

*Privilege*

reflections on a Member that he or she was not able to fulfill his or her responsibilities. I would submit that this is not the case in the present situation.

I would also like to point out that the House and its committees do not work in a vacuum. Members are constantly aware of outside factors and pressures. Since no threats or bribes have been made, it is difficult to see how the work of the House or the Finance Committee has been prejudiced or which specific privilege has been breached.

On this issue, I cannot find that any privilege has been breached.

[*English*]

In the present case, does the advertisement of the Department of Finance amount to a contempt of the House of Commons? The right hon. Leader of the Opposition argues that the advertisement in question is misleading in that it gives the general public the impression that this proposed change to the taxation system is a *fait accompli* and that Parliament has no role to play in examining and approving the changes. The effect of this may tend to diminish the authority of the House in the eyes of the public.

In reply, the Minister of Justice stated and I quote from page 3821 of *Hansard*, and this was the argument of the Minister of Justice:

The ads were for proposed changes. They were for informational purposes. In fact they have done their job and we have hundreds and thousands of requests for information. We are trying to inform the people.

The justice minister explains that it was never the government's intention to suggest that legislation would not be submitted to Parliament for debate. During Question Period on September 25, the Minister of Finance also stated that the purpose of the ad was to inform, and in keeping with other documents of the spring budget.

Should the Chair accept the government's explanation and rule that no deliberate contempt was made? At this point it may be useful to quote from a Canadian authority on privilege. As Joseph Mainiot explains at page 213 of *Parliamentary Privilege in Canada*:

There are actions which, while not directly—obstructing the House of Commons or the member, nevertheless obstruct the House in the performance of its functions by diminishing the respect due it.

As in the case of a court of law, the House of Commons is entitled to the utmost respect—.

Does the advertisement diminish the respect due to the House? The hon. member for Windsor West put forward the following argument at page 3823 of *Hansard*:

When this advertisement—says in effect there will be a new tax on January 1, 1991,—the advertisement is intended to convey the idea that Parliament has acted on it because that is, I am sure, the ordinary understanding of Canadians about how a tax like this is finally adopted and comes into effect. That being the case, it is clearly a contempt of Parliament because it amounts to a misrepresentation of the role of this House.

[*Translation*]

The Chair is in a quandary. The arguments on both sides of the question are very strong. To add to the Chair's difficulties, procedural authorities also point out that precedents cannot be relied upon to determine if a contempt exists. In contrast, the Chair can more easily determine when a privilege has been breached because the categories are finite and rulings can be based on precedents and authorities. This case is certainly unique. Analogies can be made to the decision rendered by Speaker Sauvé on October 17, 1980, but at that time the issue centred on the propriety of the government to advertise in advance of a debate taking place in the House. The issue was not whether the dignity of the House had been affected.

Under these conditions, the Chair feels it must exercise extreme caution against unduly restricting the authority of the House to deal with a perceived contempt, especially given the arguments which have been presented.

[*English*]

I must confess that I have certain doubts regarding this case. Normally in cases of doubt, it has been the practice for Speakers to allow an appropriate motion to go forward for a decision of the House. To this effect, I would like to read from a ruling of Speaker Jerome, found at page 3975 of *Hansard* for March 21, 1978, where he quotes from a report of the United Kingdom Select Committee on Parliamentary Privileges.

—it might be inferred that the test applied by the Speaker in deciding whether to give precedence over the orders of the day to a complaint of breach of privilege—is, Does the act complained of appear to me at first sight to be a breach of privilege? Rigorously applied, it would mean that no complaint of breach of privilege could ever be entertained unless the Speaker was of opinion that the act or conduct complained of was a breach of privilege—.