

Privilege—Mr. W. Baker

I am not entirely clear whether we actually need to examine this question.

I think there is probably agreement among us all as to what those privileges and immunities contain, as well as to publication, but I would ask that the House leader on our side should have an opportunity of considering the remarks made today and whether we are in agreement with the motion of the hon. member. As I say, I did not know that this matter was being raised today. I should like to consider the question, and I might advise you, Mr. Speaker, and the House, that it might be advisable for the Speaker to take action by way of appealing that particular part of the judgment. I would really like an opportunity to consider those questions.

Mr. Speaker: Order, please. I will hear those hon. members who indicate their willingness to discuss this matter at this time. I certainly would have no difficulty in holding the matter over in order to permit a prepared intervention by the Minister of Justice or, alternatively, the House leader or his nominee in this matter. At the moment, I will hear those members who are prepared to speak to the matter brought forward.

Right Hon. J. G. Diefenbaker (Prince Albert): Mr. Speaker, I, too, was unaware that this matter was coming forward today. I read that judgment with amazement, and it is difficult to understand that this judgment would have been delivered. As far as the interference with the rights of members of parliament contained therein is concerned, those rights are not determined in the courts: those rights are determined in the House of Commons and are not subject to interpretation by any court outside the supreme court of parliament.

Some hon. Members: Hear, hear!

Mr. Diefenbaker: When I first heard the judgment and what was stated there and in the press, it was impossible for me to believe it was in accordance with what had actually taken place. In so far as a great portion of that judgment is concerned, it is in no way binding on anyone, certainly not on any superior court. It consists of observations which you, Mr. Speaker, as a lawyer, and lawyers generally, recognize to be what is known as obiter dicta.

The judge proceeded to give a judgment regarding a lot of extraneous matter, making up 54 pages or so. I read it instead of following the usual course of measuring that kind of thing and, having done that, I concluded that measuring it would have been the most successful course I could have followed. There is one matter I should like to have the opportunity of pointing out. I am impressed by what the Minister of Justice has said. I think his observations were very pertinent and very reasonable.

An hon. Member: But!

Mr. Diefenbaker: But, I must point out that this judge, newly elevated to the height of Chief Justice of Ontario, refused to allow the representations of the Civil Liberties Organization of Canada as to whether the Bill of Rights applied. That, to say the least, did not receive my full approba-

[Mr. Basford.]

tion. The Bill of Rights should have been considered. It provided, and provides, freedom of the press for the first time under legislation in this country. The civil liberties association should have been permitted to make its representations, and the fact that that course was not permitted would indicate the judge was unaware of the provision of the Bill of Rights.

In so far as parliament is concerned, I repeat what I said earlier: the courts have no right to interpret what the rights of this institution are or how they shall be determined. That type of action was acceptable in the days of Judge Jefferies, but not in 1977. Adjourning this matter for further consideration is a wise idea. I hope this parliament will announce that we do not intend to have our ancestral privileges and rights abrogated under obiter dicta by the Chief Justice of Ontario who denied any possibility of representations being made in connection with the Bill of Rights. I speak as one who is a member of the bar of this province when I say that—and as a member of three other bars across Canada—I cannot understand the reason he chose to endeavour to interfere with those rights, apparently unaware of the fact that what takes place here today is broadcast across the nation. This could cause a multitude of things to keep a judge in this country busy on worth-while things for a very long time to come.

Some hon. Members: Hear, hear!

Mr. Stanley Knowles (Winnipeg North Centre): Mr. Speaker, one of the difficulties about this debate is that we are all on the same side. I am sure that even after the government House leader has participated and we have, perhaps, had a further intervention by the Minister of Justice, it will still be the position of hon. members of this House that our freedom of speech in this place cannot be curtailed from the outside, and that the people of Canada have the undoubted right to know what goes on in this place.

The right hon. member for Prince Albert pressed the point that no judge could limit our freedom of speech. I think, in all fairness to Mr. Justice Evans, that he has made no suggestion that we should be limited in our discussions in this House about the uranium cartel question or any other. However, in my view where he overstepped the line was when he suggested we could not convey to our constituents things we had learned in this House, and that members of the media must be careful about reporting what goes on in the House. I find that almost ridiculous, even though it comes from such a learned person as a Chief Justice. As other hon. members have pointed out, what goes in this House is printed verbatim in *Hansard* in two languages, and *Hansard* is published in 15,000 or more copies per day and sent all over the country and the world.

● (1522)

How any judge can say we cannot convey to our constituents what we have said or learned in this place is beyond me. Is he trying to say to me that on a day when there has been a discussion on the uranium cartel in this House, I cannot sent *Hansard* to my constituents?

An hon. Member: What about TV?