

today because the then secretary of state was able to say to the Chair and to the House—and the House was obligated to accept his assurance that his answer was factual—that he was unable to comply with the law because a report which he was required to table in Parliament had not yet been furnished to him; consequently, he could not table a report which had not been made available.

I stress that such is not the case in this instance. The Minister of Transport or some other responsible minister is required—

Madam Speaker: Order, please. Perhaps the hon. member could enlighten the Chair by telling me from the decision he is quoting precisely on this matter, the failure to table a report, whether the Speaker found there was a *prima facie* case of privilege. Perhaps he could continue with that decision. He seems to have an important piece of paper in front of him.

Mr. Beatty: Madam Speaker, that was the conclusion of the Speaker: because the then secretary of state said he could not table a report he did not have, that did not constitute a question of privilege in itself. The Speaker held open the possibility that had the minister had in his possession a copy of the report, that might very well have constituted a question of privilege. The relevant sentence reads as follows:

If the report is in his hands at a later time, or if in fact there is some action to be taken against the chairman for failing to file the report with the Secretary of State, that may be so.

In other words, the important distinction to be made is that in that instance the Speaker found there was not a question of privilege because the minister could not be forced to table a report which he did not have.

Mr. Speaker Jerome made it very clear that he left open the possibility that it might have constituted a breach of the privileges of members of the House if the minister had the report and had simply chosen not to comply with the law.

The distinction I should like to make in the instance before us, Madam Speaker, is that the Minister of Transport or whoever the appropriate minister may be to lay this instrument before Parliament cannot claim that he does not have access to it. It is an order made by the governor in council issued on January 21 and registered on January 22. No argument could be made that the government did not have in its possession an order made under the act. Clearly it is something that the government had and could have chosen to table at any time had it chosen to comply with the law.

On the strength of a reading of Mr. Speaker Jerome's ruling I would argue, first of all, that the fact that he ruled there was not a question of privilege because the minister did not have a copy of the report in question in his possession does not invalidate the point I make today. In fact, the government does have in its possession the order that it is required to lay before Parliament.

Second, I would argue that a reading of the decision by Mr. Speaker Jerome makes it clear that he was leaving it open that had the minister had the report in his hands—and he denied

having it—that might very well have constituted a question of privilege.

In any case, Madam Speaker, I think the fact that there is a positive onus upon Parliament to act within a specified number of days after the tabling of the order in Parliament adds further weight to the argument that this is a *bona fide* question of privilege. It means that if Parliament is to act at all, if it is to have a motion to consider the order when it is laid before Parliament, with the possibility of disallowing the order, it must act within a specified number of days. That includes having a debate within the specified number of days. That may not be the case in the instance of the reports of the Canada Council or other reports that are required to be tabled in Parliament, but I think it adds weight to the importance of the government complying with the law. It also adds urgency to the need for the government to table that order before Parliament so that it can discharge its responsibilities.

In sum, Madam Speaker, that is the argument I want to make today. Let me simply capsulize it by saying that no one can argue that the government has complied with the law. Section 8(2) of the Safe Containers Convention Act makes it very clear that the government has an obligation to act within ten sitting days of the order being tabled. That has not been done. Parliament has been sitting for over a month since the order was made.

There is a positive onus upon Parliament to act. It is clearly part of the operating procedures of this House. Parliament is being obstructed in the discharge of its responsibilities.

If members of the House were to review the ruling that Your Honour made earlier today in defining, quite properly, what constitutes a breach of the privileges of members of the House of Commons, they would see that it is clear that action which obstructs Parliament and obstructs an individual member from discharging his or her responsibilities is a breach of the privileges of all Members of Parliament.

I have one final point, Madam Speaker. The government may make two claims. First, because Parliament included a provision in Subsection (3) that said that the order would not come into effect until the later of either the thirtieth sitting day of Parliament after the order has been laid before Parliament or the day provided in the order, perhaps the government would argue that there is no injury in this instance; that the order is not being activated at the present time because it has not been properly laid before Parliament. Consequently, it could argue that no one's rights have been jeopardized in the interim.

I would argue that that claim would not be valid, Madam Speaker. The government has a positive onus under the law. For Parliament to discharge its responsibilities requires that the government obey the law. To claim that there has not been injury to Parliament's ability to discharge its responsibility would be patently false.

• (1530)

Let me elaborate on that briefly by saying that the very fact that the government recommended the bill to Parliament when