

Complaint of Privilege

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Madam Speaker The right hon. Member for Chesterfield (Mr. Benn) raised with me, as a possible breach of privilege, the willingness of a court on Tuesday of this week to hear an application based on allegations related to a Bill then before Parliament. The Bill was the European Communities (Amendment) Bill, which is now an Act. 3.30 pm

The right hon. Gentleman complained that proceedings in Parliament were, on that occasion, being questioned in a manner contrary to article 9 of the Bill of Rights. He asked me to give precedence to a motion tomorrow relating to the action of the court in agreeing to entertain Lord Rees-Mogg's application, and referring the matter to the Committee of Privileges.

I have decided that it would not be appropriate for me to grant precedence to a motion based on this complaint, not least because, at the time to which the complaint relates, the Bill had been passed by this House but was proceeding in another place. It would therefore primarily be a matter for that House to pursue.

I do, however, take with great seriousness any potential questioning of our proceedings in the courts, which is why I have chosen to deliver my decision on the complaint in this way, as the rules entitle me to do, rather than to write privately to the right hon. Member for Chesterfield, as would normally be the case.

The House will be aware that, following a recent decision by the House of Lords in the case of *Pepper v. Hart*, the courts now allow themselves to assess the significance of words spoken in this House during the passage of Bills in order to assist in the interpretation of statutes. That has exposed our proceedings to possible questioning in a way that was previously thought to be impossible.

There has of course been no amendment of the Bill of Rights, and that Act places a statutory prohibition on the questioning of our proceedings. Article 9 of the Act reads: "that the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament." I am sure that the House is entitled to expect, when the case referred to by the right hon. Gentleman begins to be heard on Monday, that the Bill of Rights will be required to be fully respected by all those appearing before the Court.

Mr. Tony Benn (Chesterfield) Thank you very much, Madam Speaker, for your statement in response to the letter that I sent you, which was much better than a reference to the Committee of Privileges. You will recall that I expressed my concern explicitly that Lord Justice Watkins and Mr. Justice Auld would be in breach of article 9 of the Bill of Rights were they to hear the case.

Whatever the merits of the Maastricht treaty, you, Madam Speaker, have reaffirmed the historic view that it is not in order for the courts or anybody else to question our proceedings. You have told the courts today, in language that I am sure they will understand, that we do not interfere with their jurisdiction and they do not interfere with our jurisdiction and that the question of judicial review cannot be used as an encroachment of the rights of the House of Commons.

You referred to the *Pepper v. Hart* case, which purported to give the judges the right to review our proceedings. If this practice is not stopped, it will be open to anyone to seek a court injunction preventing Members of Parliament from doing the work for which they were elected by their own people.

I hope that the gravity of your statement is understood, and that the judges concerned, who are appointed rather than elected—appointed, I might add, by the royal prerogative—will drop the case brought by Lord Rees-Mogg. To proceed after what you have said would possibly constitute a breach of privilege. I believe that your statement of the primacy of the House of Commons—which I would rank with the statement of Mr. Speaker Lenthall—will be a warning to any other person, whether that person is responsible for using the royal prerogative or for using any other powers, that the House is determined to protect the rights of those we represent.