

Privilege

Any time an opposition day is designated by the Government, the Private Member's Bill that is to come up on that day goes to the bottom of the list in order to preserve the positions of the other 15 Members, so that their privilege in terms of position is not affected.

When it happened the first time I accepted it, even though I had gone to some degree of effort to organize speakers, to prepare, and to talk with the Secretary of State for External Affairs (Mr. Clark) and others to ensure that the debate would go on and that we would send the Bill to the legislative committee so that it could get back to the House. It happened again, this most recent time being today.

In terms of freedom of speech, there are several notations I should like to cite. It seems to me that the only way we can preserve the rights of Hon. Members to debate their Private Members' Bills as set or as early as possible is to come up with some new way of reintroducing the Bill, perhaps not at the next Private Members' Hour, but certainly not all the way back to the bottom. I think that effectively discriminates against that individual Member, particularly when it happens twice as it did in my case on May 9 and again on June 9.

The reason I think it is such an important question of privilege is that steps are being taken by another country in relation to the contents of this Bill.

Mr. Speaker: Order, please. The Hon. Member is now departing substantially from that of which he sent the Speaker notice. He knows that I cannot allow him to do that. If he has citations he wants to make with regard to a putative question of privilege, I can hear them, but I wish he would come to the question of privilege.

Mr. Fulton: Mr. Speaker, there are four citations which I think are particularly germane. One is from Beauchesne's Fifth Edition, Chapter 2, under "Definition". I will not read all of it into the record because I am sure Your Honour knows what it is. In part it reads:

The distinctive mark of a privilege is its ancillary character. The privileges of Parliament are rights which are "absolutely necessary for the due execution of its powers". They are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its Members."

It seems to me that in this case I have not been able to do that.

The second citation I want to draw to Your Honour's attention is again from Beauchesne's, Chapter 2. Citation 55 under "Freedom of Speech" reads:

The privilege of freedom of speech is both the least questioned and the most fundamental right of the Member of Parliament on the floor of the House and in committee. It is primarily guaranteed in the British Bill of Rights which declared "that the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place outside of Parliament".

The other two citations are from Chapter 6, entitled "Privilege of freedom of speech". The section entitled "Necessity of freedom of speech" reads as follows:

Freedom of speech is a privilege essential to every free council or legislature. Its principle was well stated by the Commons, at a conference on 11 December 1667, the conference which resulted in the reversal of the conviction in 1629 of Sir John Eliot and others:

"No man can doubt", they said, "but whatever is once enacted is lawful, but nothing can come into an Act of Parliament, but it must first be affirmed or propounded by somebody: so that if the Act can wrong nobody, no more can the first propounding. The members must be as free as the houses; an Act of Parliament cannot disturb the state; therefore the debate that tends to it cannot;"—

I think that is the key passage. It continues:

—"for it must be propounded and debated before it can be enacted".

The key point in terms of the privilege with which I should like you to deal, Mr. Speaker, is the effect of not having a rule in the House or some kind of agreement whereby the rights of the individual Member who is dislocated by the designation of a day are not overly negated by the other 15 Members who automatically slide ahead in the time schedule. The Member who happens to have his or her Bill come forward on a designated day is the one who loses so much more than any other Member.

Hon. Ray Hnatyshyn (President of the Privy Council): Mr. Speaker, I understand the representation being made by the Hon. Member. However, procedurally I would have to argue that there is no question of privilege because Standing Order 38 indicates, whether or not we like it, that no Private Members' Business shall be taken up on an allotted day.

The Hon. Member mentioned agreements, and I should like to put on the record what I have done. I have given his House Leader and the House Leader of the Official Opposition a draft copy of an amendment to the Standing Orders, which I thought might address the dislocation which takes place. Certainly we are acting in good faith. I think all House Leaders would be interested in coming to a satisfactory resolution and in addressing the anomaly pointed out by the Hon. Member.

I will not comment on who I am waiting for, but the matter has been before the House Leaders for some time. I will be meeting with them directly after we finish with this matter. I am hoping to raise it again with House Leaders, with a view to seeing whether we can, as a matter of agreement rather than having the matter adjudicated upon by the Chair, deal with it on a mutually satisfactory basis.

I know the Hon. Member's House Leader has been very good about the matter in terms of trying to find a resolution, but I would like to find something which would apply so that we can deal with Members who have been subjected to dislocation.