Caernarvon was involved. The reason the Clerk was not producing the documents was because he felt the expense of producing such documents should be paid by the House, whereas a Member suggested it should be paid for by the Member who moved the motion. In another case, the man involved was a witness who appeared before a committee and refused to produce a book in his possession. The Speaker does not go into the other particular cases involved, but the Speaker ruled, upon looking into the background of these documents, that it would appear that ordinary citizens were involved with neglect rather than direct officers of the Crown.

It is my contention, Madam Speaker, that if an ordinary citizen can be held culpable for neglect, for whatever reason, so too should officers of the Crown, especially when they are Ministers of the Crown and have a direct responsibility in the operations and conduct of democracy in this country.

In other words, Ministers must be held accountable for their actions to an extent even beyond that of the ordinary citizen. Going over all the debates which have taken place on the Emergency Planning Order, the Government and its representatives have consistently adopted the view that there was nothing secret about the Emergency Planning Order. Indeed, it has indicated on almost every occasion that it wanted to make information available to clear up any misapprehension which could have occurred concerning this order.

Once the House order was passed on April 1, 1982, the Government said there was a problem only for the translation of the documents, that as soon as the documents were translated they would be made available to the House. At no time was a question of public policy raised as to the confidentiality of the record.

In addition, I would like to refer you to the ruling of the Speaker on February 21, 1979, page 3460, in a response to a question of privilege raised by the Hon. Member for Winnipeg South Centre. You will note that the question dealt with the failure of the then Minister of Transport to make available documents to the House which had been made available to an inquest conducted by a coroner on the crash of an aircraft in Saskatchewan. The Speaker clearly indicates that if the Hon. Member had actually said he had made application pursuant to motions for the production of documents and that the Minister subsequently refused to produce them, then it could have been brought forward within the ambit of privilege.

• (1520)

I understand, Madam Speaker, that over 70 people are directly employed by the federal Government to develop the Emergency Planning Order passed by Order in Council. I stress that these people are directly employed and do not include all those others indirectly involved. I find it impossible to believe that such a large contingent could produce such a small quantity of papers as were tabled here in the House. I think it is a byword across the country that the main industry here is to produce paper.

Finally, Madam Speaker, I would like to draw your attention to Citation 395 of Beauchesne's third edition, which tells us that once papers and files are entrusted to the Clerk of the House and recorded in the *Journals*, they become the property of the House. I suggest that, given the fact that many of the items to which I have referred earlier, and which I will not go over again, are already a matter of public record in the provincial legislatures, the President of the Privy Council must be obliged to table the missing documents in order to ensure that the rights of the Members of the federal legislature are respected. As a matter of fact I would state, Madam Speaker,